



REPORT

OF THE

PUBLIC ACCOUNTS COMMITTEE

ON THE

PUBLIC FINANCE MANAGEMENT BILL, N.A.B NO 17 OF 2017

FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE PUBLIC FINANCE MANAGEMENT BILL, N.A.B NO. 17 OF 2017, FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY

Consisting of:

Mr H Kunda, MP (Chairperson); Ms B M Tambatamba, MP (Vice Chairperson); Mr M Mbulakulima, MP; Mr C Mweetwa, MP; Mr K Simbao, MP; Mr M C Munkonge, MP; Mr A Chiteme, MP; Ms D Mwape, MP; Mr T J Kasonso, MP; and Mr V Lumayi, MP.

The composition of the Committee, however, changed following the appointment of Mr A Chiteme, MP as Cabinet Minister.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

Your Committee has the honour to present its Report on the Public Finance Management Bill, N.A.B No. 17 of 2017 for the Second Session of the Twelfth National Assembly, referred to it by the House on Tuesday, 5th December, 2017.

2.0 FUNCTIONS OF THE COMMITTEE

In addition to the duties conferred upon it under Standing Order 153 (3), or by Order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House, in line with Standing Order 102 (1).

3.0 MEETINGS OF THE COMMITTEE

Your Committee held nine meetings to consider the Public Finance Management Bill, N.A.B No. 17 of 2017.

4.0 PROCEDURE ADOPTED BY THE COMMITTEE

Your Committee requested written submissions from various stakeholders. The stakeholders were further requested to appear before the Committee to orally brief it on the contents of their memoranda and clarify issues that arose from the presentations. The list of witnesses who appeared before the Committee is at Appendix II of this Report.

5.0 OBJECTS OF THE PUBLIC FINANCE MANAGEMENT BILL, N.A.B NO. 17 OF 2017

The objects of the Bill are to provide for:

- i. an institutional and regulatory framework for the management of public funds;
- ii. the strengthening of accountability, oversight, management and control of public funds in the public financial management framework;
- iii. responsibilities and fiduciary duties of controlling officers and controlling bodies;
- iv. enhancement of cash management systems to ensure efficient and effective utilisation of cash for the Government;
- v. the processes for efficient production of the Financial Report for the Republic;
- vi. the management and control of public assets and stores;
- vii. the repeal of the *Public Finance Act No. 15 of 2004*; and
- viii. matters connected with, or incidental to, the foregoing.

6.0 SALIENT PROVISIONS OF THE BILL

PART I – PRELIMINARY PROVISIONS - Clauses 1 to 3

7.0 Part I of the Bill provides that the Act may be cited as the Public Finance Management Act of 2017, and shall come into operation on a date that the Minister may appoint by statutory instrument. It further provides for the Interpretation Clause which defines the key terms used in the Bill. Furthermore, it provides for the Supremacy Clause, so as to ensure the supremacy of the Act in the event of inconsistencies between the proposed legislation and any other law relating to the management of public funds.

PART II – MANAGEMENT OF PUBLIC FINANCES - Clauses 4 to 19

Part II provides for the establishment, functions and powers of the Treasury, Secretary to the Treasury and Accountant-General. Additionally, it sets out to establish the Office of the Controlling Officer, outlining both its responsibilities and fiduciary duties. Part II further provides for the appointment, functions and powers of the Accounting Officer and the Controller of Internal Audit. Furthermore, it sets out the appointment and powers of Stock Verifiers and Audit Committees.

PART III – CONTROL OF PUBLIC FINANCES - Clauses 20 to 48

Part III provides for the control and management of public finances. It provides that the deposits, disbursements and public debts shall be a charge on the Consolidated Fund. It further provides for grants, donations, aided projects, recoverable advances and investments. Furthermore, it establishes the Treasury Single Account and the Committee of Survey. The Treasury Single Account will serve as a unified structure of bank accounts to give a consolidated view of Government resources, while the Committee of Survey will, among other functions, render a report to the Secretary to the Treasury on any disposal of unserviceable or obsolete public assets or stores made in a preceding financial year. Part III also prescribes the procedure for disposal of public assets and stores in public bodies.

PART IV - FINANCIAL MISCONDUCT - Clauses 49 to 54

Part IV sets out acts that constitute financial misconduct and the disciplinary proceedings. It further provides for surcharges for failure by controlling officers, boards and public officers to perform. Furthermore, it provides for reliefs such as interim order of surcharge and attachment of an officer's property as security.

PART V – CONTROL OF STATUTORY CORPORATIONS AND STATE OWNED ENTERPRISES - Clauses 55 – 69

Part V provides for the various responsibilities of the Minister in the management of state owned enterprises and statutory corporations. It also obligates the Board of Directors of a statutory corporation or state owned enterprise to furnish the Secretary to the Treasury with reports covering the operations of such a body as well as the financial statement of such a body at the end of every financial year. Part V further provides that before a grant is released

to a statutory corporation as a state owned enterprise, the Board of Directors must submit a statement to the Treasury, indicating how they intend to utilise the grant. Furthermore, it provides that the Secretary to the Treasury must ensure that grants released to statutory corporations and state owned enterprises are appropriated for the purpose for which they are released.

PART VI – REPORTS - Clauses 70 – 72

Part VI provides for the responsibility of the Treasury to prepare a Financial Report for each financial year in order to account for public funds for that year's Appropriation Act. It further provides that the financial year of public bodies shall be a period of 12 months, ending on the 31st of December, of each calendar year.

PART VII – EXTERNAL AUDIT - Clauses 73 – 74

Part VII provides for the manner in which the Auditor-General and an officer, agent or specialist consultant, authorised by the Auditor-General, are to perform the duties pertaining to such officer provided for in the Constitution, the Public Audit Act, No. 29 of 2016 and any other law.

PART VIII – GENERAL PROVISIONS - Clauses 75 – 93

Part VIII makes general provisions pertaining to the objects of the Bill as well as offences and penalties to persons that commit an offence under this Bill or any other law. It also provides for the authority of the Minister to make regulations that are necessary for the proper carrying out of the provisions of the Bill.

7.0 CONCERNS OF STAKEHOLDERS

All the stakeholders who appeared before your Committee supported the Bill. However, they raised concerns as set out below.

PART I - PRELIMINARY PROVISIONS

Clause 2: Interpretation

- i) On the definition of cash resources as “*cash in form of bank notes or coins or cash equivalents that include stocks, bonds, etc*” stakeholders expressed concern that the definition included stock as part of cash equivalents. This was contrary to the accounting standards definition, as stock was not a cash equivalent. They submitted that cash equivalents were short-term, highly liquid investments that were readily convertible to known amounts of cash and which were subject to an insignificant risk of changes in value. It was, therefore, recommended that the definition be amended accordingly.
- ii) Stakeholders were of the view that the definition of “*public funds*” or “*public monies*” should explicitly include any such funds or monies deposited in a “*public bank account*”. Consequently “*bank account*” as referred to in the Bill should be referred to as “*public bank account*” to mean an account in which “*public funds*” or “*public monies*” are deposited or drawn. This would differentiate it from a “*private bank account*”. In this regard, they submitted that the interpretation of bank account in the current Act should be maintained and, if done, it would cure the use of the bank accounts for private gains.
- iii) Other stakeholders submitted that the Bill did not have definitions for statutory corporation and statutory bodies. It was, therefore, recommended that these definitions be included for easier interpretation and application of the Bill.
- iv) Another matter of concern by stakeholders was on the definition of “*central Government*”. They stated that the manner it was couched was at variance with constitutional provisions under Parts VI, Part VII, and Part VIII. The stakeholders submitted that the definition should, therefore, be re-cast in line with the constitution.
- v) A concern was raised over the definition of “*financial misconduct*”. Some stakeholders were of the view that this should be re-cast as the threshold given was rather low. They recommended that the definition should read as follows:

*“means wilful or **grossly** negligent act or omission which permits unauthorised, irregular or wasteful expenditure, theft, or misapplication of funds.”*

PART II - MANAGEMENT OF PUBLIC FINANCES

Clause 5: Functions and Powers of the Treasury

- (i) Stakeholders noted that whereas the functions and powers of the Treasury had been well articulated in the Clause, the Part had not explicitly stated the functions of the Minister as captured in the *Public Finance Act of 2004*. In addition, no reference had been made to the provisions in the amended Constitution. Stakeholders, therefore, contended that in order for the office bearer to be held accountable, these should be explicitly stated or referred to, to avoid speculation as to the responsibility/accountability requirements.
- (ii) Clause 5(1)(d) - stakeholders were also of the view that under this Clause, the Bill did not mandate the Treasury to establish long-lasting quantitative fiscal rules. They contended that the implication of this was that the legislation left it open for the Executive or the Legislature to amass excessive powers and discretion in budget-setting and execution, with no legally binding quantitative restraints.
- (iii) Clause 5 (1) (c) and (e) - stakeholders noted that the provision did not mention of the Medium Term Expenditure Framework (MTEF). Further, the role that the Treasury would play in exercising the foregoing functions was not stated. Stakeholders expressed apprehension that this posed a risk to the effective management of the budget process.

Clause 6: Secretary to the Treasury

Stakeholders expressed concern over the non-inclusion of the qualifications for the Secretary to the Treasury who had been given extensive powers under the Bill. It was stated that empowering an individual with so much power without clearly defining the required credentials for the office, posed major risks for the intended outcomes. Stakeholders were of the strong view that the minimum professional /academic qualifications and professional experience of the Secretary to the Treasury must be prescribed under this Clause.

Clause 7: Functions of the Secretary to the Treasury

- (i) Stakeholders submitted that Clause 7 (1) (h) be amended to include responsibility for following up outstanding issues. They contended that while the Treasury Minutes were always prepared, the follow up on outstanding issues needed to be legislated. It was, therefore, recommended that the provision be re-cast to read as follows:

“implement the recommendations of the Committees of Parliament and take timely follow up action on outstanding issues arising from the reports of the Committees”

- (ii) Stakeholders submitted that Clause 7(1) (k) was an important provision, giving the legal basis for supporting the operationalisation of the accounting functions. However, giving the overall responsibility for opening, maintaining and closing accounting units in ministries, departments, government agencies, local authorities, provinces, districts and projects to the Secretary to the Treasury, implied that decision-making power and responsibilities over accounting functions would not be devolved to the sub-national level. Stakeholders, therefore, recommended that the Clause 7(1) (k) be separated as follows:

“(k) be responsible for opening, maintaining and closing accounting units in ministries, departments, Government Agencies, and projects”.

“(l) be responsible for superintending over and supporting the opening, maintaining and closing accounting units in local authorities, provinces, and districts”.

- (iii) Clause 7 1(v)-stakeholders were of the strong view that Internal Audit Reports on the performance of public bodies with regard to internal controls, risk management and governance matters should always be submitted to Cabinet for action, especially if they involved cases where the Secretary to Treasury may not be able to institute disciplinary action under Clause 7 (1) (w). In this vein, it was recommended that the provision should read as follows:

“Submit on a quarterly basis to the Minister, Internal Audit Reports on the performance of public bodies with regard to internal controls, risk

management and governance matters, who shall submit such reports to Cabinet for action”.

Clause 8: Accountant-General

Stakeholders submitted that while the Clause had prescribed progressive provisions on the role of the Accountant General, they were concerned about the absence of provisions on work experience to be held by candidates for this important office. They recommended that a provision be made, prescribing the work experience needed for the occupant of this office.

Clause 10: Controlling Officers

- (i) Some stakeholders were concerned that while Controlling Officers were appointed by the Secretary to the Treasury, Permanent Secretaries were appointed by the President. Effectively, therefore, the Secretary to the Treasury would find it difficult to discipline a Controlling Officer who was also a Permanent Secretary. They wondered what action would be taken against a Permanent Secretary who was stripped of the responsibility as a Controlling Officer while maintaining the presidential appointment as Permanent Secretary.
- (ii) Furthermore, stakeholders submitted that in order to ensure a prudent financial management system, Controlling Officers must be career civil servants appointed by the Public Service Commission with proven financial management skills in public institutions. This would minimise the public financial management skill gaps among Controlling Officers.

Clause 11: General Responsibilities of Controlling Officers

- (i) Stakeholders submitted that under Clause 11 (5), the correct subsection being referred to was (4) and not (5). Therefore, this should be amended accordingly.
- (ii) Stakeholders expressed concern that whereas Clause 11 (11) highlighted the offence, appropriate sanctions had not been provided or reference made to any section on possible sanctions. Stakeholders, therefore, recommended that the provision be amended accordingly.

Clause 12: Fiduciary Duties of Controlling Officers and Controlling Body

- (i) Stakeholders expressed concern on the declaration of interest by Controlling Officers under Clause 12 (3). It was stated that while the list for relatives was extensively provided, there was need to draw a distinction between declaring interests for the known immediate family members and those unknown. Stakeholders reiterated that leaving the Clause in its present form would implicate innocent Controlling Officers, so there was need to amend it accordingly.
- (ii) Stakeholders expressed concern over the provision in Clause 12 (4) requiring immediate suspension of a member of a controlling body who contravened. It was stated that this provision appeared to be at variance with internal disciplinary procedures as well as the rules of natural justice. It was, therefore, recommended that the provision be amended to allow for internal disciplinary procedures for a member of a controlling body before suspension.

Clause 13: Appointment and Responsibilities of Accounting Officers

Some stakeholders noted that this section did not stipulate the relevant qualification of an Accounting Officer. The stakeholders, therefore, recommended that the section must stipulate that Accounting Officers must be members of ZICA and possess a Diploma in Public Sector Financial Management, an equivalent or higher qualification provided, or recognised by, ZICA.

Clause 14: Controller of Internal Audit

Stakeholders submitted that the qualifications for the position of Controller of Internal Audit should be prescribed as was the case with the Accountant General under Clause 9 of the Bill.

Clause 15: Functions of Controller of Internal Audit

Stakeholders submitted that whereas Clause 15 provided for the functions of the Controller of Internal audit and that part of the mandate of this office was to provide assurance on monies appropriated by Parliament, there were no means for Parliament to undertake any oversight over this process. It was, therefore, recommended that a provision be included in the Bill for the Secretary to the Treasury to submit quarterly reports issued by the Controller of Internal Audit to the National Assembly.

Clause 16: Appointment and Powers of Internal Auditors

Clause 15 (1) (b)-stakeholders submitted that the implication of this provision was that the Controller of Internal Audit would be performing the functions of internal auditors in the statutory institutions. They further, contended that the provision should be restricted to special audits only. It was, therefore, proposed that for public bodies, the role of the Controller of Internal Audit should be restricted to the performance of special audits as provided for under Clause 14 (4) of the Bill.

Clause 18: Appointment and Powers of Stock Verifiers

Stakeholders submitted that the appointment of ‘Stock Verifiers’ may be a duplication of work as Internal Auditors already performed stock verification functions. They contended that this may also result in unnecessary costs which may be a drain on the Treasury. It was, therefore, recommended that this provision be deleted. Further, in Clause 43 (1) (c), the term ‘or stock verification, should also be deleted. However, other stakeholders were of the view that Stock Verifiers should be under the Office of the Accountant General since stock verification was a function of the Accountant General and the Auditors should only play the role of witnesses.

Clause 19: Audit Committees

- (i) Stakeholders raised consternation on the inclusion of a former Public Officer under Clause 19 (3) (a) to sit on the Audit Committee. They were of the view that the inclusion of the former Public Officer may have a negative effect on autonomy of the Committee. They, therefore, recommended that the Clause be deleted.
- (ii) Other stakeholders submitted that whereas Clause 19 (3) (e) left room for any other professional body to be part of the Audit Committees; they were of the view that this may disadvantage civil society organisations. The stakeholders, therefore, recommended that the Clause be amended to read as follows:

“a member of any other relevant professional body such as civil society organisation”.

- (iii) Clause 19 (6)-on the term of office for the Audit Committees, stakeholders were of the view that the term be reduced to two years in order to enhance the effectiveness of the members.

PART III - CONTROL OF PUBLIC FINANCES

Clause 22: Disbursement of Consolidated Fund

- (i) Stakeholders submitted that whereas Clause 22 (3) (e) made reference to the Minister approving institutions for investments, the criteria for approval of the institutions by the Minister was not outlined. This did not foster transparency. Stakeholders recommended that the Clause should outline the criteria to be utilised in the approval of the institutions by the Minister.
- (ii) Stakeholders expressed concern on the seven day period provided for in Clause 22 (4), for the authorisation by the Secretary to the Treasury for a disbursement from the Consolidated Fund before closure of the year. They stated that the period was too short in the event of an emergency. A recommendation, was therefore, made that the Clause be amended to provide for a longer period.

Clause 23: Issuance of warrant

Some stakeholders were concerned that while Clause 23 provides for the issuance of a warrant by the President, it does not mirror the Constitutional provision requiring a warrant to go through Parliamentary approval. The stakeholders explained that while Clause 23 (1) of the Bill rightly subjects the power to issue warrants to the Constitutional provisions, they were of the view that there must be a specific provision for the warrant to be only effected after Parliamentary approval by a relevant Parliamentary Committee.

Clause 24: Donations and Grant

- (i) Stakeholders expressed concern that the Minister should have such excessive authority to withdraw monies without the involvement of the National Assembly. They contended that the Minister should be required to seek authority from the National Assembly to avoid the abuse of public funds.
- (ii) Clause 24 (1) and (2)-stakeholders noted that the Appropriation and Supplementary Appropriation Bills had been abused in the past, to cover unconstitutional or unauthorised expenditure. It was, therefore, recommended that going forward, it should be made a mandatory requirement that the National Assembly, through an appropriate committee, should always approve the required additional budget to meet specific expenditure before such expenditure could be incurred.

Clause 25: Treasury Single Account

Stakeholders submitted that while the Clause was progressive, the omission of the Integrated Financial Management of Information System (IFMIS) which was the core financial management system of the Government was a source of concern. They stated that IFMIS sought to ensure that all Ministries, Provinces and Spending Agencies were prohibited from spending outside the system, thus curbing the accumulation of arrears, and stemming financial misappropriation, irregularities, fraud and corruption among other things. Stakeholders were of the strong view that this key cornerstone of public finance management should be included under this Clause.

Clause 26: Borrowing and lending

Stakeholders submitted that the provision under Clause 26 (2) which empowered the Secretary to the Treasury to approve borrowing and lending, contravened the borrowing authority of the enabling statutory laws of the respective parastatals. They contended that the provision may further negatively impact on the commerce and the banking sectors as regards the ease and efficiency of providing financial products. In addition, parastatals that were in the business of banking and duly licensed by the Bank of Zambia, would require approval, despite this being their core business. They, therefore, recommended that the section should be amended to exclude parastatals that were regulated and licensed by the Bank of Zambia and registered under the *Banking and Financial Services Act*.

Clause 27: Public debt chargeable to consolidated fund

Stakeholders expressed concern over the powers given to the Minister under this Clause. They recommended that the Clause should be amended to include the authorisation by the National Assembly of any withdrawal or expenditure from the Consolidated Fund in accordance with the republican Constitution.

Clause 28: General Revenue

- (i) Stakeholders submitted that whereas Clauses 28 (5) and (6) had clearly outlined the appropriate penalties for the offences, Clause 28 (3) did not. They were, therefore, of the strong view that Clause 28 (3) be amended to include the appropriate penalty.
- (ii) Stakeholders also submitted that Clause 28 (1) which provided that “General revenue collected by appointed agents on behalf of the Government shall be transmitted to the

Consolidated Fund as prescribed by the Treasury” should be amended in order to designate it to the sub-national government. It was, therefore, recommended that a new Clause 28 (8) be included in the Bill as follows:

“The Minister shall, by statutory instrument, prescribe the proportion of general revenue in the Consolidated Fund that shall be strictly ring-fenced for the sub-national governments”.

Clause 29: Generation of Revenue

Stakeholders submitted that while Clause 29 (1) provided that the Treasury would set annual revenue targets for each ministry, department and government agency, it did not provide for the setting of annual revenue targets by local authorities on the one hand and by statutory corporations and state owned enterprises on the other. The stakeholders, therefore, recommended that an appropriate provision be inserted to address this omission.

Clause 31: Bank Balances at End of Financial Year

Stakeholders submitted that this Clause should be amended appropriately in order to empower the Secretary to the Treasury to take account and provide for exceptional circumstances such as procurements in progress, contracts under execution, late release of funds among other considerations, before the unspent funds could be returned to the Treasury. They contended that the late release of funds may put procuring entities under pressure as they would have to use the funds before they were mopped up. This may ultimately, lead to uncompetitive procurement practices.

Clause 36: Appropriation in Aid

Some stakeholders were of the strong view that Appropriation in Aid still remained a source of financial mismanagement. They contended that with the creation of a Consolidated Fund under Article 200 of the Republican Constitution, Appropriation in Aid should be abolished so as to allow all revenues to go into the Consolidation Fund through to the Treasury Single Account and subsequent Control Accounts. The stakeholders, further, contended that what was needed was an efficient system that allowed the release of funds to all state organs and state institutions as appropriated by Parliament. In addition, an efficient Computerised Accounting System IFMIS should be ensured as well in order to minimise delays in cash management.

Clause 39: Variation of Funds

Stakeholders expressed concern that this provision did not provide for the variation of funds to be controlled or at least regulated at law. This meant that under the current Bill, there would be no legal provision to control, regulate, mitigate or contest excessive variations. It was, therefore, recommended that the Clause be amended as follows:

“Where additional expenditure on one item can be met from savings on another item within the appropriation, funds maybe be varied as shall be prescribed in line with the prevailing fiscal rules on national budget-setting and execution, in accordance with the National Planning and Budgeting Act of 2017”.

Clause 43: Establishment of Committees of Survey

Stakeholders expressed concern on the composition of the Committee of Survey under Clause 43 (1) appointed by the Controlling Officer. They recommended that the head of internal audit should not be part of the Committee of Survey as this would compromise their independence and create unnecessary conflict of interest. Instead, the head of internal audit could attend in the capacity of an observer. Further, where the administration function was available, it was recommended that the head of human resource be replaced by the head of administration.

Clause 44: Disposal of Public Assets and Stores by Local Authority, Statutory Corporations and State Owned Enterprise

Stakeholders submitted that while the establishment of Disposal Committees would provide efficiency and clarity on the disposal of public assets, the establishment of the Disposal Committees under Clause 44 (1), may not apply to other statutory bodies as it only applied to local authorities, statutory corporations and state owned enterprises. In addition, a statutory corporation had not been defined. Stakeholders were of the strong view that Clause 44 should be extended to include statutory bodies in order to enhance efficiency in the disposal of assets. They emphasised that the retention of proceeds from the disposal of assets would aid statutory bodies that were not adequately funded to reinvest the funds in new assets and sustain their operations.

In addition, stakeholders submitted that Clause 44 (3) should be amended to include the head of procurement and supplies unit on the Disposal Committee as was the case on the Committee of Survey.

Clause 45: Disposal Procedures for Public Assets and Stores under Public Bodies

Stakeholders expressed concern that the manner Clause 45 (1) was crafted, did not make it mandatory for the Minister to issue regulations for the disposal of public assets and stores under public bodies. Stakeholders, therefore, recommended that the Clause be amended as follows:

“The Minister shall make regulations for the disposal of unserviceable, obsolete or surplus assets by a Committee of Survey or Disposal Committee”

PART IV - FINANCIAL MISCONDUCT

Clause 49: Financial Misconduct by Controlling Officers, Committees and Office Holders

- (i) Stakeholders submitted that whereas this Clause had very progressive provisions on financial misconduct, the absence of time frames in which the Secretary to the Treasury would be required to take action on the matters may not guarantee the desired results. The stakeholders recommended that the Clause should be amended to ensure that time frames were prescribed so as to avoid discretion in addressing cases of financial misconduct.
- (ii) Stakeholders were also of the strong view that Clause 49 (3) (a) and (b) should be deleted and replaced by appropriate actions. They wondered how a Controlling Officer found wanting should be made to report to the Treasury on the management and control of public monies under the Controlling Officer’s committee as well as avail a financial management improvement plan to the Treasury for approval, as it was unreasonable to seek a financial management improvement plan from a culprit.
- (iii) Furthermore, under Clause 49 (4) which provided that where a Controlling Officer or a member of a controlling body, was found guilty of financial misconduct, the Secretary to the Treasury may revoke the appointment as Controlling Officer or a member of the controlling body and recommend to the Secretary to Cabinet or an appropriate executive authority any of the following:
 - a) suspension;
 - b) dismissal; and
 - c) prosecution.

Stakeholders, however, raised concern that the Bill did not provide for sanctions regarding financial misconduct by the Secretary to the Treasury. It was, therefore, recommended that there should be sanctions prescribed for cases where the Secretary to the Treasury failed to take action against an erring Controlling Officer or indeed if there was collusion between the Secretary to the Treasury and the controlling officer.

Clause 51: Surcharge for Failure by Controlling Officer or Controlling Body to Perform

Stakeholders were of the strong view that an officer found guilty for financial misconduct, should not only be surcharged but should also be discharged from the public service. In the absence of discharge, culprits may treat the surcharge as an advance of salary or pension, which would not help curb the mismanagement of public funds.

Clause 52 – Surcharge for Failure by Office Holders to Perform Duty Assigned

Some stakeholders were concerned that Clause 52 (7) (i) provides for recovery of admitted liability and amounts from the office holder by way of deducting from the pension as this was in conflict with provisions of the pension laws which do not allow deductions and diminutions in persons pensions.

PART V - CONTROL OF STATUTORY CORPORATIONS AND STATE OWNED ENTERPRISES

Clause 55: Responsibilities of the Minister in Management of State Owned Enterprises and Statutory Corporations

Stakeholders expressed concern that Clause 55 did not make reference to the role of the Industrial Development Corporation (IDC) yet it exercised significant control over the financial policy of public entities. It was, therefore, recommended that the role of the IDC must be clearly spelt out in the Bill.

Clause 56: Management of Statutory Corporations and State Owned Enterprises

Stakeholders expressed concern that whereas the Clause made specific provisions for the Minister to delegate the management and control of Government interest in statutory corporations and state owned enterprises to the Secretary to the Treasury or appoint or establish an appropriate executive authority to manage Government interest in State owned enterprises, the Bill did not include grant aided institutions. This was despite the Public

Financial Management Reform Strategy regarding the public resources allocated to grant aided institutions as part of Government's investments which must also be effectively managed in order to maximise returns. It was, therefore, recommended that the Clause be amended to include grant aided institutions.

Clause 58: Annual Report and Financial Statements

Stakeholders submitted that the one month deadline for the submission of financial statements to external auditors as provided for under Clause 58 (2) (b) was too short. The stakeholders were of the view that a more realistic period should be given.

PART VI - REPORTS

Clause 70: Financial Report of Republic

- (i) Some stakeholders submitted that Clause 70(2) should be extended to include financial reports of controlling bodies of local authorities and statutory corporations and state owned enterprises to ensure that their financial statements were also incorporated into the Financial Report of the Republic. They contended that the omission undermined accountability. Moreover, the current provision was insufficient to ensure transparency through a proactive, deliberate, unrestricted and truthful provision of financial information and records. It was, therefore, recommended that the Clause should read as follows:

“The Secretary to the Treasury shall cause to be consolidated financial statements submitted under subsection (5), Section 72 and [forthcoming] Section 73 (on the reporting requirements of a Controlling Body of a local authority) within two months of receipt of the financial statements from the controlling officers into the Financial Report of the Republic, which the Secretary to the Treasury shall proactively, deliberately, unrestrictedly and truthfully publish in the public in the Gazette in compliance with Section 70 as well as in annual reports that the Treasury will disseminate to the extent possible in the public domain”.

- (ii) Stakeholders were of the strong view that Clause 70 (5) and (6) should provide for penalties for erring Controlling Officers as is the case with **Clause** 72 (3) which provides that A Board of a statutory corporation or state owned enterprise that fails to comply with this

section is deemed to have committed financial misconduct and is liable to penalties in accordance with this Act or any other law.

Clause 72: Financial Reports for Statutory Corporations and State Owned Enterprises

Stakeholders submitted that Clause 72 which provided for the reporting requirements for statutory corporations or state owned enterprises should also apply to the reporting requirements of a controlling body of a local authority in order to promote fiscal decentralisation and local level fiscal discipline.

PART VII - EXTERNAL AUDIT

Clause 73: Mandate of the Auditor General

- (i) Stakeholders expressed concern that while the marginal note of the Clause seemed to prescribe the mandate of the Auditor General as espoused under *Article 250 of the Constitution* and *Section 5 of the Public Audit Act No. 29 of 2016*, it was somewhat restricted to access to records, books and accounts. Stakeholders, therefore, recommended that the Clause be amended to cite the mandate of the Auditor General or alternatively make reference to the relevant constitutional and other provisions on the mandate of the Auditor-General.
- (ii) Further, stakeholders submitted that the types of audits that shall be performed by the Auditor General be highlighted in the Bill as promulgated under Clause 5 (1) (a) of the *Public Audit Act No. 29 of 2016*. Furthermore, it was recommended that Section 26 of the *Public Audit Act No. 29 of 2016* which allowed the Auditor General to surcharge a person and disallow expenditure which contravened the *Public Audit Act No. 29 of 2016* and Public Finance Act No. 15 of 2004, should be included in the section for penalties.

8.0 Other Concerns

- (i) Stakeholders were of the strong view that in order to expedite disposal of cases of financial misconduct as provided for in Clauses 49 to 53 of the Bill, a Fast Track Court for the cases should be created.

- (ii) Stakeholders were also of the view that in order to enhance Parliamentary authorisation and scrutiny of Government's revenue and expenditure, the Minister should be required to submit periodic reports to the National Assembly. This would enable the National Assembly to ensure that public resources were held and utilised in a transparent, accountable, efficient, effective and sustainable manner. It was therefore, recommended that the following reports, among others, be submitted to Parliament by the Minister responsible for Finance:
- i. Quarterly budget performance reports;
 - ii. Progress report on the annual procurement plan; and
 - iii. Internal Audit Reports.
- (iii) Stakeholders submitted that whereas reference has been made in the Bill to the *National Planning and Budgeting Act* as well as the *Loans, Grants and Guarantees (Authorisation) Act*, this legislation had not been presented to the National Assembly. They contended that passing the Bill in the absence of the two pieces of legislation compromised the desired outcomes.
- (iv) Stakeholders submitted that whereas the general responsibilities and fiduciary duties of the Controlling Officers were ably provided for under Clause 11 and 12 of the Bill, no corresponding powers had been given to them. This may, to a large extent, affect ability to deliver on their key performance indicators. It was, therefore, recommended that the Controlling Officers' powers be provided for.
- (v) Some stakeholders expressed concern that under Part IV on Financial Misconduct, the Bill did not make any provisions regarding the financial misconduct of the Treasury (Ministry and Secretary to the Treasury). This meant the Bill assumed that the Treasury was infallible and could not participate in financial misconduct. In this vein, it was recommend that an appropriate provision be included, clearly describing circumstances where the Treasury could be found wanting for financial misconduct as well as the applicable surcharges or sanctions.

- (vi) Stakeholders submitted that under the objectives of the Bill, it was of concern that the provision did not make specific reference to transparency. It was proposed that the provision be amended to include transparency.
- (vii) Some stakeholders submitted that the Bill should include a part on incentives to officers for performance above set targets and penalties for failure to meet set targets. They contended that incentives to officers for performance above set targets would be a motivator to ministries, departments and spending agencies to perform far above set targets. Reprimanding performance below set standard would also push officers to meet targets.
- (viii) Stakeholders recommended that a provision be made under the general provisions to include the role of whistleblowers in the Bill.
- (ix) Other stakeholders were of the view that the issue of security of tenure for the Secretary to the Treasury should be provided for in order to safeguard the office of the Secretary to the Treasury, especially that the Bill gives the office immense powers. This would also be in tune with other offices such as the Director of Public Prosecutions among others.
- (x) Stakeholders expressed concern over the constitutional provisions on the functions of the Secretary to the Treasury on one hand and the devolution provisions on the other hand. They stated that the functions of the Secretary to the Treasury should, to a large extent, be limited to the Central Government in order for fiscal decentralisation to be achieved. In this vein, stakeholders recommended that the anticipated revision of the republican constitution should resolve this matter.
- (xi) Stakeholders noted that local government was the frontline in service delivery to the citizens but were concerned that the Bill was unclear how this devolution would be actualised. In this vein, it was recommended that the Public Finance Management Bill must provide for a predictable and reliable means of allocating funds to the local government system. In a similar manner, the Act must provide for stringent means of public finance accountability for all funds allocated to the local government system.

Committee's Observations and Recommendations

9.0 Your Committee's observations and recommendations are as outlined below.

- i. Your Committee observes that in Clause 2, on interpretation, the Bill has not provided definitions for Statutory Corporations and Statutory Bodies despite these words being extensively used in the Bill. Your Committee, therefore, recommends that the definitions be included for easier interpretation and application of the Bill.
- ii. Your Committee observes that the definition of "Central Government" has not been well couched as it is at variance with the Constitutional provisions under Parts VI, Part VII, and Part VIII. Your Committee, therefore, recommends that this definition be recast in line with the provisions in the republican Constitution.
- iii. Your Committee is concerned over the definition of Financial Misconduct as contained in the Bill. Your Committee is of the view that the definition ought to be recast as the threshold given is rather low and may be subject to abuse. Your Committee, therefore, recommends that the definition of Financial Misconduct" should read as follows:

"means wilful or negligent act or omission which permits unauthorised, irregular or wasteful expenditure, theft, or misapplication of funds".

- iv. In Clause 5 on the Functions and Powers of the Treasury, your Committee observes that whereas the functions and powers of the Treasury have been well articulated in the Clause, the Clause does not explicitly state the functions of the Minister as captured in the *Public Finance Act of 2004*. In addition, no reference has been made to the provisions in the Republican Constitution. Further, the accountability of the Minister to the National Assembly has not been referred to in the Bill. It is, in this vein, the strong view of your Committee that prescribing the functions of the Minister and the role of the National Assembly will foster transparency, accountability, efficiency and effectiveness in the utilisation of public resources.

Your Committee further recommends that amongst the functions of the Minister to be included in the Bill, are the submission of the following reports to the National Assembly:

- a. Quarterly budget performance reports;
 - b. Progress report on the Annual Procurement Plan; and
 - c. The Internal Audit Report.
- v. In Clause 6, your Committee observes with serious concern that while the Secretary to the Treasury has been given extensive powers in the Bill, no work experience for the occupant of this office has been prescribed. Your Committee notes that the lack of clearly defined professional experience for such a powerful office could pose a risk. Your Committee, therefore, strongly recommends that the minimum professional experience of the Secretary to the Treasury should be stated under this Clause.
- vi. In Clause 7, on the functions of the Secretary to the Treasury, your Committee is of the view that Clause 7 (1) (h) should be amended to include the responsibility of following up on outstanding issues by the Secretary to Treasury arising from the recommendations of Committees of the National Assembly. It is the considered view of your Committee that the follow up on outstanding issues needs to be legislated, especially that some civil cases become statute barred after seven years. In this regard, your Committee recommends that the Clause be re-cast to read as follows:
- “implement the recommendations of the Committees of Parliament and undertake timely follow up action on outstanding issues arising from the reports of the Committees”.*
- vii. Your Committee observes that Clause 7 (1) (k) provides that the Secretary to the Treasury shall “be responsible for opening, maintaining and closing accounting units in Ministries, Departments, Government Agencies, Local Authorities, Provinces, Districts, and Projects”. While this is an important provision giving the legal basis for supporting the operationalisation of the accounting functions, your Committee is of the view that giving the overall responsibility for this to the Secretary to the Treasury

will go against the spirit of devolution. Your Committee, therefore, recommends that the Clause 7(1) (k) be broken into two as follows:

“(k) be responsible for opening, maintaining and closing accounting units in ministries, departments, government agencies, and projects”.

“(l) be responsible for superintending over and supporting the opening, maintaining and closing accounting units in local authorities, provinces, and districts”.

Your Committee is of the view that this will enhance and actualise fiscal decentralisation and enhance service delivery.

- viii. Your Committee observes that discretion has given to the Minister to submit the report to Cabinet, upon receipt on a quarterly basis; internal audit reports on the performance of public bodies with regard to internal controls, risk management and governance matters. Your Committee is of the view that the provision should be amended to compel the Minister to present the report to cabinet. In view of the foregoing, your Committee recommends that the Clause be re-cast to read as follows:

“Submit on a quarterly basis to the Minister, Internal Audit Reports on the performance of public bodies with regard to internal controls, risk management and governance matters, who shall submit to Cabinet for action”.

- ix. In Clause 8, on the Accountant-General, your Committee observes that whereas the Clause clearly outlines the role of the Accountant General, there is no prescription regarding the work experience to be held by the person to be appointed to this important Office. Your Committee, therefore, recommends that Clause 8 (2) be amended to read as follows:

“The Accountant-General shall be a person with qualifications and a minimum of ten years experience in accountancy and public financial management, and shall be a member of the Zambia Institute of Chartered Accountants”.

- x. In Clause 10, your Committee observes that the recognition of a Permanent Secretary as Controlling Officer in line with the constitutional provisions may compromise the importance of this function. In view of the foregoing, and cognisant of the constitutional provisions, your Committee recommends that during the anticipated amendment of the Republican Constitution, the Controlling Officer must not be a routine Permanent Secretary in order to empower the Secretary to the Treasury to appoint any other officer other than the Permanent Secretary to be a Controlling Officer. This will strengthen the key performance indicators of the controlling officer.
- xi. In Clause 12, on the fiduciary duties of Controlling Officers and the controlling body, your Committee observes that while the list for relatives is explicitly provided under Clause 12 (3), there is need to draw a distinction between declaring interests for the known immediate family members and the unknown. Your Committee expresses concern that the manner in which the current Clause is crafted has potential to implicate innocent Controlling Officers. In light of this, your Committee recommends that the Clause be amended to draw a distinction between interests of the immediate family members, whether known or unknown and distant relations only when the interests are known or ought to be known by the Controlling Officer.
- xii. In Clause 12 (4), your Committee observes that the immediate suspension of a member of a controlling body who contravenes this section is at variance with the internal disciplinary procedures prevailing in the controlling bodies as well as the rules of natural justice. Your Committee recommends that the Clause be amended to include internal disciplinary procedures for a member of a controlling body before resorting to suspension.
- xiii. In Clause 13, on the appointment and responsibilities of Accounting Officers, your Committee observes that the failure to refer to the professional body that regulates accountants may encourage unprofessionalism. Your Committee, therefore, strongly recommends that provision must be made in this Clause that all practicing accountants are required to have a practicing certificate issued by ZICA. Further, considering that this Bill has supremacy with regard to public financial management, it is important, therefore, for it to capture practicing accountants.

- xiv. In Clause 14, on the Controller of Internal Audit, your Committee reiterates that both appropriate qualifications and a requirement for a minimum work experience of ten years for this position must be stipulated as is the case with the Accountant General under Clause 9 of the Bill.
- xv. In Clause 15, on the functions of Controller of Internal Audit, your Committee observes that whereas the Clause provides for the functions of the Controller of Internal audit, part of which includes the scrutiny of funds appropriated by the National Assembly, the absence of the role of the National Assembly in this process is a serious source of concern. In this vein, your Committee strongly recommends that a provision be made in this Clause for the Secretary to the Treasury to submit quarterly reports issued by the Controller of Internal Audit to the National Assembly.
- xvi. In Clause 15 (1) (b), your Committee observes that the Clause is not well drafted as it implies that the Controller of Internal Audit will be performing the functions of internal auditors in the statutory institutions unlike being restricted to special audits only. Your Committee, therefore, recommends that the Clause be amended accordingly to restrict the role of the Controller of Internal Audit for controlling bodies to the performance of special audits as espoused under Clause 14 (4) of the Bill.
- xvii. Your Committee observes that whereas Clause 19 (3) (e) leaves room for any other professional body to be part of the Audit Committee, your Committee is of the view that this may disadvantage civil society organisations. Your Committee, therefore, recommends that the Clause be amended to read as follows:
- “a member of any other relevant professional body such as civil society organisations”.*
- xviii. In Clause 19 (6), on the term of office for the Audit Committees, your Committee is of the view that the term be reduced to two years in order to enhance the members’ effectiveness.
- xix. In Clause 22, on the Disbursement of the Consolidated Fund, your Committee observes that whereas Clause 22 (3) (e) makes reference to the Minister approving

institutions for investments, the criteria to be applied by the Minister is not outlined. Your Committee expresses concern that this omission does not foster transparency. Therefore, your Committee recommends that the Clause be amended to clearly outline the criteria for the approval of the institutions by the Minister.

- xx. In Clause 22 (4), your Committee is concerned with the seven day period within which the Secretary to the Treasury should authorise the disbursement from the Consolidated Fund before closure of a financial year. Your Committee contends that the period is too short, especially in the event of an emergency. Your Committee, therefore, recommends that a more reasonable period be prescribed.
- xxi. In Clause 24, your Committee is concerned with the apparently unfettered authority given to the Minister to withdraw monies without the involvement of the National Assembly. Your Committee strongly recommends that the Clause be amended to provide for the Minister to seek authority from the National Assembly in order to ensure that the Minister's power is checked by the National Assembly.
- xxii. In Clause 25, on the Treasury Single Account, your Committee expresses concern over the omission of the Integrated Financial Management of Information Systems (IFMIS), which is the core financial management system of the Government. Your Committee recommends that the Clause should be amended to recognise the IFMIS, system which seeks to ensure that all Ministries, Provinces and Spending Agencies are prohibited from spending outside the system, thus curbing the accumulation of arrears and stemming financial misappropriation, irregularities, fraud and corruption, among other things.
- xxiii. In Clause 26, on borrowing and lending, your Committee notes the concerns raised by the stakeholders on this matter, but strongly feels that following the numerous accumulation of debt by most MPSAs without the authority of the Treasury, this provision should be maintained as it will help to curb this practice.
- xxiv. In Clause 28, on the General Revenue, your Committee observes that the Clause does not recognise the role of the sub national Government in so far as the issue of general revenue is concerned. Your Committee, therefore, strongly recommends that a new Clause 28 (8) be inserted in the Bill to read as follows:

“The Minister shall, by statutory instrument, prescribe the proportion of general revenue in the Consolidated Fund that shall be strictly ring-fenced for the sub-national governments”.

xxv. In Clause 31, on the Bank Balances at the end of a financial year, your Committee observes that the Clause should be amended to empower the Secretary to the Treasury make exceptional circumstances for financial commitments such as procurements in progress, contract under execution, late release of funds, among other considerations, before the retention of unspent funds. Your Committee contends that the late release of funds may put procuring entities under pressure as they would have to use the funds before they are mopped up, thereby, resulting in uncompetitive procurement practices.

xxvi. In Clause 39, on the variation of funds, your Committee observes that the provision does not provide for the variation of funds to be controlled or at least regulated by law. This, therefore, means that there will be no legal provision to control, regulate, mitigate or contest excessive variations. Your Committee, in this regard, recommends that the Clause be amended to read as follows:

“Where additional expenditure on one item can be met from savings on another item within the appropriation, funds maybe varied as shall be prescribed in line with the prevailing fiscal rules on national budget-setting and execution, in accordance with the National Planning and Budgeting Act of 2017”.

xxvii. In Clause 44, on the Disposal of Public Assets and Stores by Local Authority, Statutory Corporations and State Owned Enterprise, your Committee observes that the establishment of the Disposal Committees may not apply to other statutory bodies as it only applies to local authorities, statutory corporations and state owned enterprises. In addition, a statutory corporation has not been defined in the Bill. Your Committee is therefore, of the view that Clause 44 should be extended to include statutory bodies in order to enhance efficiency in the disposal of assets. In addition, Clause 44 (3) should be amended to include the head of the procurement and supplies unit as a member on the Disposal Committee as was the case in the Committee of Survey under Clause 43.

- xxviii. Your Committee observes that whereas acts that constitute financial misconduct have been well articulated under Clause 49 of the Bill, the absence of time frames in which various offences will be dealt with is a serious omission. Your Committee recommends that the Clause be amended to prescribe the time frames within which the Secretary to the Treasury is required to take action.
- xxix. In Clause 49 (4), your Committee observes that the Bill does not provide for sanctions regarding the financial misconduct by the Secretary to the Treasury. Your Committee, therefore, recommends that sanctions should be prescribed for failure by the Secretary to the Treasury to take action against an erring Controlling Officer or indeed if there is collusion between the Secretary to the Treasury and the Controlling Officer.
- xxx. In Clause 53, on the Interim Order of Surcharge, your Committee expresses concern with this provision for a surcharge against benefits/pensions of erring officers is at variance with the provisions of Article 187 of the Constitution. In view of the foregoing, your Committee recommends that this Clause be amended accordingly.
- xxxi. In Clause 55, on the responsibilities of the Minister in the management of state owned enterprises and statutory corporations, your Committee is concerned that no reference is made to the role of the Industrial Development Corporation (IDC) which exercises significant control over the financial policy of public entities. Your Committee recommends that the role of the IDC must be clearly spelt out under this Clause.
- xxxii. In Clause 56, your Committee observes that whereas this Clause makes specific provision for the Minister to delegate the management and control of Government interest in statutory corporations and state owned enterprises to the Secretary to the Treasury or appoint or establish an appropriate executive authority to manage Government interest in state owned enterprises, it does not include grant aided institutions. This is despite the Public Financial Management Reform Strategy regarding the public resources allocated to grant aided institutions as part of Government's investments which must also be effectively managed in order to maximise returns. Your Committee, therefore, recommends that the Clause be amended to include grant aided institutions.

xxxiii. Your Committee observes that while Clause 10 (1) provides for the Treasury to prepare the Financial Report for each financial year, the omission of the specific time frame in which this should be submitted negates the very essence of this exercise. Your Committee strongly recommends that the Clause be amended to prescribe the time frame in which the Financial Report should be tabled before the National Assembly and presented to the Auditor General.

xxxiv. Your Committee is of the strong view that Clause 70(2), on the duty of the Secretary to the Treasury to consolidate financial statements from the Financial Report, should also be extended to the financial reports of controlling bodies of local authorities, statutory corporations and state owned enterprises. This will enhance financial accountability and transparency in these institutions. Your Committee, therefore, recommends that the Clause should be amended as follows:

“The Secretary to the Treasury shall cause to be consolidated financial statements submitted under subsection (5), Section 72 and Section 73 (on the reporting requirements of a Controlling Body of a local authority) within two months of receipt of the financial statements from the controlling officers into the Financial Report of the Republic, which the Secretary to the Treasury shall proactively, deliberately, unrestrictedly and truthfully publish in the public in the Gazette (in compliance with Section 7(o) as well as in annual reports that the Treasury will disseminate to the extent possible in the public domain”.

xxxv. Your Committee recommends that the provision of Clause 72(3) should also apply to a controlling officer who fails to comply with Clause 70 in order to enforce discipline among Controlling Officers.

xxxvi. Your Committee is also of the view that Clause 72, which provides for the reporting requirements for statutory corporations or state owned enterprises, should also apply to the reporting requirements of a controlling body of a local authority in order to promote fiscal decentralisation and local level financial discipline.

xxxvii. Your Committee observes that the conventional courts are currently grappling with a huge caseload and a backlog going back several years. In this regard, your Committee recommends that in order to speed up the disposal of cases involving financial

misconduct provided in Clauses 49 - 53 of the Bill, a Fast Track Court be established to deal with all cases of financial misconduct in an expeditious manner.

- xxxviii. Your Committee notes that whereas the general responsibilities and fiduciary duties of the Controlling Officers have been provided for under Clause 11 and 12 of the Bill, their powers have not been prescribed. This may negatively affect the delivery of their key performance indicators. It is, therefore, recommended that the controlling officers' powers be provided for under the Bill.
- xxxix. Your Committee notes that one of the objectives of the Bill, is "strengthening of accountability, oversight, management and control of public funds in the public financial management framework". However, your Committee is of the view that the provision should be amended to make specific reference to transparency as follows:

"(b) the strengthening of transparency, accountability, oversight, management and control of public funds in the public financial management framework".

- xl. Your Committee notes that the Bill gives extensive powers to the Secretary to the Treasury. However, there is no security of tenure provided in the Bill for the Secretary to the Treasury, contrary to provisions relating to other offices such as the Director of Public Prosecutions. Your Committee strongly recommends that the Bill should provide for security of tenure for the Secretary to Treasury so as to enable the occupant discharge the mandate effectively and efficiently.
- xli. Your Committee observes that Part IV, on Financial Misconduct, does not make any provisions regarding the financial misconduct of the Secretary to the Treasury, implying that the occupant of the office is effectively above the law. Your Committee strongly recommends that a relevant provision under Part IV be inserted clearly describing acts which can be construed as financial misconduct by the Secretary to the Treasury and prescribing sanctions for such misconduct.

Your Committee is of the view that while the Bill presents an opportunity to strengthen the policy and legal framework in the effective control of public resources, its implementation should be followed by the quick revision of the other relevant pieces of legislation and regulations that support it such as the Financial Regulations, Stores Regulations and

Procurement guidelines. In addition, it is the expectation of your Committee that the Bill once enacted will be enforced to the letter so as to reduce the numerous financial irregularities in Ministries, Provinces and other Spending Agencies.

Further, your Committee notes that whereas reference has been made in the Bill to the *National Planning and Budgeting Act as well as the Loans, Grants and Guarantees (Authorisation) Act*, these pieces of legislation have not been presented to the National Assembly and, are therefore, non-existent. It is the considered and strong view of your Committee that passing the Bill in the absence of the two pieces of legislation compromises the desired outcomes. Your Committee is alive to the provision in Clause 1, which empowers the Minister to appoint the commencement date of the Statutory Instrument, but contends that this does not adequately address the concerns regarding the other two pieces of legislation which are extensively referred to in the Bill.

In light of this concern, your Committee fully supports the Bill but urges the House not to operationalise the Act until the other two pieces of legislation namely; the *National Planning and Budgeting Act and the Loans, Grants and Guarantees (Authorisation) Act* are passed by the National Assembly. This is especially important because Clause 3 grants the Act supremacy in matters of public financial management, and, therefore, consideration of the other pieces of legislation is paramount.

Conclusion

10.0 Your Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions. The Committee thanks you, Mr Speaker, for according it an opportunity to scrutinise the Bill. Your Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly and the permanent witnesses from the Ministry of Justice.

We have the Honour to be, Sir, your Public Accounts Committee mandated to consider the Public Finance Management Bill, N.A.B No. 17 of 2017 for the Second Session of the Twelfth National Assembly.

Mr H Kunda, MP
(Chairperson)

(Members)

Ms B M Tambatamba, MP (Vice Chairperson)

Mr M Mbulakulima, MP

Mr C Mweetwa, MP

Mr K Simbao, MP

Mr M C Munkonge, MP

Mr A Chiteme, MP

Ms D Mwape, MP

Mr T J Kasonso, MP

Mr V Lumayi, MP

February, 2018

LUSAKA

APPENDIX I

LIST OF NATIONAL ASSEMBLY OFFICERS

Ms C Musonda, Principal Clerk of Committees

Mr H Mulenga, Deputy Principal Clerk of Committees (FC)

Mr S Mtambo, Acting Senior Committee Clerk (FC)

Ms C T Malowa, Committee Clerk

Mr S C Samuwika, Committee Clerk

Ms K Lyondo, Typist

Mr D Lupiya, Parliamentary Messenger

APPENDIX II

WITNESSES

MINISTRY OF JUSTICE (PERMANENT WITNESS)

Mr A Nkunya, Chief Parliamentary Counsel

Mr G Muntengwa, Senior Parliamentary Counsel

Ms L C Mukuka, Parliamentary Counsel

LAW ASSOCIATION OF ZAMBIA

Mr L Zulu, Member

TRANSPARENCY INTERNATIONAL ZAMBIA

Mr W Chibamba, Executive Director

Ms L Stanbach, Development Advisor

ZAMBIA INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY

Mr P Mutimushi, Director General

Ms P Phiri, Director Finance

Mr T Malama, Director Legal

MINISTRY OF HOME AFFAIRS

Dr C L Mulenga, Permanent Secretary

Mr E Chiteta, Assistant Director

Mr K Hara, Assistant/PA

Mr E Peteli, Principal Research Officer

ZAMBIA INSTITUTE OF CHARTERED ACCOUNTANTS (ZICA)

Mr C Chiteba, Director

Mr S Jordan, Technical Director

Ms L Z Mubanga, PCS – Chair

Ms C Banda, PSC – Member

BANK OF ZAMBIA

Dr D Kalyala, Governor

Dr B Ng'andu, Deputy Governor
Ms P Malilwe, Director Finance
Mr I Zulu, Assistant Director- Finance
Mr J Kanyoro, Assistant Director – Non-Banks
Mr L Zulu, Senior Counsel
Mr K Mayondi, Assistant Director – Communications
Mr D Kaliba, Executive Assistant – Governor
Mr G Gayaba, Executive Assistant – Deputy Governor
Mrs G Mposha, Director – Bank Supervision

MINISTRY OF HOME AFFAIRS – ZAMBIA POLICE SERVICE

Mr K Kanganja, Inspector of General Police
Mr C Wanchinga, Acting Assistant Director – Legal
Mr P Mutale, Senior Research Officer
Mr B Namangolwa, Research and Planning
Mr B N Makungu, Special Assistant to the Inspector General of Police

TEACHING SERVICE COMMISSION

Mr Z Luhanga, Commission Secretary
Ms N Mulikile, Senior Human Resource Management Officer
Ms J Mbambae, Human Resource Management Officer

ZAMBIA INSTITUTE OF HUMAN RESOURCE MANAGEMENT

Mr M Silumba, President
Mr T M Bowa, Vice Secretary
Mr P Mwela, Registrar
Dr V Seti, Member
Mr M Nwana, Member

CIVIL SERVICE COMMISSION

Mr D K Chasaya, Chairperson
Mr H S Chipango, Vice Chairperson
Mr M Nyambose, Member
Ms J M Malitoli, Member
Ms A Sampa, Member

Mr L Kalonde, Secretary
Mr D Lungu, Deputy Secretary

INDUSTRIAL DEVELOPMENT CORPORATION

Mr M Kaluba, Chief Executive Officer
Mr H Sakala, Chief Portfolio Officer
Ms K Lubinga, Senior Analyst/Research and Strategy

DRUG ENFORCEMENT COMMISSION

Mr J Akapelwa, Principal State Advocate
Mr R Chulu, Parliamentary Liaison Officer

JESUIT CENTRE FOR THEOLOGICAL REFLECTION

Fr. A Muyebe, Programme Officer
Mr N Innocent, Programme Officer

KPMG ZAMBIA

Mr J Kazilimani, Senior Partner
Mr M Phiri, Director

LOCAL GOVERNMENT ASSOCIATION OF ZAMBIA

Mr M Mbolela, Executive Secretary
Ms M Namumba, Information Officer
Mr D Longwe, Programme Officer

ZAMBIA INSTITUTE OF POLICY ANALYSIS RESEARCH

Ms P N Kabaso, Executive Director
Mr C Cheelo, Research Fellow
Mr T Banda, Associate Researcher
Ms C M Ilunga, Assistant Researcher
Ms E Mapulanga, Knowledge Manager
Mr B Tembo, Visiting Researcher
Ms C B Mwali, Assistant Researcher
Mr S Nalishebo, Research Fellow
Mr J Mutiutwa, Associate Researcher

Ms R H Masenke, Research Assistant
Ms M M Chatora, Associate Researcher
Ms N Mungomba, Research Fellow
Mr D Mukumbila, Photographer

OFFICE OF THE AUDITOR GENERAL

Mr R Mwambwa, Acting Auditor General
Mrs S Ross, Director-Planning
Mr B Muyoba, Senior Auditor
Ms E Chikale, Public Relations Officer

BANKERS' ASSOCIATION OF ZAMBIA

Mr L Mwela, Chief Executive Officer
Mr M Zimba, Public Relations Officer

LUAPULA PROVINCIAL ADMINISTRATION

Dr B Nsemukila, Permanent Secretary
Mr M Sodala, Assistant Director
Mr K Kwele, Principal Accountant
Mr C Mwaba, Internal Auditor

ANTI-CORRUPTION COMMISSION

Mr K Phiri, Director General
Mr C Moonga, Director - Legal
Ms G Chisambisha, Senior Legal and Prosecution Officer

MINISTRY OF FINANCE

Hon F Mutati, Minister
Mr F Yamba, Secretary to the Treasury
Mr D C Sichembe, Acting Accountant General
Ms J P Sundano, Controller of Internal Audit
Mr J M Ukwimi, Deputy Accountant General
Mr M Chanda, Deputy Accountant General
Mr G C Kabwe, Chief Accountant
Mr E Manunga, Principal Accountant

Mr J Mkandawire, Director

Mr J Mwanza, Assistant Director

ZAMBIA CENTRE FOR ACCOUNTANCY STUDIES

Dr E Lengwe, Director

INNOVATIVE CONSULTING AND RESEARCH INTERNATIONAL

Mr R K Sichinga, Managing Consultant