



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL SERVICES ON  
THE CANNABIS BILL, N.A.B. NO. 31 OF 2021**

**FOR THE**

**FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

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# **REPORT OF THE COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL SERVICES ON THE CANNABIS BILL, N.A.B. NO. 31 OF 2021 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

## **1.0 MEMBERSHIP OF THE COMMITTEE**

The Committee consisted of: Dr C Kalila, MP (Chairperson); Ms P Kasune, MP (Vice Chairperson); Mr C M Chalwe, MP; Mr D Mabumba, MP; Mr L N Tembo, MP; Mr J Kabamba, MP; Mr A B Kapalasa, MP; Mr L Kintu, MP; Mr M Ndalamei, MP; and Mr A Mandumbwa, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA**

Sir,

The Committee has the honour to present its Report on the Cannabis Bill, N.A.B. No. 31 of 2021, for the Fifth Session of the Twelfth National Assembly, referred to it by the House on Friday 16<sup>th</sup> April, 2021.

## **2.0 FUNCTIONS OF THE COMMITTEE**

The functions of the Committee are as set out in Standing Order No. 157(2). Among other functions, the Committee is mandated to consider Bills that may be referred to it by the House.

## **3.0 MEETINGS OF THE COMMITTEE**

The Committee held ten meetings to consider the Cannabis Bill, N.A.B. No. 31 of 2021.

## **4.0 PROCEDURE ADOPTED BY THE COMMITTEE**

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from stakeholders. The stakeholders who virtually appeared before the Committee are listed at Appendix II.

## **5.0 BACKGROUND**

In 2019, the Government announced that it would propose legislation to allow for the cultivation of cannabis for medicinal, scientific and research purposes. It had been scientifically proven that cannabis contained dozens of active substances that could have an effect on the human body and brain. Medicinally, cannabis was effective in the treatment of muscle spasticity and rigidity as a result of, for example, multiple sclerosis and Parkinson's Disease. Cannabis also worked well in easing the symptoms of chronic pain, joint pain, insomnia, and neuropathy.

In this regard, stakeholders were engaged to weigh in on the proposal and give suggestions on how the legalisation of cannabis could be carried out. To this effect, the Government took cognisance of the need to come up with regulations and guidelines to properly guide persons interested in venturing into the business. Further, the Government recognised the need to come up with proper control measures to ensure that there was no illegal activity on the growing of cannabis and to avoid its abuse.

In view of the foregoing, the Government introduced the Cannabis Bill, N.A.B. No. 31 of 2021 (hereinafter referred to as 'the Bill') to, among others, provide for the regulation of the cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific or research purposes.

## **6.0 OBJECTS OF THE BILL**

The objects of the Bill are to:

- (a) provide for the regulation of the cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific or research purposes;
- (b) designate the Lead Agency for the licensing of cannabis for medicinal, scientific and research purposes;
- (c) provide for security measures for the cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific or research purposes;
- (d) provide for the constitution of the National Cannabis Coordinating Committee and provide for its functions;
- (e) domesticate the Single Convention on Narcotic Drugs, 1961; and
- (f) provide for matters connected with, or incidental, to the foregoing.

## **7.0 SALIENT PROVISIONS OF THE BILL**

The Committee noted the salient features of the Bill as set out below.

### **PART I - PRELIMINARY PROVISIONS**

#### **Clause 1 – Short Title and Commencement**

This clause provided for the title of the Bill and its commencement.

#### **Clause 2 - Interpretation**

This clause defined the key words and phrases used in the Bill in order to make the law easier to understand by persons and those tasked to implement the law.

#### **Clause 3 – Application**

This clause provided that the Bill shall not apply to the cultivation of a cannabis plant with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry weight basis exclusively for industrial or horticultural purposes.

## **PART II - ADMINISTRATION**

### **Clause 4 – Lead Agency**

This clause placed the mandate on the Zambia Medicines Regulatory Authority as the Lead Agency for issuing of licences for cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific and research purposes.

### **Clause 5- Constitution of National Cannabis Coordinating Committee**

This clause constituted the National Cannabis Coordinating Committee appointed by the President which would consist of part time members representing the Ministries of Agriculture, Commerce, Trade and Industry and Home Affairs among others.

### **Clause 6 - Functions of Committee**

This clause set out the functions of the National Cannabis Coordinating Committee which would include considering applications for licences to cultivate, manufacture, process, distribute, import and export industrial hemp or conduct research on industrial hemp, providing quotas for the cultivation of cannabis, ensuring compliance with the requirements of international agreements and prescribed requirements for the cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific or research purposes.

### **Clause 7 – Reservation of the Purchase, Storage, Import and Export of Cannabis**

This clause designated the Zambia Medicines and Medical Supplies Agency to purchase, store, export and import cannabis for medicinal, scientific or research purposes. The clause also obligated the Agency to apply for a licence from the Zambia Medicines Regulatory Authority to purchase, store, export and import cannabis. This clause further set out the functions of the Agency, which included to purchase and take physical possession of the harvested cannabis for medicinal, scientific or research purposes as soon as possible, but not later than four months after the end of the harvest and undertake wholesale trading, maintain stocks and export cannabis for medicinal, scientific or research purposes.

### **Clause 8- Tenure of Office of Members and Vacancy**

This clause provided the tenure of office of members of the National Cannabis Coordinating Committee and the circumstances under which the office of a member of the National Cannabis Coordinating Committee could become vacant, which included if the member died; was adjudged bankrupt; was absent from three consecutive meetings of the Committee of which that member of the Committee had had notice, without the prior approval of the Committee; or resigned from office.

### **Clause 9- Proceedings of Committee**

This clause set out the proceedings of the National Cannabis Coordinating Committee when the Committee met for the transaction of business for purposes of their functions.

### **Clause 10- Sub-Committees**

This clause empowered the National Cannabis Coordinating Committee to constitute sub-committees for the purposes of carrying out its functions.

### **Clause 11- Disclosure of Interest**

This clause made it mandatory to disclose any interest, by a person who was present at a meeting of the National Cannabis Coordinating Committee or a sub-committee of the Committee at which that person or that person's relative or associate was directly or indirectly interested in a private capacity.

### **Clause 12- Prohibition of Publication or Disclosure of Information to Unauthorised Person**

This clause prohibited the publication of information to unauthorised persons without the consent of the National Cannabis Coordinating Committee otherwise than in the course of the duties of that person.

## **PART III - DECLARATION OF QUOTAS AND LICENSING FOR THE CULTIVATION, MANUFACTURE, PRODUCTION, STORAGE, DISTRIBUTION, IMPORT AND EXPORT OF CANNABIS**

### **Clause 13-Declaration of Quotas**

This clause mandated the National Cannabis Coordinating Committee to annually declare a quota for the cultivation of cannabis.

### **Clause 14- Prohibition from Cultivation, Manufacture, Production, Storage, Distribution of Cannabis**

This clause prohibited and made it an offence to cultivate, manufacture, produce, store and distribute cannabis without a licence from the Zambia Medicines Regulatory Authority.

### **Clause 15- Application for Licence**

This clause mandated any person who intended to cultivate, manufacture, produce, store, distribute, import and export cannabis for medicinal, scientific or research purposes to apply to the Zambia Medicines Regulatory Authority for a licence. This clause further provided for a time frame for the Zambia Medicines Regulatory Authority to approve or reject the application.

### **Clause 16- Delivery of Harvested Cannabis**

This clause mandated a person who was licenced to cultivate cannabis to deliver the harvested cannabis to the Zambia Medicines Regulatory Authority within four months of the harvest. This clause further provided for an offence where a person failed to comply with the provisions of this clause and set out the sanction for the offence.

### **Clause 17- Duration of Licence**

This clause provided that the duration of a licence issued by the Zambia Medicines Regulatory Authority will be three years.

### **Clause 18- Renewal of Licence**

This clause provided for the procedure by the licensee for applying for the renewal of a licence to the Zambia Medicines Regulatory Authority.

### **Clause 19- Notice of Suspension or Revocation of licence**

This clause provided the circumstances for the revocation or suspension of a licence which included obtaining the licence by fraud, misrepresentation or concealment of a material fact or were the licensee was legally disqualified to undertake the licensed activity.

### **Clause 20- Notice of Change of Particulars**

This clause set out the procedure for a licensee who intended to change particulars of a licence.

### **Clause 21- Submission of Annual Returns and Status Report**

This clause mandated a licensee to submit annual returns and a status report to the Zambia Medicines Regulatory Authority.

### **Clause 22 -Transfer of licence**

This clause set out the procedure for a licensee who intended to transfer a licence.

### **Clause 23- Variation of licence**

This clause placed an obligation on the licensee to apply to the Zambia Medicines Regulatory Authority for the variation of a licence.

### **Clause 24- Notice of Cessation of licensed Activities**

This clause set out the procedure for a licensee intending to cease conducting the licenced activities.

### **Clause 25- Designation of Areas**

This clause mandated the National Cannabis Coordinating Committee to designate areas as premises for licensed activities which took into account the risk of diversion and risk of contamination subject to the *Environmental Management Act, No. 12 of 2011* or economic decentralisation.

### **Clause 26- Quality Control of Plant or Cannabis Preparations**

This clause empowered an independent laboratory to verify and test a cannabis plant or cannabis preparation, before it was exported or sold.

### **Clause 27- Clearing of Plants from Land by Owner or Occupier**

This clause placed an obligation on the owner or occupier of land to clear or cause to be cleared from that person's land, any plant from which cannabis was derived. The clause also provided an offence where a person failed to comply with provisions of the clause.

### **Clause 28- Reservation of Cultivation of Cannabis for Medicinal, Research or Scientific Purposes**

This clause placed an obligation on the Zambia Medicines Regulatory Authority to issue a licence to the Zambia National Service, on commencement of the Act, for the cultivation of cannabis for medicinal, scientific or research purposes on terms and conditions that the Authority may determine.

## **PART IV - SECURITY MEASURES FOR THE CULTIVATION, MANUFACTURE, PRODUCTION, STORAGE, DISTRIBUTION, IMPORT AND EXPORT OF CANNABIS FOR MEDICINAL, SCIENTIFIC OR RESEARCH PURPOSES**

### **Clause 29- Compliance with Security Measures**

This clause placed an obligation on a licensee to comply with security measures under this Act.

### **Clause 30- Unauthorised Access and Visual Monitoring of Premises for Licensed Activity**

This clause mandated a licensee to cause premises used for the purposes of carrying out the licensed activity to be designed in a manner that prevented unauthorised access. The clause further placed an obligation on the licensee to install at the premises visual recording devices.

### **Clause 31- Intrusion Detection System of Premises**

This clause placed an obligation on the licensee to install an intrusion detection system on the premises which was capable of detecting any attempted or actual unauthorised access on the premises or tampering with the intrusion detection system.

### **Clause 32- Physical Barriers**

This clause mandated the licensee to provide physical barriers that prevented the unauthorised manufacture or storage of cannabis for medicinal, scientific or research purposes.

### **Clause 33- Restricted Access**

This clause provided that premises licensed for the purposes of a licensed activity shall be restricted to personnel working at those premises.

## **PART V - POSSESSION OF CANNABIS**

### **Clause 34- General Authorisation for Certain Classes of Persons**

This clause provided the classes of persons authorised to be in possession of the preparation of cannabis for medicinal, scientific or research purposes which included, a health practitioner, a veterinary surgeon and a nurse.

### **Clause 35- Withdraw of General Authorisation**

This clause set out the circumstances under which the Minister may withdraw the authorisation for a person to be in possession or preparation of cannabis for medicinal, scientific or research purposes. The clause further sets out the circumstances under which the authorisation maybe restored.

### **Clause 36- Dealing with Cannabis over Electronic Communication Network**

This clause prohibited a person from distributing cannabis by way of an electronic communications network. The clause also provided an offence for failure to comply with the prohibition and set out the sanction for the offence.

## **PART VI - REPORTS, RECORDS, INVENTORIES AND REGISTERS**

### **Clause 37- Records and Reports of licenced Activity**

This clause placed an obligation on a licensed entity to establish and maintain records and inventory of cannabis manufactured, distributed, received, sold, supplied or otherwise disposed of.

### **Clause 38- Cannabis Tracking System**

This clause mandated the National Cannabis Coordinating Committee to establish and maintain a cannabis tracking system to enable the tracking of cannabis, to prevent cannabis from being diverted to an illicit market or activity, and to prevent illicit cannabis from being a source of supply of cannabis in the legal market.

### **Clause 39-Keeping of Registers of Cannabis**

This clause required a licensee to keep and maintain a register of the cannabis cultivated, manufactured, produced, stored, distributed, imported and exported for medicinal, scientific or research purposes.

### **Clause 40-Preservation of Documents**

This clause placed an obligation on a licensee to preserve registers, records, inventories, books, prescriptions, orders in writing and other documents issued or made for the purposes of this Act.

## **PART VII - INSPECTIONS**

### **Clause 41- Power of Authorised Officer**

This clause provided the powers of an authorised officer, some of which included to search any premises where any activity in relation to cannabis for medicinal purposes was being undertaken, including a pharmacy, an agro-veterinary shop, a container, vessel, vehicle, an aircraft or other conveyance, or the premises of a manufacturer, importer, exporter, seller or distributor of cannabis. The clause further provided offences where a person delayed, assaulted, threatened or obstructed an authorised officer in the performance of the authorised officer's functions or impersonated an authorised officer or presented oneself to be an authorised officer when in fact not.

## **PART VIII - GENERAL PROVISIONS**

### **Clause 42- Appeals**

This clause accorded a person aggrieved by a decision made under this Act to appeal to the High Court.

### **Clause 43- Permitting Premises to be used for Unlawful Use of Cannabis**

This clause set out the offences a person committed, if the person permitted the premises to be used for unlawful use of cannabis.

### **Clause 44- General Penalty**

This clause provided for the general penalty of an offence under this Act where no penalty was provided.

### **Clause 45-Regulations**

This clause gave the Minister the power, on the recommendation of the National Cannabis Coordinating Committee, to make regulations for the better carrying out of the provisions of this Act.

## 8.0 CONCERNS RAISED BY STAKEHOLDERS

Most stakeholders who virtually appeared before the Committee supported the Bill save for a few who raised the following concerns:

### OBJECTS OF THE BILL

- a) Some stakeholders held the view that the Bill should provide for an additional object to read:

“Provide for the cultivation of medicinal cannabis in green houses or indoors”.  
The stakeholders explained that this was because medical cannabis was only grown indoors or in green houses for both quality and security purposes.

- b) Other stakeholders submitted that the objects of the Bill should be aligned to the objects and terminologies used in other Acts of Parliament such as, the *Dangerous Drugs Act, Chapter 95 of the Laws of Zambia; the Narcotic Drugs and Psychotropic Substances Act, Chapter 96 of the Laws of Zambia; the Medicines and Allied Substances Act No.3 of 2013; the Plant Varieties and Seeds Act Chapter 236 of the Laws of Zambia and the Plant Pests and Diseases Act Chapter 233 of the Laws of Zambia* in order to avoid ambiguities and contradictions, especially given that noncompliance with the Bill, if enacted, would attract criminal penalties. The stakeholders therefore, recommended that the objects of the Bill must be amended to read as follows:

- (a) To provide for the licensing and regulation of cultivation, manufacture, production, storage, distribution, import, export, multiplication, possession, sale, and use of cannabis for medicinal, scientific and research purposes;
- (b) To designate the Lead Agency for the licensing and regulation of licensed activities;
- (c) To constitute and provide for the functions of the National Cannabis Coordinating Committee in the issuance and revocation of licenses issued under this Act;
- (d) To provide for the regulatory framework for licensed activities;
- (e) To domesticate the International Drug Control Conventions, namely, the UN Single Convention on Narcotic Drugs (1961), as amended in 1972; the UN Convention on Psychotropic Substances (1971); and the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988); and
- (f) provide for matters connected with, or incidental to the foregoing.

## PART I - PRELIMINARY PROVISIONS

- a) Regarding the interpretation of the Bill, under clause 2, stakeholders submitted as follows:
- i. the term “appropriate Lead Agency” was not defined, therefore, the Bill should provide for the definition of this term.
  - ii. the definition of “authorised officer” was too broad and if not amended could create confusion because of the words “a person”. The stakeholders observed that these words implied that anyone employed by the institutions under (a), (b), (c), (d) and (e) could assume the roles of an authorised officer which may be risky, especially that cannabis fell under the category of controlled substances. The stakeholders, therefore, recommended that (a), (b), (c), (d) and (e) under the definition of “authorised officer” should be amended to read:
    - (a) an officer appointed under the *Narcotic Drugs and Psychotropic Substances Act*;
    - (b) an inspector appointed under the *Medicines and Allied Substances Act, 2013*;
    - (c) an inspector appointed under the *Plant Pests and Diseases Act*;
    - (d) an inspector appointed under the *Plant Variety and Seeds Act*; and
    - (e) an inspector appointed under the *Environmental Management Act, 2011*.
  - iii. the inclusion of “*Opium, coca leaves*” under the definition of “cultivation” was erroneous because Opium and coca leaves were not part of the cannabis plant or its products. The stakeholders, therefore, recommended that the words “Opium” and “Coca leaves” must be deleted from the definition of “cultivation”.
  - iv. the definition of the word “cultivation” should be amended to read “includes planting, sowing, scattering the seeds, growing, nurturing, tending or harvesting cannabis and cannabis resin from the plant from which they were obtained.”
  - v. the terms “cannabis resin”, “emoluments”, “emoluments commission” and “single convention” had been defined under clause 2 of the Bill and yet the said terms had not been used in any of the clauses in the Bill. The stakeholders, therefore, recommended that the definitions be deleted;
  - vi. the words “designated by the Committee”, should be deleted in the definition of “appropriate authority” as an appropriate authority was established under an Act of Parliament;
  - vii. “health practitioner” had been defined to mean a medical doctor, medical licentiate, pharmacist, dental surgeon or other person as the Minister may, on the advice of the Lead Agency, by statutory instrument, designate. However, the *Health Professions Act, No. 24 of 2009* already defined a health practitioner to mean a person registered as a practitioner under section 8 of the Act and provided a long, conclusive list of professions recognised as health practitioners. In view of this, the stakeholders recommended that instead of the Bill defining “health practitioner” in a manner that was different from the definition contained

in the *Health Professions Act*, and to achieve consistency in the law, the definition in the *Health Practitioners Act* should be adopted in the Bill. In the same vein, the stakeholders contended that the power to designate a person as a health practitioner should not be reposed in the Minister because not only could this be abused, but it could also lead to uncertainty in the law;

- viii. the word “manufacture” was omitted from being defined in the Bill despite the word being a major component of the objectives of the Bill. The Bill should, therefore, provide for this definition;
- ix. The word “Quota(s)” was not defined in the Bill. The Bill should, therefore, provide clarity on the meaning of the word; and
- x. The word “Treatment” was not defined in the *Health Professions Act, No. 24 of 2009* as suggested in the Bill. The Bill should, therefore, provide for a definition.

## **PART II - ADMINISTRATION**

- a) There were some stakeholders who submitted that clause 4(1), should be amended to include the words “multiplication, possession, sale and use”, in order for this clause to be consistent with the objects and terminologies used in other Acts of Parliament such as the *Dangerous Drugs Act, Chapter 95 of the Laws of Zambia; the Narcotic Drugs and Psychotropic Substances Act, Chapter 96 of the Laws of Zambia; the Medicines and Allied Substances Act, No.3 of 2013; the Plant Varieties and Seeds Act Chapter 236 of the Laws of Zambia and the Plant Pests and Diseases Act, Chapter 233 of the Laws of Zambia* .
- b) Stakeholders also observed that the National Cannabis Coordinating Committee was to be appointed under clause 5 (1) of the Bill by the President and yet under clause 15 (3), the Committee reported/ made recommendations on the grant of licenses to the Lead Agency, whose Board was appointed by the Minister under clause 7 of the *Medicines and Allied Substances Act, No. 3 of 2013*. The stakeholders were concerned that this may create an anomaly as the Committee ought to be superior to the Lead Agency and should, therefore, not be required to report to an institution appointed by a lower ranking authority..
- c) Other stakeholders, however, held the view that clause 5 of the Bill which provided for the constitution and appointment of the National Cannabis Coordinating Committee by the President was in contradiction with Section 7 of the *Medicines and Allied Substances Act, No 3 of 2013* which provided for the constitution and appointment by the Minister of Health of the Zambia Medicines Regulatory Authority (ZAMRA) Board. This, therefore, implied that ZAMRA would have two boards operating at the same time. The stakeholders, therefore, recommended the reconciliation of clause 5 with section 7 of the *Medicines and Allied Substances Act, No 3 of 2013* in order to avoid contradiction.
- d) Some stakeholders observed with concern that the Zambia Environmental Management Agency had been omitted from the list of institutions constituting the National Cannabis Coordinating Committee under clause 5 (1). The stakeholders

contended that this was a serious omission as ZEMA had a crosscutting mandate under the *Environmental Management Act, No. 12 of 2011* to, among others things, ensure sustainable land use, ensure the prevention of environmental degradation as well as the management of natural resources. Further, the cultivation of cannabis would entail the use of agricultural chemicals whose use, importation, transportation, storage and distribution were regulated by ZEMA. The stakeholders therefore, recommended that ZEMA should have representation on the Board.

- e) Other stakeholders also held the view that the chairperson under clause 5 (1) (a) should be a representative from the Chiefs' Foundation appointed by the House of Chiefs.
- f) Stakeholders also expressed concern that the Chiefs' Foundation under the House of Chiefs had no representation on the National Cannabis Coordinating Committee created under clause 5 (1) (c) of the Bill. They contended that this was a serious anomaly as chiefs were a key stakeholder in the legalisation of the cultivation of cannabis. The stakeholders, therefore, recommended that the Committee should have representation from the Chiefs' Foundation.
- g) Other stakeholders submitted that the composition of the National Cannabis Coordinating Committee must include representation from producer organisations (growers) in order to allow for a well filtered flow of information and communication of concerns between farmers and the Government.
- h) Some stakeholders were of the view that it was important for the Zambia National Farmers' Union to have representation on the National Cannabis Coordinating Committee under clause 5 (1) (c).
- i) There were stakeholders who contended that the National Cannabis Coordinating Committee would benefit from representation from Chainama Hills Hospital, through a Mental Health Specialist under clause 5 (1) (c).
- j) Stakeholders observed with concern that the Zambia Medicines Regulatory Authority (ZAMRA) had been proposed to be represented on the National Cannabis Coordinating Committee under clause 5 (1) (c) (ii), despite being the administrative authority of the Committee. The stakeholders, therefore, recommended that ZAMRA should not be listed as a member of the Committee.
- k) Stakeholders recommended that the appointing authority for the representative under clause 5 (1) (d) should be specified as was the case for members from ministries, organisations or institutions.
- l) Other stakeholders submitted that clause 5 (1) (d) should be recast to read as follows;

“5 (1) (d): a person from the farming sector with experience and knowledge in matters related to this Act.”

- m) Other stakeholders observed that clause 6 of the Bill and section 8 of *the Medicines and Allied Substances Act, No 3 of 2013*, both provided for the functions of the Zambia Medicines Regulatory Authority (ZAMRA) Board. The stakeholders recommended that the functions of the National Cannabis Coordinating Committee in the Bill must be in addition to those assigned to the ZAMRA Board under the *Medicines and Allied Substances Act, No 3 of 2013*.
- n) Other stakeholders proposed that the word “process” under clause 6 (b) should be deleted and replaced with the word “produce”. They further recommended the insertion of the words ““multiply, possess, sale, and use” under this clause in order for the clause to be consistent with the objects and terminologies used in other Acts of Parliament such as the *Dangerous Drugs Act; the Narcotic Drugs and Psychotropic Substances Act; the Medicines and Allied Substances Act; the Plant Varieties and Seeds Act and the Plant Pests and Diseases Act* .
- o) Some stakeholders proposed that the functions of the National Cannabis Coordinating Committee under clause 6(c), (e), (f), (g) and (h) should be performed by the Lead Agency and not the Committee as the functions were operational in nature. The stakeholders argued that in case of any challenges, liability would be on the Lead Agency as an institution with the legal mandate. The Lead Agency was also the competent authority recognised by the International Narcotic Control Board (INCB).
- p) Under clause 6 (c), some stakeholders recommended that the word “provide” be replaced with the word “declare” in accordance with clause 13. Other stakeholders, however, held the view that clause 6 (c) should be recast so that the phrase “establish quotas” could be used rather than “provide quotas” for the cultivation of cannabis.
- q) stakeholders further recommended the insertion of the words ““multiply, possess, sale, and use” under clause 6 (f) in order for the clause to be consistent with the objects and terminologies used in other Acts of Parliament such as the *Dangerous Drugs Act; the Narcotic Drugs and Psychotropic Substances Act; the Medicines and Allied Substances Act; the Plant Varieties and Seeds Act; and the Plant Pests and Diseases Act*.
- r) There were some stakeholders who expressed concern that despite the Bill having made reference to the Zambia Bureau of Standards under clause 6 (g), the Zambia Bureau of Standards had not been defined under Part I of the Bill. The stakeholders, therefore, recommended that the definition of the Zambia Bureau of Standards be provided under Part I of the Bill as “Zambia Bureau of Standards means the Zambia Bureau of Standards established under the *Standards Act, No. 4 of 2017*”.
- s) Stakeholders further observed that despite the Bill having made reference to the word “standards” under clause 6 (g), the term had not been defined in Part I of the Bill. The stakeholders, therefore, recommended that “standard” should be defined in Part I of the Bill as “a document that provides for common and repeated use of rules, guidelines or characteristics for products, services or processes and production methods, including terminology, symbols, packaging, marking or labelling requirements that apply to a product, service, process or production method.”

- t) Other stakeholders proposed that clause 7 be moved to an appropriate place as it was not in harmony with the chronological order of the provisions of the Bill.
- u) Under clause 7 (1), some stakeholders held the view that the Zambia Medicines and Medical Supplies Agency should not be the only entity that should purchase, store, import and export cannabis. The stakeholders argued that Zambia was a free market economy, therefore, other players in the market apart from the Agency should be allowed to purchase, store, import and export cannabis, provided that they met the regulatory requirements.
- v) Stakeholders also submitted that the Bill should clarify under clause 7 (2) whether the Agency would be importing cannabis or cannabis seeds. However, the word “import” should be deleted from the sentence because in its current form, it did not serve any purpose.
- w) There were some stakeholders who also proposed that a subsection be inserted under clause 8 (2) to read:
 

“8 (2) (h): is removed by the President.”
- x) Stakeholders observed that although the Bill provided under clause 9(3) that the National Cannabis Coordinating Committee would cause Minutes of its proceedings and those of its subcommittees to be kept, it was not clear as to which institution would serve as secretariat for this purpose. The stakeholders, therefore, recommended that the Bill should provide for a clear indication as to which institution would act as secretariat for this purpose.
- y) Stakeholders expressed concern that clause 10(3) did not specify the tenure of office for members of the sub committees constituted by the National Cannabis Coordinating Committee. The stakeholders, therefore, recommended that clause 10(3) should be amended so that the tenure of office for members of the subcommittees should not exceed the tenure of office for the Committee. The stakeholders argued that if the provision was not amended, it may potentially be misapplied.
- z) Some stakeholders observed that clause 12 provided for the prohibition of publication or disclosure of information to unauthorised persons and created an offence for such disclosure. They further observed that the matters which were the subject of the Bill were functions carried out by public institutions. In view of this, it was important that public institutions were transparent and accountable in the manner they carried out their functions. Moreover, unauthorised persons were not defined and the clause may, therefore, be abused to deny the public, or certain sections of it, its right to information about how public institutions were carrying out their functions. In view of this, the stakeholders recommended that unless absolutely necessary for public security or order, publication or disclosure of information relating to information or documents relating to the administration of the Act should not be prohibited.

### **PART III - DECLARATION OF QUOTAS AND LICENSING FOR THE CULTIVATION, MANUFACTURE, PRODUCTION, STORAGE, DISTRIBUTION, IMPORT AND EXPORT OF CANNABIS**

- a) Some stakeholders expressed concern that Part III of the Bill did not have clear provisions on how small scale farmers would obtain licenses for production. The stakeholders, therefore, recommended that the Bill should include provisions that cooperatives, farmers' organisations or registered farmers' groups affiliated to the National Union for Small Scale Farmers of Zambia should participate as a group in a controlled manner so that they also could collectively afford the licenses and generally benefit from the cannabis business. The general thrust of this position was that this crop could be prone to abuse if allowed to be cultivated at individual small scale level given its sensitivity.. A collective company or cooperative owned by small scale farmers, therefore, extended this opportunity to them but also mitigated the risk.
- b) There were stakeholders who held the view that clause 13 should be amended to provide for the Lead Agency to annually submit a quota for the cultivation of cannabis to the Internal Narcotic Control Board (INCB) as determined. This was because it may be difficult for the Committee to submit quotas to the INCB because it was not recognised to do so. The Lead Agency, on the other hand, was the competent authority that prepared and submitted annual quantities of controlled substances to the INCB.
- c) Other stakeholders held the view that it would be ideal if the quota for cultivation of cannabis under clause 13 was not prescribed as it would allow flexibility for changes that may occur whenever the demand for cannabis increased.
- d) Other stakeholders observed that clause 13 provided that the Committee shall annually declare a quota for the cultivation of cannabis, as prescribed. This was consistent with the function of the Committee under clause 6 (c). The understanding, therefore, was that the Committee would come up with annual quotas for the cultivation of cannabis based on required quantities as a control measure for the quantities of cannabis required by the country in any given year. However, given that the Act would also regulate the export of cannabis, the stakeholders observed with concern that the quota system may inhibit the production of cannabis, which may not be desirable as the excess cannabis cultivated, if any, could be utilised as stocks for export. The stakeholders, therefore, recommended that the extent and manner of prescribing quotas be provided under clause 13.
- aa) stakeholders further recommended the insertion of the words “multiply, possess, sale, and use” under clause 14 (1) in order for the clause to be consistent with the objects and terminologies used in other Acts of Parliament such as the *Dangerous Drugs Act*; the *Narcotic Drugs and Psychotropic Substances Act*; the *Medicines and Allied Substances Act*; the *Plant Varieties and Seeds Act*; and the *Plant Pests and Diseases Act*.

- bb) Other stakeholders also recommended the insertion of the words “multiply, possess, sale, and use” under clause 15 (1) in order for the clause to be consistent with the objects and terminologies used in other related Acts.
- cc) There were some stakeholders who also held the view that clause 15 (1) should be clear on how much the licenses would cost.
- e) Clause 15 (2) provided that in addition to the requirement that one applies for a licence in a prescribed manner and form under clause (1), there was need for security clearance also in a prescribed manner and form. Stakeholders observed that the conditions for the licence and the requirements for security clearance would be prescribed through a statutory instrument. The stakeholders, however, expressed concern that this was not desirable as there was need for the Bill to provide for the scope of the security clearance so as to ensure certainty in the law and to avoid abuse by those empowered to determine the security clearance required.
- f) Stakeholders expressed the view that clause 15 (3) must be harmonised with clause 6 (a) on the functions of the Committee pertaining to licensing.
- g) Under clause 15 (3), other stakeholders held the view that the words “if an applicant meets prescribed requirements” should be inserted after the word “approved”. Further, the words “application where the applicant fails to meet the prescribed requirement” should be inserted after the word “reject”. The stakeholders argued that there must be a set standard to form the basis for either approving or rejecting an application.
- h) Stakeholders also recommended that the words “on the recommendation of the committee” under clause 15 (3) should be deleted because the National Cannabis Coordinating Committee was not mandated to issue licences, particularly in view of the fact that the Lead Agency’s inspectors would be the ones inspecting applicants and not the National Cannabis Coordinating Committee members.
- i) Other stakeholders also held the view that the words “on the recommendation of the committee” under clause 15 (4) should be deleted because it should be the Lead Agency responsible for either issuing or rejecting applications and not on the recommendations of the National Cannabis Coordinating Committee.
- j) There were some stakeholders who observed with concern that clause 16(1) of the Bill was at variance with clause 7 of the Bill as the responsibility of purchasing and taking physical possession of the harvested cannabis was with the Zambia Medicine and Medical Supplies Agency (ZAMMSA) and not the Lead Agency. In view of the foregoing, the stakeholders recommended that clause 16(1) should be amended to reflect the fact that it would be ZAMMSA and not the Lead Agency that would take possession of the harvested cannabis.
- k) Some stakeholders held the view that the duration of the licence under clause 17 should be consistent with the *Industrial Hemp Act*. In view of the foregoing, the stakeholders recommended that the word “three” must be deleted and replaced with the word “five”.

- l) There were stakeholders who recommended that the licence under clause 17 should be renewed yearly like other trading licenses in order to allow for close monitoring as opposed to the three year licence validity.
- m) Stakeholders further observed that the key word under clause 17 was “issue”. Therefore, for consistency, they recommended that the word “approve” under clause 18(2) be deleted and replaced with the word “issue”.
- n) Stakeholders also recommended that in order for the Bill to be consistent with the *Industrial Hemp Act*, the notice period stated under clause 18(3) should be amended by deleting the word “seven” and replacing it with the word “fourteen”.
- o) There were some stakeholders who also proposed that a subsection under clause 19 (1) be created to read as follows:

“19 (1) (f) is in the best interest of the public to do so.”

- p) Concerning clause 19 (1) other stakeholders observed that under *the Medicines and Allied Substances Act No 3 of 2013*, the Zambia Medicines Regulatory Authority suspended or revoked any of the licences or certificates or permits it issued without recommendation from the Board. In view of the foregoing, the stakeholders recommended that this state of affairs should also apply when suspending or revoking a licence for cannabis. The Lead Agency should suspend or revoke a licence without the recommendation from the National Cannabis Coordinating Committee. They further argued that the process of suspending and revoking licences would be shortened if the National Cannabis Coordinating Committee was not involved.
- q) Under clause 19 (2) (b), some stakeholders held the view that the Bill should clarify whether the thirty day period would commence upon receipt of the notice or from the date of issuing of notice.
- r) Concerning clause 22 (1) some stakeholders observed that under the *Medicines and Allied Substances Act No 3 of 2013*, the Zambia Medicines Regulatory Authority did not receive recommendations from its Board concerning applications for the transfer of licences or certificates or permits it issued. The stakeholders, therefore, argued that this should also apply for cannabis licences. The Lead Agency should independently approve the transfer of cannabis licences provided the applicants met the prescribed standards without the input of the National Cannabis Coordinating Committee. The stakeholders further contended that the process of transferring licences would be made shorter if the National Cannabis Coordinating Committee was not involved.
- s) Under clause 23 (2) stakeholders observed that under *the Medicines and Allied Substances Act, No 3 of 2013*, the Zambia Medicines Regulatory Authority Board did not make recommendations to the ZAMRA management concerning varying licences or certificates or permits it issued. Equally, the same should apply when varying cannabis licences on application by an applicant. The Lead Agency should have power to vary licences without recommendation from the National Cannabis

Coordinating Committee. In addition, it would shorten the process of varying the licences if the National Cannabis Coordinating Committee was not involved.

- t) Stakeholders also observed that clause 25 provided for the designation of areas as premises for the licensed activity. However, the stakeholders raised concern that this was not consistent with clause 6(d) which required the Committee to consult the ministries responsible for land and agriculture as it indicated that the Committee shall, in consultation with the appropriate Lead Agency, designate areas as premises for licensed activity. The stakeholders, therefore, recommended that clause 25 should be amended so that it could be in line with clause 6 of the Bill.
- u) Under clause 25 (1), some stakeholders submitted that the designation of cultivation areas for cannabis determination must be left to the Lead Agency since it was the one responsible to deal with matters of cannabis regulation. They further contended that the designation of areas should not be an issue, because cannabis would be cultivated in green houses and climatic conditions would be regulated.
- v) Other stakeholders expressed concern that clause 25(2) (a) (i) assumed that there would be no residencies within a twenty five kilometre radius. If the reverse was true, then the workers and associated persons at the facility needed to access various public and social services, including health services. In the current form, the stakeholders argued that the provision would hinder the access of workers to essential public services, including health services. In view of the foregoing, the stakeholders recommended that the term “twenty five kilometres” be replaced by “five kilometres” to enhance access to public health services, including health facilities, by workers at the licensed activity. This would further conform with other Government policies that speak to the provision of health services within a five kilometre radius of communities.
- w) Some stakeholders also observed that the phrase “Independent laboratory” under clause 26 (1) should be defined under clause 2 of the Bill.
- x) There were stakeholders who held the view that clause 26 (1) should be recast to read “an independent accredited laboratory shall, for the purposes of verification, test a cannabis plant or cannabis preparation, before it is exported or sold.” The stakeholders contended that the accreditation made it imperative for export.
- y) Other stakeholders held the view that a new subsection under clause 26 be created to read:  
  
26 (3) “an independent accredited certification body shall, for purposes of ensuring consistency of quality, certify that the licensee has implemented good agricultural practices in the planting, growing, harvesting, packaging and transportation of cannabis”. The stakeholders held the view that the creation of subsection (3) was important because quality assurance should begin at the farm level in order to avoid losses due to quality issues and ensure consistently high quality.
- z) There were stakeholders who also held the view that that a new subsection under clause 26 be created to read:

26 (4) “an independent accredited certification body shall, for the purposes of ensuring consistency of quality, certify that the licensee has implemented good agricultural practices in raw material receiving, processing, and packaging of medical cannabis products”. The stakeholders contended that the creation of subsection (4) was important because in order to guarantee the value-added manufacturing of medical cannabis products, good manufacturing practices in line with general standards in the pharmaceutical industry must be followed.

- aa) Under clause 28 (1) stakeholders expressed concern that the Zambia National Service (ZNS) would be the only entity permitted to cultivate cannabis in Zambia. The stakeholders argued that If there was any institution that should be given exclusive rights to cultivate medical cannabis, it should have been the Chiefs’ Foundation under the House of Chiefs, because the Chiefs’ Foundation was representing the people of Zambia, and the chiefs were the custodians of the land where cannabis cultivation would take place. However, the stakeholders recommended that the Bill should provide for interested players to be allowed to cultivate cannabis in Zambia provided they met the prescribed requirements and not exclusively ZNS.
- bb) Other stakeholders expressed concern that the Bill under clause 28 (2) provided that when the Bill became law, no person, apart from the Zambia National Service (ZNS) would be allowed to cultivate cannabis for a period to be determined by the President and such period may be extended. The stakeholders contended that the purpose of legalising cannabis cultivation was to empower the farmers, whether commercial or small-scale farmers. Therefore, allowing ZNS to be the only institution to be granted a licence to cultivate the crop for a certain period to the exclusion of other players was discriminatory and may not be beneficial to the rural farmers and their chiefs. Additionally, the Zambia National Service, as a military wing, could not be controlled, regulated and monitored by the World Health Organization (WHO), the United Nations (UN), the International Narcotic Control Board (INCB), the Zambia Medicines Regulatory Authority, among other organisations. This state of affairs could even disqualify Zambia from participating in the cannabis industry at international level. The stakeholders further informed the Committee that worldwide, military wings of Government did not engage in commercial businesses of this nature because they could not be audited, and be given quotas.
- cc) Other stakeholders contended that clause 28(2) was retrogressive and therefore, must be deleted. This was because medical cannabis was a highly technical and capital intensive crop. Such a clause would only render the whole Bill worthless. The stakeholders, therefore, recommended that clause 28 (2) should be recast to provide for public private partnership or alternatively, out-grower schemes in the Zambia National Service premises.
- dd) Other stakeholders observed that clause 28 (3) made reference to the word “Gazette” without a qualifier to the type of gazette meant. The stakeholders, therefore, recommended that the word “Government” should be added before word “Gazette” so that it reads “Government Gazette”.

ee) Stakeholders also observed that the Bill under clause 28 (4) reposed power in the President to issue a statutory instrument. However, the mandate to issue a statutory instrument under the *Medicines and Allied Substances Act, No 3 of 2013*, was given to the Minister of Health. The stakeholders, therefore, recommended that the Bill and the *Medicines and Allied Substances Act No 3 of 2013* must be reconciled on the issuance of statutory instruments.

ff) Clause 28 (4) provided that the President may, by statutory instrument, declare certain areas and activities as reserved areas on terms and conditions that the President may determine. However, stakeholders observed with concern that the power given to the President was at his sole discretion and could be abused. The stakeholders, therefore, recommended that the power exercisable by the President be exercised on recommendation of the Committee.

#### **PART IV - SECURITY MEASURES FOR THE CULTIVATION, MANUFACTURE, PRODUCTION, STORAGE, DISTRIBUTION, IMPORT AND EXPORT OF CANNABIS FOR MEDICINAL, SCIENTIFIC OR RESEARCH PURPOSES**

a) Under clause 30 (2), some stakeholders held the view that the word “Lead” should be removed from the title, “Zambia Information and Communications Technology Lead Agency” so that it reads as “Zambia Information and Communications Technology Agency”.

b) Other stakeholders proposed the inclusion of the words, “subject to clause 41”, before the word “access” under clause 33 (1) so that authorised officers would have the ability to conduct inspections.

#### **PART V - POSSESSION OF CANNABIS**

a) The definition of “possession” included to “keep or to store a cannabis, or to have in custody or under control or supervision, or a cannabis held by some other person subject to the person’s control, for that person or on that person’s behalf.” Further, clause 34 (1), outlined individual persons, professionals and entities that were legally authorised to possess cannabis or its derivatives under this Bill. However, some stakeholders observed that in the routine medical practice of dispensing medical products, the patient was prescribed and allowed possession of a limited quantity of the appropriate medication for use over a short period of time. This was true even for restricted medical products such as those used in the management of cancer and in palliative care. In view of the foregoing, the stakeholders contended that cannabis and its medicinal derivatives should not be an exception to standard medical practice. They, therefore, recommended that the patient, who was the primary beneficiary when legally prescribed cannabis or any of its derivatives for treatment, prevention of disease or medical research, be allowed possession. In view of the foregoing, clause 34(1) should be amended to include the possession by patients under legal prescription.

b) Stakeholders also proposed the deletion of the words, “a preparation of” under clause 34 (1) as they appeared misplaced.

- c) Other stakeholders held the view that clause 35 (d) may leave room for individual bias and potential victimisation. The stakeholders, therefore, recommended that the words “to the satisfaction of a medical doctor” be replaced by the words “to the satisfaction of a Medical Board” (more than one medical doctor), in order to avoid and prevent individual bias and the potential for victimisation.
- d) Other stakeholders observed that clause 35 empowered the Minister to revoke the authority of any person authorised under clause 34 to be in possession of the cannabis. The stakeholders, however, observed with concern that it was at the Minister’s sole discretion to revoke the authorisation. This power may, therefore, be abused. In view of the foregoing, the stakeholders recommended that the revocation of any authorisation be made on the recommendation of the Lead Agency to provide a check on the Minister’s power.
- e) Stakeholders also observed that clause 36 (1) provided that a person shall not distribute cannabis by means of an electronic communications network without authorisation as specified in clause 35. However, the stakeholders were concerned that the provision was ambiguous. Firstly, it could presuppose that one could distribute cannabis electronically, which was not tenable as cannabis was a physical commodity. Secondly, the sub clause may mean that when one dealt in cannabis under the Bill, the nature of the communication relating to the distribution should not be done electronically, without authority. The default method of communication was through actual documents delivered in hard copy. In view of the foregoing, the stakeholders recommended that clause 36(1) be made clear to avoid the ambiguity.
- f) Other stakeholders took the view that the use of the word “distribute” under clause 36 (1) was misplaced as it entailed the physical movement of cannabis, which was not possible via electronic means.
- g) Stakeholders also observed that clause 36 cross-referenced clause 35, which provided for the withdrawal of general authorisation by the Minister. The stakeholders noted that the provision did not provide for the general authorisation of persons. To this effect, the correct clause being cross-referenced was clause 34 dealing with the general authorisation of the class of persons.

## **PART VI - REPORTS, RECORDS, INVENTORIES AND REGISTERS**

- a) Some stakeholders observed that there appeared to be a duplication of clauses 37, 39 and 40 in the Bill and as such, recommended that the provisions under these clauses be harmonised.
- b) Other stakeholders observed that the cultivation of cannabis was a sensitive and potentially lucrative business. In view of this, it was important that it be highly regulated. One way of ensuring compliance on the part of licence holders was to ensure that records were kept in order to make the tracking of cannabis transactions easier and deter licensed entities from transacting business without proper records. The stakeholders recommended that clause 37 should provide for an offence for failure to establish and maintain complete and accurate records or

inventory of cannabis dealings. Similarly, failure to maintain a register of cannabis dealings by a licensee under clause 39 should be an offence.

## **PART VIII - GENERAL PROVISIONS**

- a) There were stakeholders who held the view that clause 41 (1) gave room for exploitation and exposed an officer to possible extortion which may lead to loopholes in the process. The stakeholders therefore, recommended that the clause should provide for the officer to be accompanied by two or more members of the coordinating committee to conduct inspections.
- b) Some stakeholders recommended that the appeals under clause 42 should be made to the Minister, considering that the Lead Agency was the one that would make the decisions based on the recommendation of the Committee and could, therefore, not be impartial in hearing the appeals.
- c) Other stakeholders observed that a person aggrieved by a decision under clause 42 of the Bill may appeal to the High Court. However, Section 56 of the *Medicines and Allied Substances Act, No 3 of 2013* provided for aggrieved persons to appeal to the Minister before going to the High Court. The stakeholders, therefore, recommended that clause 42 of the Bill must be in line with section 56 of the *Medicines and Allied Substances Act, No 3 of 2013*.
- d) Under clause 43 (2), stakeholders took note that the penalty of five hundred thousand penalty units in other pieces of legislation tallied with a custodial sentence of five years. In view of this, the stakeholders proposed that the provision be amended to provide for a custodial sentence of five years.
- e) Other stakeholders held the view that the term of imprisonment of fifteen years under clause 43 (2) was too harsh and should, therefore, be reduced to two years.

### **9.0 OTHER CONCERNS RAISED**

- a) Save for section 37, some stakeholders were concerned that the Bill did not provide guidance on the disposal of cannabis. The stakeholders, therefore, recommended that the Bill should provide for the disposal of cannabis and the agency responsible for such disposal. Additionally, the disposal should be done in consultation with the Zambia Environmental Management Authority (ZEMA).
- b) Other stakeholders recommended that the Bill should provide an obligation for a licensee relating to the cultivation and storage of cannabis to comply with the requirements of the *Environmental Management Act, No. 12 of 2011*. This was because the cultivation and storage of cannabis would entail the use of chemicals, whose use was licensed by the ZEMA.
- c) Some stakeholders also observed with concern that the Bill had no provision highlighting how activities of the National Cannabis Coordinating Committee would be funded and whether the members of the National Cannabis Coordinating Committee or any of its subcommittees would receive an allowance. Thus, it may be difficult for the Committee to carry out its functions. The stakeholders, therefore,

recommended that the Bill should clearly state which budget line will be used for the funding activities of the National Cannabis Coordinating Committee.

## **10.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

The Committee notes that most of the stakeholders who appeared before the Committee supported the Bill, albeit with some concerns. The Committee also supports the enactment of the Bill as it is progressive and opens up a new sector that will contribute to economic diversification, job creation and national revenues. In addition, there are likely to be significant benefits for the country in the health, manufacturing and pharmaceutical sectors. In supporting the Bill, the Committee makes observations and recommendations as outlined below.

### **PART I - PRELIMINARY PROVISIONS**

- i. The Committee notes that the inclusion of "*Opium, coca leaves*" under the definition of "cultivation" was erroneous because Opium and coca leaves are not part of the cannabis plant or its products. The Committee, therefore, recommends that the words "Opium" and "Coca leaves" should be deleted from the definition of "cultivation".
- ii. On the definition of "health practitioner", the Committee is of the strong view that this definition should be cross referenced with the one provided for under the *Health Professions Act, No. 24 of 2009* which also has a conclusive list of professions recognised as health practitioners.
- iii. The Committee wonders why the word "manufacture" has not been defined despite the word being extensively used in the Bill. Further, the word is a major component of the objectives of the Bill. The Committee recommends that the word be defined accordingly.
- iv. The Committee notes that the word "Treatment" is not defined in the *Health Professions Act, No. 24 of 2009* as stated in the Bill. The Bill should, therefore, provide for a definition accordingly.

### **PART II - ADMINISTRATION**

- i. Clause 5- The Committee notes with concern regarding the constitution and appointment of the National Cannabis Coordinating Committee by the President and not the Minister as provided for under Section 7 of the *Medicines and Allied Substances Act, No 3 of 2013* which also empowers the Minister of Health to constitute the Zambia Medicines Regulatory Authority (ZAMRA) Board. This, therefore, implies that ZAMRA will effectively have two boards operating at the same time. The Committee, therefore, recommends that clause 5 and Section 7 of the *Medicines and Allied Substances Act No 3 of 2013* should be harmonised in order to avoid any possible contradiction.
- ii. Clause 5 (1) - The Committee notes with concern that the Zambia Environmental Management Agency (ZEMA) has been omitted from the list of institutions

constituting the National Cannabis Coordinating Committee under the clause. The Committee contends that this is a serious omission as ZEMA has a crosscutting mandate under the *Environmental Management Act, No. 12 of 2011* to, among other things, ensure sustainable land use, ensure the prevention of environmental degradation as well as the management of natural resources. Further, the cultivation of cannabis will entail the use of agricultural chemicals whose use, importation, transportation, storage and distribution are regulated by ZEMA. The Committee strongly recommends that the clause should be amended to include ZEMA on the Coordinating Committee.

- iii. Clause 9 (3) – The Committee observes that despite the Bill providing under the clause that the National Cannabis Coordinating Committee would cause Minutes of its proceedings and those of its subcommittees to be kept, it was not clear as to which institution shall serve as secretariat for this purpose. The Committee recommends that the clause should explicitly provide for the institution that would provide the secretariat services to the Coordinating Committee.

### **PART III - DECLARATION OF QUOTAS AND LICENSING FOR THE CULTIVATION, MANUFACTURE, PRODUCTION, STORAGE, DISTRIBUTION, IMPORT AND EXPORT OF CANNABIS**

- i. Clause 13 – The Committee is of the view that this clause should be amended to provide for the Lead Agency to annually submit a quota for the cultivation of cannabis to the International Narcotic Control Board (INCB) as determined. This is because it may be a challenge for the Committee to submit quotas to the INCB because it is not recognised to do so. The Lead Agency, on the other hand, is the competent authority that prepares and submits annual quantities of controlled substances to the INCB.

In addition, the Committee is of the strong view that the quota system may inhibit the production of cannabis, which may not be desirable as any excess cannabis cultivated can be utilised as stocks for export. In this vein, the Committee recommends that the extent and manner of prescribing quotas be provided under the clause.

- ii. Clause 15 (3) – The Committee recommends that words “if an applicant meets prescribed requirements” should be inserted after the word “approved”. Further, the words “application where the applicant fails to meet the prescribed requirement” should be inserted after the word “reject”. This will provide criteria to form the basis for either approving or rejecting an application.
- iii. Clause 28 – The Committee expresses concern that the Bill under the clause provides that once the Bill is enacted, no person, apart from the Zambia National Service (ZNS) will be allowed to cultivate cannabis for a period to be determined by the President and such a period may be extended. It contends that the purpose of legalising cannabis cultivation is, inter alia, to empower the farmers, whether commercial or small-scale. Therefore, allowing ZNS to be the only institution to be granted a licence to cultivate the crop for a certain period to the exclusion of other

players is not only discriminatory but also impedes participation by rural farmers and chiefs.

Additionally, the ZNS, as a military institution, cannot be controlled, regulated and monitored by the World Health Organisation (WHO), the United Nations (UN), the International Narcotics Control Board (INCB), the Zambia Medicines Regulatory Authority among other organisations. Best practice also shows that, worldwide, military wings of Government do not engage in commercial businesses of this nature because they cannot be audited, or be given quotas. In this regard, the Committee strongly recommends that the clause should be amended in order to provide for a more flexible system that will enable other players to participate in this business and not involve a military institution so as to achieve the desired outcomes as promulgated under the objects of the Bill.

- iv. Clause 28 (4) - The Committee observes that the provision under this clause reposes power in the President to issue a statutory instrument. However, the Committee wonders how this will be attained, especially that the mandate to issue a statutory instrument under the *Medicines and Allied Substances Act, No 3 of 2013*, is given to the Minister of Health. The Committee recommends that in order to avoid any possible contradictions, the clause should be harmonised with the *Medicines and Allied Substances Act* on the issuance of statutory instruments. Further, the clause should be amended so as to provide that the power of the President to declare certain areas and activities as reserved should be excersisable on the recommendation of the Coordinating Committee.

## **PART V - POSSESSION OF CANNABIS**

- i. Clause 34 (1) – The Committee observes that clause 34 (1), outlines individual persons, professionals and entities that are legally authorised to possess cannabis or its derivatives under this Bill. However, the Committee notes with concern that the list does not include patients to whom such products are prescribed as medication for use over a short period of time in the course of routine medical practice or how the patients can directly access the product for medicinal purposes in order to manage their medical condition on their own. The Committee notes that this is the case even for restricted medical products such as those used in the management of cancer and in palliative care. In view of the foregoing, the Committee contends that cannabis and its medicinal derivatives should not be an exception to normal medical practice and, therefore, the provision should be amended to include a patient, who should be allowed possession under legal prescription.
- ii. Clause 35 – The Committee observes that the clause empowers the Minister to revoke the authority of any person authorised under clause 34 to be in possession of cannabis. The Committee, however, notes with concern that this provision may be subject to abuse as it is at the Minister’s discretion to revoke the authorisation. The Committee recommends that the revocation of any authorisation be made on the recommendation of the Lead Agency so as to provide a check on the Minister’s power.

- iii. Clause 36 (1) – The Committee observes that clause 36 (1) provides that a person shall not distribute cannabis by means of an electronic communications network without authorisation as specified in clause 35. However, the Committee expresses concern that the provision is ambiguous as it presupposes that one can distribute cannabis electronically, which is not tenable as cannabis is a physical commodity. The Committee recommends that the clause should be amended and made clear in order to avoid the ambiguity.

## **PART VI - REPORTS, RECORDS, INVENTORIES AND REGISTERS**

Clause 37 – The Committee takes note that given that the cultivation of cannabis is a sensitive and potentially lucrative business, it is important and necessary that this industry is highly regulated. It is the considered view of the Committee that one way of ensuring compliance on the part of licence holders is to require that records are kept so that tracking of cannabis transactions is easier. In order to deter licensed entities from transacting business without proper records, the Committee recommends that clause 37 should provide for an offence for failure to establish and maintain complete and accurate records or inventory of cannabis dealings. Similarly, failure to maintain a register of cannabis dealings by a licensee under clause 39 should also be an offence with corresponding penalties.

## **PART VIII - GENERAL PROVISIONS**

Clause 43 (2) – The Committee observes that the penalty of five hundred thousand penalty units in other pieces of legislation tallied with a custodial sentence of five years. In view of this, the Committee recommends that the provision be amended to provide for a custodial sentence of five years.

### **9.0 OTHER CONCERNS**

- i. The Committee is concerned that there is no specific provision in the Bill providing for the participation of local players in the cannabis value chain. In this regard, the Committee strongly recommends that the Bill should explicitly provide for how indigenous Zambians will participate in the cannabis value chain industry.
- ii. The Committee notes with concern that, save for Section 37, the Bill does not provide guidance on the disposal of cannabis. The Committee, therefore, recommends that the Bill should explicitly provide for the disposal of cannabis and the agency responsible for this activity should also be provided for.
- iii. The Committee notes with concern that whereas the functions of the National Cannabis Coordinating Committee have been outlined, the financing mechanisms for its operations have not been provided for. Neither is there a provision as to whether or not any of its subcommittees will receive an allowance. Needless to say, if this matter is not attended to, it will prove difficult for the Committee to carry out its functions effectively. The Committee, therefore recommends that the Bill should clearly stipulate how the activities of the National Cannabis Coordinating Committee will be financed.

## **11.0 CONCLUSION**

For a long time now, there has been a nationwide debate on whether or not Zambia can benefit from the use of cannabis for medical or scientific research purposes and whether this hitherto outlawed substance should be legalised. Available scientific evidence shows that there are numerous benefits that can be derived from the use of cannabis for medical purposes, such as the treatment of several medical conditions because cannabis is capable of producing specific effects on the human body and brain. Be that as it may, cannabis can have devastating effects on human communities if abused. In this vein, if the country is to benefit from this versatile substance, there is need to control and regulate the cultivation, manufacture, production, storage, distribution, import and export of cannabis for medicinal, scientific or research purposes. It is for this reason that the Cannabis Bill, NAB No 31 of 2021 was developed after consultations with stakeholders. It is hoped that this Bill once enacted, will enable the country to enjoy the benefits that can be derived from cannabis while keeping a cap on the potential negative effects.

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

We have the honour to be, Sir, the Committee on Health, Community Development and Social Services mandated to consider the the Cannabis Bill N.A.B No 31 of 2021, for the Fifth Session of the Twelfth National Assembly.

Dr C K Kalila, MP  
(Chairperson)

Ms P Kasune MP  
(Vice Chairperson)

Mr M Ndalamei, MP  
(Member)

Mr A Mandumbwa, MP  
(Member)

Mr D Mabumba, MP  
(Member)

Mr L Kintu, MP  
(Member)

Mr A B Kapalasa, MP  
(Member)

Mr J Kabamba, MP  
(Member)

Mr L N Tembo, MP  
(Member)

Mr C M Chalwe, MP  
(Member)

May, 2021  
**LUSAKA**

## **APPENDIX I - National Assembly Officials**

Ms C Musonda, Principal Clerk of Committees

Mr F Nabulyato Deputy Principal Clerk of Committees (SC)

Mrs C K Mumba, Senior Committee Clerk (FC)

Ms C T Malowa, Committee Clerk

Mr S Samuwika, Committee Clerk

Mrs D H Manjoni, Administrative Assistant II

Mr D Lupiya, Committee Assistant

## **APPENDIX II- WITNESSES**

Ministry of Justice  
Ministry of Health  
Ministry of Agriculture  
Ministry of Lands and Natural Resources  
Ministry of Home Affairs  
Ministry of Commerce, Trade and Industry  
Chief Foundation for Rural Development  
Zambia Hemp Growers and Industry Association  
Zambia National Farmers Union  
Zambia Medicines Regulatory Authority (ZAMRA)  
Zambia Medical Association  
Zambia Association of Manufacturers  
Drug Enforcement Commission  
Zambia Environmental Management Agency  
Cross Boarder Association of Zambia  
Zambia Bureau of Standard  
National Union for Small Scale of Zambia  
Zambia Health Research Authority  
Chainama Hills College Hospital