



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON TRANSPORT, WORKS AND SUPPLY**

**ON THE**

**ZAMBIA INSTITUTE OF VALUATION SURVEYORS BILL, N.A.B. NO. 9 OF  
2023**

**FOR THE**

**SECOND SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

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## **FOREWORD**

Honourable Madam Speaker, the Committee on Transport, Works and Supply, has the honour to present its Report on the Zambia Institute of Valuation Surveyors Bill, N.A.B. 9, 2023, for the Second Session of the Thirteenth National Assembly. The functions of the Committee are set out under Standing Orders 197(n) and 198 of the National Assembly of Zambia Standing Orders, 2021.

The Committee, in considering the Zambia Institute of Valuation Surveyors Bill No. 9 of 2023, held ten meetings.

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from various stakeholders, as at Appendix I of this Report.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It further wishes to thank you, Madam Speaker, for according it the opportunity to undertake the study. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.

A handwritten signature in blue ink, consisting of stylized initials 'MM' followed by a horizontal line and a flourish.

Mr Mubika Mubika, MP  
**CHAIRPERSON**

July, 2023  
**LUSAKA**

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# **REPORT OF THE COMMITTEE ON TRANSPORT, WORKS AND SUPPLY ON THE ZAMBIA INSTITUTE OF THE ZAMBIA INSTITUTE OF VALUATION SURVEYORS BILL, N.A.B. NO 9 OF 2023 FOR THE SECOND SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

## **1.0 Membership of the Committee**

The Committee consisted of Mr Mubika Mubika, MP (Chairperson); Mr Sunday Chanda, MP; (Vice Chairperson), Ms Tasila E Lungu, MP; Mr Emmanuel M Musonda, MP; Mr Newton Samakayi, MP; Mr Mayungo Simushi, MP; Mr Joseph S Munsanje, MP; Mr Francis Kapyanga, MP; Mr Gift Sialubalo, MP; and Mr Taulo K Chewe, MP.

## **2.0 Background**

The Bill sought to repeal and replace the *Valuation Surveyors Act, Chapter 207 of the Laws of Zambia*. Further, the Bill sought to provide for the registration of valuation surveyors and regulate their practice and professional conduct; and to continue the existence of the Valuation Surveyors Registration Board and to re-name it as the Zambia Institute of Valuation Surveyors, and re-define its functions. The Act was found to be inadequate in a number of areas. Some of the identified inadequacies are as listed hereunder.

- i. The Act only provided for one category of registration and there was no membership for students or firms, which were provided for by most recent laws governing professional institutions.
- ii. The Act did not provide for the provision of continuing professional development, which was a key component of keeping professionals abreast with modern trends in a rapidly changing environment.
- iii. The Act only provided for a lean governance structure of five members with a part time Secretary. With a growing number of licensed valuation surveyors, the structure was inadequate to police illegal actions related to valuation and also contributed to its lack of visibility.
- iv. The Act did not provide for any accompanying documents such as a separate constitution or code of ethics. Due to limited membership category, it had been difficult to grow the membership which was also an important source of revenue. Thus, the Board had in most cases, relied on grants from the Government for its operations.

In view of the identified inadequacies, the Bill once enacted, would strengthen and promote the effective regulation of the valuation surveyors. That would invariably, result in a coordinated and participatory profession that would lead into an effective body charged with the responsibility of assessing immovable and moveable assets and regulating property pricing in the country.

### **3.0 Objects of the Bill**

The objects of the Bill were to:

- (a) provide for the registration of valuation surveyors and regulate their practice and professional conduct;
- (b) continue the existence of the Valuation Surveyors Registration Board and re-name it as the Zambia Institute of Valuation Surveyors and re-define its functions;
- (c) repeal and replace the Valuation Surveyors Act; and
- (d) provide for matters connected with, or incidental to the foregoing.

### **4.0 Salient Provisions of the Bill**

The Committee noted the salient provisions of the Bill set out hereunder.

#### **PART I**

##### **Clauses 1 and 2 - Preliminary Provisions**

Part one provided for the short title of the Bill and the definitions of some key words and phrases used in the Bill.

#### **PART II**

##### **Clauses 3 to 10 – Registration of Valuation Surveyors and Issuance of Practicing Certificates**

**Clause 3** - Provided for repealing of the *Valuation Surveyors Act, Chapter 207*, renaming of Valuation Surveyors Board and providing for its continuation.

**Clause 4** – Set out the functions of the Institute which among others were to promote its interests, register and regulate valuation surveyors.

**Clause 5** – Set out the mode of adopting and amending the constitution of the Institute, which would regulate the conduct of the affairs of the Institute.

**Clause 6** - Provided for the election of the President, Vice-Presidents and other office bearers, in accordance with the provisions of the constitution for the Institute.

**Clause 7** – Provided for the requirements for convening a meeting in accordance with the provisions of the constitution of the Institute and regulation of its procedures.

**Clause 8** – Set out the composition of the Council of the Institute, which shall be responsible for the management and control of its affairs. The clause further set out the conditions on which a person could be disqualified from being elected as a member of the Council of the Institute.

**Clause 9** – Set out the functions of the Council which, among others, were to develop rules and guidelines for members of the Institute; refer a matter for investigation to a Professional Conduct Committee or Disciplinary Committee in accordance with Part IV of the Act, once enacted; and make recommendations relating to the valuation surveying profession to the general meeting of the Institute.

**Clause 10** – Empowered the Council to appoint the Registrar and other staff of the Institute that the Council considered necessary for the performance of the functions of the Institute, on terms and conditions that the Council may determine.

### **PART III**

#### **Clauses 11 to 32 - Registration of Valuation Surveyors and Issuance of Practising Certificates**

**Clause 11** – Set out to prohibit a person who was not registered as a valuation surveyor from being employed or practice as a valuation surveyor and provided a sanction for a person who failed to comply with the prohibition.

**Clause 12** – Provided for a person who intended to be employed or practice as a valuation surveyor to apply to the Institute for registration and set out the period within which the Institute was required to consider the application.

**Clause 13** – Set out the conditions upon which the Institute would register an applicant as a valuation surveyor, if the applicant met the requirements for membership as provided in the constitution; and possessed knowledge, training and experience that would be prescribed.

**Clause 14** – Mandated the Institute to issue a valuation surveyor with a certificate of registration in the prescribed form, which would have an unlimited period of validity, unless suspended or cancelled.

**Clause 15** – Set out the circumstances upon which a person would be disqualified from being registered as a valuation surveyor when the person was legally disqualified or if the person was an undischarged bankrupt.

**Clause 16** – Mandated a registered valuation surveyor to use the title or designation which shall be provided in the constitution.

**Clause 17** – Placed a duty on a valuation surveyor registered under the Act to notify the Registrar, in writing, of any changes in the particulars relating to the registration within seven days of the change.

**Clause 18** – Set out the circumstances upon which the Institute may suspend or cancel the registration of a valuation surveyor, removing the name of a valuation surveyor from the register and the procedure to be taken by the Institute before suspending or cancelling the registration.

**Clause 19** – Allowed a person whose certificate of registration had been cancelled under Clause 18, to apply to the Institute for re-registration in the prescribed manner and form on payment of a prescribed fee.

**Clause 20** - Prohibited a person from practising or being employed as a valuation surveyor without a valid practising certificate issued under the Act and provided sanctions for a person who committed such an offence.

**Clause 21** - Mandated a registered valuation surveyor to apply to the Institute for a practising certificate in the prescribed manner and form on payment of a prescribed fee and further mandated the Institute to issue a practising certificate within thirty days of the receipt of the application for a practising certificate.

**Clause 22** - Required a holder of a practising certificate to display the practising certificate in a conspicuous place at the place of practice.

**Clause 23** - Required a practising certificate to be renewed annually and rendered a practising certificate that was not renewed, void.

**Clause 24** - Set out the circumstances upon which a practising certificate could be suspended or cancelled and the procedure to be taken by the Institute before suspending or cancelling a practising certificate.

**Clause 25** - Mandated a valuation surveyor who did not intend to practice as a valuation surveyor for a specified time to notify the Institute and mandated the Institute to maintain the name of a non-practising valuation surveyor on the Register in a non-practising category for that period of time.

**Clause 26** - Prohibited the transfer of a certificate of registration or practising certificate issued under the Act to a third party.

**Clause 27** - Allowed a valuation surveyor to apply to the Institute for a duplicate certificate of registration or practising certificate where a certificate of registration or practising certificate was lost or destroyed.

**Clause 28** - Mandated a valuation surveyor whose certificate of registration or practising certificate had been cancelled to surrender the certificate of registration or practising certificate to the Institute.

**Clause 29** – Provided for a valuation surveying firm to be registered with the Institute in the prescribed manner and form on payment of a prescribed fee. The clause, further, empowered the Minister to make regulations relating to the terms and conditions for issuance of a certificate of registration to a valuation surveying firm and the circumstances upon which the registration may be suspended or cancelled.

**Clause 30** - Provided for the Institute to keep and maintain a register of members; registered valuation surveyors; holders of practising certificates and persons whose

practising certificates were cancelled; valuation surveying firms; applications rejected and the reasons for rejection; and any other information that the institute may determine. Additionally, the clause mandated the Registrar to have custody of the Register, which shall be open for inspection to members of the public during normal office hours on payment of the prescribed fee.

**Clause 31** - Mandated the Registrar to cause copies of the Register, including alterations of, or additions to the Register, to be printed and published in a manner and form to be directed by the Council.

**Clause 32** – Set out offences relating to registration and provides for a sanction for the offences.

## **PART IV**

### **Clauses 11 to 33 - Disciplinary Matters**

**Clause 33** - Provided for the Council to adopt and publish a code of ethics for valuation surveyors regulated under the Act, which would bind all valuation surveyors.

**Clause 34** - Set out the conduct or actions of a valuation surveyor which would amount to professional misconduct, which included contravening a provision of the Act; and unlawfully disclosing or using to the valuation surveyor's advantage any information acquired in the practice of a valuation surveyor.

**Clause 35** – Provided the procedure for initiating disciplinary action against a valuation surveyor for professional misconduct.

**Clause 36** – Empowered the Council to constitute a Professional Conduct Committee to investigate and hear matters referred to it by the Institute.

Additionally, it provided for the processes relating to the conduct of investigations and hearings by the Professional Conduct Committee.

Further, the Clause empowered the Minister, by statutory instrument and on the recommendation of the Institute, to prescribe, among others, the composition of a Professional Conduct Committee, tenure of office, disqualification and vacancy of a member of a Professional Conduct Committee.

**Clause 37** – Mandated the Institute to refer a matter for investigation to the Professional Conduct Committee before it was referred to the Disciplinary Committee.

**Clause 38** - Set out the sanctions to be imposed on a valuation surveyor, where the Professional Conduct Committee found that no inquiry would be held by the Disciplinary Committee but found the valuation surveyor, guilty of professional misconduct.



**Clause 39** - Empowered the Council to constitute a Disciplinary Committee, consisting of seven part-time members. The Clause further set out the conditions upon which a person was disqualified from being appointed as a member of the Disciplinary Committee, the tenure of a member of the Disciplinary Committee and the circumstances upon which the office of a member of the Disciplinary Committee would become vacant.

**Clause 40** - Mandated the Disciplinary Committee to hear and determine any complaint referred to it by the Professional Conduct Committee against a valuation surveyor or a disciplinary action initiated against a valuation surveyor under section 35(2).

The Clause, further, permitted the Disciplinary Committee to publicise the findings where a valuation surveyor was found guilty of, and punished for, professional misconduct.

**Clause 41** - The Clause sought to provide for the proceedings of the Disciplinary Committee, such as the formation of a quorum, conduct of meetings and hearings. Additionally, the Clause mandated the Disciplinary Committee to keep a record of its proceedings.

**Clause 42** - Set out the powers of the Disciplinary Committee which, among others, were to hear and receive evidence, summon witnesses and administer oaths when hearing a complaint.

**Clause 43** - Set out the sanctions that could be imposed on a valuation surveyor who was found guilty of professional misconduct by the Disciplinary Committee including cancellation or suspending the certificate of registration of a valuation surveyor.

**Clause 44** - Mandated the Disciplinary Committee to submit a report of the proceedings to the Council within seven days of the completion of a hearing.

**Clause 45** - Empowered the Chief Justice to make rules relating to, among others, the mode of summoning persons before the Disciplinary Committee and procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee.

## **PART V**

### **Clauses 34 to 50 - Inspectorate**

**Clause 46** - Mandated the Council to appoint suitably qualified persons as inspectors to ensure compliance with the Act.

**Clause 47** - Empowered an inspector for purposes of enforcing the provisions of the Act and on the authority of a warrant to, among others, enter any premises where the inspector had reasonable grounds to believe that the premises were being used for the commission of an offence under the Act and to search the premises or any person on the premises, if the inspector had reasonable grounds to believe that the person had

possession of an article, document or record that had a bearing on an inspection or investigation.

## **PART VI**

### **Clauses 48 to 57 - General Provisions**

**Clause 48** - Provided for professional fees to be charged for services rendered by valuation surveyors that were to be prescribed by the Council, with the approval of the Minister, by statutory instrument.

**Clause 49** - Prohibited a person from knowingly or recklessly making a false or misleading statement to the Institute, Disciplinary Committee or Professional Conduct Committee with the intention that such a statement would be acted upon. The Clause further provided the penalty for providing false or misleading statements.

**Clause 50** - Set out the appeals procedure for decisions made under the Act.

**Clause 51**- Prohibited the publication or disclosure of information to unauthorised persons without the consent of the Institute, and set out the sanctions for failure to comply. It further prohibited third parties who obtained information in contravention of this provision, from publishing or communicating such information and set out the offence for failure to comply.

**Clause 52** - Sought to hold a director, manager, shareholder or partner of a body corporate or unincorporate body liable for offences committed by that body corporate or unincorporate body under specified circumstances.

**Clause 53** - Provided for administrative penalties for failure to comply with the provisions of the Act which were not offences and would be paid within a prescribed period. The Clause, further, provided for recourse to civil action to recover an amount due and owing to the Institute where the administrative penalty was not paid within the prescribed period.

**Clause 54** - Provided for the immunity of a council member, a member of a committee of the Council, a member of the Professional Conduct Committee, a member of the Disciplinary Committee for actions taken in the exercise or performance of a power conferred under the Act.

**Clause 55** - Empowered the Institute to issue guidelines which were necessary for the better carrying out of the provisions of the Act. The clause, further, mandated the Authority to publish the guidelines in the *Gazette* or any other electronic media to be determined by the Authority.

**Clause 56** - Empowered the Minister to make Regulations for the better carrying out of the provisions of the Act.

**Clause 57** - Provided for the repealing of the *Valuation Surveyors Act, Chapter 207 of the Laws of Zambia*, and set out the savings and transitional provisions once the Act was operationalised.

## **5.0 Concerns Raised by Stakeholders**

The stakeholders who appeared before the Committee supported the Bill and in doing so, they raised some concerns as outlined below.

### **PART I**

#### **Clauses 1 and 2 – Preliminary Provisions**

##### **i. Clause 2: Interpretations**

Stakeholders were of the view that there was need to revise the definition of “valuation surveying” to include valuations of motor vehicles, plant and equipment and office furniture, as the definition in the Bill only focused on valuation of real estate, and facilities management.

### **PART II**

#### **Clauses 3 to 10 – Registration of Valuation Surveyors and Issuance of Practicing Certificates**

##### **ii. Clause 4(2) – Functions of the Institute**

Stakeholders recommended that there was need to consider breaking down the fees as opposed to bundling them in one sentence. In that regard, they were of the view that fees, such as registration, membership and student fees should be separated from other fees for services rendered by the Institute.

##### **iii. Clause 6 (3) – Meetings of the Institute**

Stakeholders noted that the Bill provided that validity of any proceedings, acts or decisions of the Institute would not be affected by a person’s absence from a meeting of the Institute or by reason that a person not entitled to do so took part in the proceedings of a meeting of the Institute.

However, they were of the view that the Bill should include a provision that enabled absentee individuals to nominate a representative in their absence. That provision would ensure that their interests were represented even when they were not available. They further, submitted that in the event that the absentee failed to nominate someone, the proceedings should continue without delay. That measure would ensure that the proceedings were not unduly delayed, while allowing for the representation of the absentee's interests.

##### **iv. Clause 8(2): Council of Institute**

- a. Under Clause 8(2)(c), Stakeholders were of the view that the Bill should provide for two vice presidents without prescribing which region the vice presidents would be drawn from. That would eliminate the challenges of making

amendments to the Act in the event that Membership of the Institute grew and confining the positions of vice president to the southern and northern regions could become unrepresentative of the expectations of the members of the institute with the passage of time.

- b. Further, stakeholders recommended that there was need to include a professional accountant nominated by ZICA as an ex-officio on the membership of the Council. That would reduce the occurrences of financial mismanagement and enhance accountability for the Institute. In addition, some stakeholders submitted that there was need for the immediate past presidents to be part of the Council to provide guidance, based on institutional memory.
- c. Under Clause 8(2) (d), stakeholders were of the view that there was need for the law to specify the required competencies for members that would constitute the Council of the Institute, especially the four other members indicated in the Bill. This would ensure that the Council had the requisite competencies to effectively discharge its functions.

v. **Clause 10 (1) - Registrar and other Staff**

In supporting the Clause, stakeholders recommended that determination of terms and conditions of service should be done in consultation with the Emoluments Commission, as provided in the *Emoluments Commission Act No.1 of 2022*.

### **PART III**

#### **Clauses 11 To 32 - Registration of Valuation Surveyors and Issuance of Practising Certificates**

##### **Clause 12 – Application for Registration as Member**

- a. Under Clause 12(1), whilst supporting the provision for the application and registration of persons who intended to be employed or to practice as a valuation surveyors in the prescribed manner and form on payment of a prescribed fee, stakeholders recommended for an inclusion of a subsection in Section 12. Stipulating an automatic acceptance of an applicant's application if they did not receive feedback after thirty days. They were of the view that the addition would serve to streamline the application process and prevent applicants from being left in suspense indefinitely ultimately. Such a provision would enhance the efficiency and effectiveness of the process as a whole.
- b. Clause 12(2), were it was provided that the Institute may determine different fees for different classes of valuation surveyors, stakeholders recommended that a schedule of the different classes of valuation surveyors be included. Accordingly, they recommended for the inclusion of professional membership for degree holders and above, technician or diploma holders, and student membership with a fee structure for each category, which would be adjusted through Statutory Instruments to avoid constant amendments.

vi. **Clause 13 (Determination for registration as member)**

- a. Under Clause 13 (1) (c), stakeholders submitted that the Bill under this Clause simply stated that a person should hold a “qualification” without stating what sort of qualification. That was prone to be wrongly interpreted to include a low qualification like a grade 12 certificate.

In that regard, they recommended that this provision should be more precise by stating that the applicant should hold a degree or diploma from any university or college which was recognised and validated by the Zambia Qualification Authority.

Further, stakeholders were of the view that this provision should include exceptional circumstances in which a person may be entered on the roll or register of valuers, which was currently not possible under this Bill. In that regard, they recommended that a clause be inserted providing that where a person who is not ordinarily resident in Zambia satisfied the Institute’s requirements and intends to be resident in Zambia and engage in practice as a valuer for specific work for which he had been engaged, the Institute may direct that the person be registered either for a period not exceeding one year or for the period of the duration of the specific work which he would be engaged to do.

They further recommended that an application for registration in such exceptional circumstances under this clause would be in the prescribed form and be accompanied by a prescribed fee. In addition, the Institute would require the applicant to produce documentary evidence of his work or employment immediately before they came to Zambia and would require them to appear before it to consider their application. That would be in line with the international best practices the Bill aimed at promoting as per section 4(1)(e) of the Bill.

- b. Under Clause 13(1)(e), stakeholders submitted that in addition to membership classes and categories, the Institute needed to embed new industry practices, such as, sustainability and other innovations within the competencies of the valuation surveyors. That would ensure the profession remained relevant by keeping up to date with the latest issues affecting the profession, such as sustainability, data management and new technologies.

vii. **Clause 14 - Certification of registration**

Stakeholders submitted that there was need for a clause providing for a certificate of registration issued by the registrar which should be valid and would remain in force for one year, but would be renewable on payment of a prescribed fee.

viii. **Clause 16 – Title for Registered Valuation Surveyors**

Stakeholders observed that this Clause required a valuation surveyor to use a title which would be provided for in the constitution of the institute. In that regard, they submitted that the existence of the provision indirectly suggested that in order to be recognised as a professional, one ought to have or use a title. That was not necessary and merely encouraged the use of titles that did not add value in themselves. What was important

was the qualification of the surveyor. Stakeholders consequently recommended for the standard titles used by everybody in society. The fact that some professions such as medicine used titles for the practitioners, did not mean every profession had to be the same. However, if the members themselves thought it would be helpful for the profession, they could include that in their constitution but it should not be legislated.

**ix. Clause 20 - Prohibition of Practicing without Valid Practicing Certificate**

Under Clause 20(1), stakeholders observed that the Bill provided that “a person shall not offer employment to ‘a person’ who did not hold a valid practicing certificate issued under this Act”. However, they were of the view that the clause should be recast to read as, “a person shall not offer employment to a ‘person as a valuation surveyor’ who did not hold a valid practicing certificate issued under this Act”. That would ensure that persons without a practicing certificate were employed in other aspects of support services in the valuation surveyors’ practices such as unemployed graduates, whose roles could just be data collection or data entry.

**x. Clause 22 – Display of Practicing Certificate**

Stakeholders were of the view that in addition to a requirement to display the practicing certificate in a conspicuous place at the place of practice, there was need for a sub-clause that would stipulate the consequences for non-compliance or failure to display a practicing certificate at the place of practice. They in that regard, submitted that minting a penalty fees for failure to display the practicing certificate would encourage compliance.

## **PART IV**

### **Clauses 33 to 45 - Disciplinary Matters**

**xi. Under Clause 41 - Proceedings of Disciplinary Committee**

Under clause 41 (3), Stakeholders noted that the clause provided that in the absence of the Chairperson, the Vice-Chairperson would preside at a meeting or sitting of the Disciplinary Committee. However, they were of the view that it was important to address the scenario where both the Chairperson and Vice Chairperson were not available to preside over a meeting. In such a case, a clear structure needed to be established to ensure that the meeting proceeded smoothly and effectively. That structure could include a hierarchy for identifying a designated alternate or interim Chairperson, outlining specific procedures for selecting a temporary presiding officer, or establishing a hierarchy of officials who would be authorised to assume the role of Chairperson in the absence of both the Chairperson and Vice Chairperson. By anticipating and preparing for such a potential scenario, the Institute could ensure that their meetings were well-organised.

## **PART V**

### **Clauses 46 and 47 - Inspectorate**

#### **xii. Clause 47 (1)(b) Power of Entry, Search and Inspection**

Regarding the searching and inspection of premises and persons by inspectors who should be persons of the same sex, stakeholders submitted that the clause could be problematic. They, in that regard, submitted that it could be challenging to ensure that a person of the same sex was available to conduct the search, particularly in smaller workplaces or in situations where inspections were carried out outside regular business hours. In that regard, they recommended that the same sex clause should not be legislated but left in the operational guidelines.

Further, stakeholders were of the view that there was lack of consequences for inappropriate searches in the Bill for inspectors. They, in that regard, expressed concern that lack of consequences could lead to situations where inspectors acted with impunity and engaged in behaviours that violated people's rights without facing any repercussions.

## **PART VI**

### **Clauses 48 to 57 General Provisions**

#### **xiii. Clause 48 - Professional fees**

Stakeholders submitted that fees should be reflective of the level of entry for different categories of membership as high costs could encourage 'black-market dealings', which ultimately would negatively affect professional standards and ethics in the profession. They, in that regard, recommended that the Bill should clearly spell out the requirement for different categories of reasonable fees and charges to be adopted by the Institute in order to avert unintended consequences.

Further, stakeholders submitted that the clause should provide a sub-clause stating how the Institute would be financed, as the Bill was silent on this matter. They in that regard, recommended that the provision may provide that the Minister may, with the consent of the Treasury, out of the money provided by Parliament— (a) make to the Institute, such grants as may be necessary to enable it to discharge its functions under this Act.

#### **xiv. Clause 50 – Appeals**

Stakeholders submitted that the clause did not give conditions which the Minister may have to consider or parameters to guide his/her decision-making process in reviewing an appeal from the decision of the Institute. In that regard, they recommended that appeals were better referred to the High Court to avoid red-herring and possible miscarriage of justice due to 'close ties' between the Minister and the Institute as the Minister was also the appointing authority for the Board.

#### **xv. Clause 54 – Immunity**

Stakeholders noted that this clause provided immunity for members of a committee of the Council, a member of a Professional Conduct Committee, a member of the Disciplinary Committee and a member of staff of the Institute for, or in respect of, an

actor thing done or omitted to be done in good faith in the exercise or performance of a power or function conferred under this Act.

However, stake holders expressed concern that the open-ended immunity clause could be exploited by individuals who may claim that their actions were done in good faith. That could make it difficult for individuals to seek justice in cases where they had been offended by the actions of the Institute's individuals who would not be held accountable for their actions, even if they were not acting in good faith. This Clause had the potential to undermine the principles of justice and fairness.

xvi. **Other General Observations by Stakeholders**

- a. Stakeholders submitted that there was need for the Act to provide for gender balancing in the composition of the structures of the Institute. A provision was required which would stipulate a certain percentage to be females in line with the constitution and *the Gender Equity and Equality Act No. 22 Of 2015*.
- b. The Bill did not provide for continuous professional development which was key in this competitive and dynamic world, as the Bill only proposed for one category of membership. That could constrain the growth of the profession. In that regard, there was need to provide for different categories of membership, including corporate membership.
- c. The proposed council had a lean structure making it difficult to monitor illegal practices or practitioners.

## **6.0 Committee's Observations and Recommendations**

While supporting the Bill, the Committee, makes the observations and recommendations set out hereunder.

- i. The Committee notes that under clause 6(3), the Bill provides that the validity of any proceedings, acts or decisions of the Institute would not be affected by a person's absence from a meeting of the Institute or by reason that a person not entitled to do so takes part in the proceedings of a meeting of the Institute.

In view of this, the Committee recommends that the Bill should also include a provision that enables absentee individuals to nominate a representative in or proxy their absence. This will ensure that the interests of absent members are represented in the proceedings even when they are not available. Further, the Committee recommends that in the event that the absentee fails to recommend someone, the proceedings should continue without their input or proxy. That measure will ensure that the proceedings are not unduly delayed, while allowing for the representation of the absentee's interests.

- ii. In agreeing with stakeholders, the Committee observes that under clause 8(2)(c), the Bill prescribes that the two vice presidents will be drawn from the southern and northern regions.



The Committee in this regard, recommends that the Bill should only indicate that there will be two vice presidents and the intricacies of where they are picked from should be in the Institute's constitution. This will eliminate the challenges of making amendments to the Act in the event that Membership of the Institute grows as confining the positions of vice presidents to the southern and northern regions could become unrepresentative of the expectations of the members of the Institute with the passage of time.

- iii. The Committee notes that clause 8(2)(c), does not include a professional accountant. In this regard, the Committee recommends the inclusion of a professional accountant nominated by ZICA as an ex-officio on the membership of the Council. This will reduce the occurrences of financial mismanagement and enhance accountability for the Institute. Further, the immediate past president should be an ex-officio member of the Council for institutional memory.
- iv. Under Clause 8(2) (d), the Committee observes that the Bill is silent on the qualifications and competencies required for a member of the Council. Just like other constitutional bodies formed under the Acts of Parliament such as those for accountants and lawyers, the Committee recommends that the clause prescribes the minimum qualifications and competencies for one to be eligible for appointment as a member of the Council in order to avoid qualifications that are not related to valuation surveyors.

Further, the Committee recommends that the positions and their roles for the four other members indicated in the Bill should be clearly defined.

- v. The Committee notes that under Clause 10 (1), determination of conditions of service for the registrar and staff will be done by the Board. In supporting this provision, the Committee recommends that it should be done in consultation with the Emoluments Commission, as provided for in the *Emoluments Commission Act No.1 of 2022* in order to be consistent with conditions of service provided by similar or related institutions.
- vi. The Committee notes that under Clause 12(2), the Institute may determine different fees for different classes of valuation surveyors. In view of this, the Committee recommends that in order to enhance the growth of the membership base, a schedule of different classes of valuation surveyors should be included. Accordingly, the Committee recommends for the inclusion of professional membership for degree holders and above; technician for diploma holders; and student membership with proposed fee structure for each category which can be adjusted through Statutory Instruments to avoid ambiguity.
- vii. The Committee notes that under Clause 13 (1) (c), the Bill simply states that a person should hold a "qualification" without stating such a qualification.

In that regard, the Committee recommends that this provision should be more precise by stating the category of a valuation surveyor, as determined by the required qualification for registration, which could be a degree for a professional surveyor; diploma for a technician; and student membership from recognised universities or colleges as determined by the Zambia Qualification Authority for private and foreign qualifications.

- viii. The Committee notes that Clause 20(1) states that “a person shall not offer employment *to a person* who does not hold a valid practicing certificate issued under this Act”. However, the Committee is of the view that this could exclude graduates before they acquire practicing certificates and support staff from being offered employment in roles such as collection of data or other support services.

The Committee, therefore, recommends that the words, “*to a person*” to read as “*to a person as a valuation surveyor*”. In this vein clause 20(1) should read, “a person shall not offer employment to “*a person as a valuation surveyor*” who does not hold a valid practicing certificate issued under this Act”. This will ensure that persons without a practicing certificate are employed in other aspects of support services in the valuation surveyors’ practices.

- ix. The Committee notes that the Bill under Clause 22 requires that a practicing certificate should be put in a conspicuous place at the place of practice without stating consequences for failing to do so.

In order to protect the public and other category of clients from impersonators, the Committee recommends that a subsection be included to indicate penalties for failing to display a practicing certificate in a conspicuous place for ease of identification as well as visibility of the profession.

- x. The Committee notes that the provision under Clause 47(1)(b), which states that searching and inspection of premises and persons by inspectors should be by persons of the same sex, will be problematic in practice.

In view of this, the Committee recommends that the same sex clause should be dropped but left in the operational guidelines for ease of operationalisation.

- xi. The Committee notes that the Bill under clause 48, provides that a valuation surveyor will charge fees for professional services rendered. The Committee, in agreeing with stakeholders, recommends that fees should be reflective of the level of entry for membership, as high costs could encourage ‘black-market dealings’ which ultimately would negatively affect professional standards and ethics in the profession.

The Committee in this regard, recommends that the Bill should clearly spell reasonable fees and charges for different categories to be adopted by the Institute, according to the membership category.

- xii. The Committee notes that for the Institute to effectively monitor valuation surveyors' practices in the Country, it must be well funded.

In view of this, the Committee recommends that the Bill should state how the Institute will be funded whether through Government grants and any other sources, other than leaving it to the ability to negotiate for funds by office bearers.

## 7.0 Conclusion

The Committee commends the Executive for enacting this progressive law which aims to repeal and replace the *Valuation Surveyors Act, Chapter 207 of the laws of Zambia*. This law remained the principal law guiding the operations of the valuation profession in Zambia. It is worth noting that overtime, changes in the valuation profession and other related fields, as well as general socio-economic development have evolved and this legislation will bring to speed the modern practices in the valuation surveyors' industry.

The Committee is confident that the provisions in the Bill will enhance visibility of the profession and improve standardised valuation of immovable and the moveable assets and the pricing mechanism. The Committee is therefore, hopeful that the Bill will receive the support of the House.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. The Committee further wishes to thank you, Madam Speaker, for the opportunity granted to it to study the Bill. It also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.

We have the honour to be, Madam Speaker, the Committee on Transport, Works and Supply mandated to consider the Zambia Institute of Valuation Surveyors Bill, N.A.B No. 9 of 2023.



Mr Mubika Mubika, MP  
**CHAIRPERSON**

July, 2023  
**LUSAKA**

## **Appendix I**

### **LIST OF WITNESSES**

#### **MINISTRY OF JUSTICE**

Mr Laston Banda, Counsel  
Ms Agnita Petulo, Parliamentary Counsel

#### **MINISTRY OF FINANCE AND NATIONAL PLANNING**

Ms Lois Malube, Acting Permanent secretary – Planning and Administration  
Ms Mwila M Daka, Acting Director – development Planning  
Mrs Onida M Moyo-Mung’andu, Planner  
Mr Mainza S Mweemba, Principal Planner

#### **MINISTRY OF INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT**

Professor Albert Malama, Permanent Secretary  
Dr Richard Banda, Director  
Mr Dennis B Kasonde, Director  
Ms Njavwa Simwinga, Assistant Director

#### **MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT**

Mr Hamaundu Maambo, Permanent Secretary  
Mr Mwiinga Andrew, Assistant Director  
Mr Muyambango Nkwemu, Chief Planner

#### **CIVIC FORUM ON HOUSING AND HABITAT**

Mrs Grace Chikumo-Mtonga, Executive Director

#### **ZAMBIA INSTITUTE OF PLANNERS**

Mr Busiku Sulwe, President  
Mr Joseph Makadani Zulu, Registrar

#### **ZAMBIA INSTITUTE FOR POLICY AND RESEARCH (ZIPPAR)**

Ms Zambwe Shingwele, Research Assistant  
Mr Zali B Chikuba, Senior Research Fellow  
Mr Miselo Bwalya, Research Fellow I  
Mr Sydney Sibuhwa, Associate Researcher  
Ms Lian Chikwekwe, Research Assistant

#### **VALUATION SURVEYORS REGISTRATION BOARD**

Professor Ephraim K Munshifwa, Chairperson  
Mr Andrew Kalemba, Member  
Mr Dennis B Kasonde, Member  
Ms Mwansa Kasumpa Kabalata, Member  
Ms Mdila Changala, Member  
Ms Christine L Chileshe, Secretary

**UNIVERSITY OF ZAMBIA**

Professor Anne Sikwebele, Acting Vice Chancellor  
Dr Erastus Mwanaumo, Lecturer/ Acting Director  
Dr Simon Tembo, Acting Director – SOE  
Dr Glynn Konje, Lecturer  
Dr Balimu Mwiya, Lecturer  
Dr Penjani H Nyimbili, Lecturer

**ZAMBIA CHAMBER OF COMMERCE AND INDUSTRY**

Mr Alexander Lawrence, Board Member /Director  
Mr Emmanuel Mumba, Research Officer  
Mr Mulenga Mwansa, Research Officer

**ENGINEERING INSTITUTION OF ZAMBIA**

Mr David Kamungo, Chief Executive Officer  
Mr Clement Silavwe, FEIZ  
Ms Chimfwembe Mutale, Acting Director Registrar  
Mr Rex H Kalangu, Technical Quality Manager  
Ms Abgail Hampande, Communications Assistant

**MINISTRY OF AGRICULTURE**

Mr Green Mbozi, Permanent Secretary (Technical Services)  
Mr Stanley Banda, Principal Agriculture Specialist  
Mr Chizumba Shapande, director- Agriculture  
Ms Peggy Mlewa, Director- Policy and Planning

**UNIVERSITY OF LUSAKA**

Ms Chisanga Mutale, Lecturer in Law

**MINISTRY OF LANDS AND NATURAL RESOURCES**

Ms Dephine Chabu, Permanent Secretary  
Eng. Charles Pole, Acting Surveyor General  
Mr Elijah C Sitali, Principal Legal Officer  
Ms Mtwalo Jere, Senior Evaluation Surveyor

**MINISTRY OF TRANSPORT AND LOGISTICS**

Mr Fredrick Mwalusaka, Permanent Secretary  
Mr Stephen Mbewe, Director  
Mr Mupeta Chisulo, Planner  
Mr Canisius Longa, Planner

## **Appendix II**

### **List of National Assembly Officials**

Mr Charles Haambote, Principal Clerk of Committees (FC)

Mrs Doreen C Mukwanka, Deputy Principal Clerk of Committees (FC)

Mr Geoffrey Zulu, Acting Senior Committee Clerk (SC 2)

Mr Darius Kunda, Committee Clerk

Mrs Racheal M Kanyumbu, Typist

Mr Daniel Lupiya, Committee Assistant

Miss Ruth Phiri Horemans, Intern