



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON TRANSPORT, WORKS AND SUPPLY**

**ON THE**

**PUBLIC ROADS (AMENDMENT) BILL, N.A.B. NO. 9 OF 2022**

**FOR THE**

**FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

*Printed by the National Assembly of Zambia*

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# **REPORT OF THE COMMITTEE ON TRANSPORT, WORKS AND SUPPLY ON THE PUBLIC ROADS (AMENDMENT) BILL, N.A.B. NO. 9 OF 2022, FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

## **1.0 Composition of the Committee**

The Committee consisted of Mr Mubika Mubika, MP, (Chairperson); Ms Tasila E Lungu, MP (Vice-Chairperson); Mr Newton Samakai, MP; Mr Mayungo Simushi, MP; Mr Francis R Kapyanga, MP; Dr Kabwe T Chewe, MP; Mr Joseph S Munsanje, MP; Mr Gift S Sialubalo, MP; Mr Emmanuel M Musonda, MP; and Mr Sunday C Chanda, MP.

The Honourable Madam Speaker  
National Assembly  
Parliament Buildings  
P O Box 31299  
**LUSAKA**

Madam

The Committee has the honour to present its Report on the Public Roads (Amendment) Bill, N.A.B. No. 9 of 2022 referred to it by the House on Thursday, 7<sup>th</sup> July, 2022.

## **2.0 Functions of the Committee**

The functions of the Committee are set out in Standing Order Number 197(n) and 198 of the National Assembly Standing Orders, 2021.

## **3.0 Meetings of the Committee**

The Committee held six meetings to consider the Public Roads (Amendment) Bill, N.A.B No. 9 of 2022.

## **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 different stakeholders and examined in detail all submissions presented to it. The list of witnesses who submitted comments and appeared before the Committee is at Appendix II of this Report.

## **5.0 Background**

The Committee was informed that the Road Development Agency (RDA) had been using the *Public Roads Act, No. 12 of 2002* which had been found to be inadequate in dealing

with the issue related to execution, attachment or processes of any nature issued against the Agency, or against the property of the Agency.

The Road Development Agency had lately recorded an increase in law suits from contractors as well as private individuals, on various grounds such as non-payment of Interim Payment Certificates, and breach of contracts for non-availability of funds. It was against this background that the Ministry of Housing and Infrastructure Development introduced a Bill to revise the composition of the Board of the Agency, to re-define its functions, and to provide for the protection of execution of judgments against the property of the Agency.

Additionally, the Bill sought to improve the efficiency of the operations of the Board, reduce the cost of running the Agency and align the operations of the Board with the tenets of good corporate governance.

## **6.0 Objects of the Bill**

The objects of the Bill were to amend the Public Roads Act, 2002 so as to:

- (a) revise the composition of the Board of the Agency and re-define its functions;
- (b) provide for the protection of execution of judgements against the property of the Agency; and
- (c) provide for matters connected with, or incidental to, the forgoing.

## **7.0 Salient Provisions of the Bill**

The salient provisions of the Public Roads (Amendment) Bill, N.A.B No. 9 of 2022, are as set out hereunder.

### **Clause 1 – Short Title**

The clause provided for the short title of the Bill.

### **Clause 2 –Amendment of Section 2**

The clause sought to amend section 2 of the principal Act by inserting new definitions such as the definition of Emoluments Commission and relative so as to make the law easier to understand by the citizens and those tasked to implement the law.

### **Clause 3 – Repeal and Replacement of Section 6**

The clause sought to repeal and replace section 6 of the Act so as to provide for the composition of the Board of the Agency. This clause also provided for instances under which a person could be disqualified from being appointed as a member of the Board.

### **Clause 4 – Repeal and Replacement of Section 7**

The clause sought to repeal and replace section 7 of the principal Act in order to revise the functions of the Board of the Agency, which were, among others, to promote effective corporate governance of the Agency and formulate the policies and strategies of the Agency.

### **Clause 5 – Repeal and Replacement of Section 8**

The clause sought to repeal and replace section 8 of the principal Act in order to give power to the Board to delegate to the Director any of the functions of the Board under the Act.

### **Clause 6 – Insertion of Section 8A**

The clause sought to insert a new section immediately after section 8 of the principal Act so as to provide for the appointment of the Director, Secretary and other staff of the Agency, and the determination of their terms and conditions of service.

### **Clause 7 – Insertion of Section 76A**

The clause sought to insert a new section immediately after section 76 of the principal Act so as to prohibit the execution of judgment against the property of the Agency.

### **Clause 8 – Repeal and Replacement**

The clause sought to provide for the repeal and replacement of the First Schedule which sets out matters relating to, among others, tenure of office for members of the Board, proceedings of the Board, committees of the Board and financial provisions.

## **8.0 Concerns by Stakeholders**

Stakeholders who appeared before the Committee supported the Bill. They, however, raised concerns as outlined below.

- i. Stakeholders expressed concern and recommended that the Board should include one representative from the private sector who had vast knowledge and

competence on public roads. Thus, the Bill in section 6 (1) (g) should state clearly whether the expert referred to was to be from the private sector, or from any government institution.

- ii. Stakeholders expressed concern that the proposed Bill did not address the conflicting mandates for agencies and local authorities operating under the *Public Roads Act No. 12, 2002*, the *National Road Fund Act No. 13, 2002* and the *Tolls Act No. 14, 2011*. In that regard, the stakeholders recommended for the harmonisation of the three pieces of legislation, in order to clearly spell out the functions of each agency and to ensure that there was adequate cross-referencing among the three statutes.
- iii. Whilst some stakeholders supported the proposal under section 8, others held the view that RDA should only offer contracts when money was available to avoid litigations.

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

- i. The Committee observes that the Bill has not addressed the overlaps between the *Public Roads Act No. 12 of 2002* with the other pieces of legislation such as the *Local Government Act of 2019*. The Committee, therefore, recommends that the Executive should endeavour to come up with comprehensive amendments as opposed to piecemeal amendments which might affect the smooth implementation of law.
- ii. With regard to clause 8 of the Bill which provides for the immunity of the Road Development Agency against litigation, the Committee expresses concern that it could be subject to abuse by the Agency. They in that regard are of the view that this could leave contractors vulnerable as they will have no basis for making any claims in case of breach of contract by RDA whilst they could be sued by RDA.

The Committee consequently recommends that there should be no immunity for commercial activities with huge financial implications which only provides for protection against litigation for the Road Development Agency, leaving the contractor vulnerable to litigation. The Committee further contends that allowing this could stifle growth of local contractors with limited financial capacity. The Committee in this regard is not in support this section to the extent that it is only protecting RDA from litigation whilst leaving the contractors suable.

Further, the Committee urges the Road Development Agency to only offer contracts when money is available to avoid litigations.

## 10.0 CONCLUSION

The Committee hopes that once the Public Roads (Amendment) Bill, N.A.B. No 9 2022, is enacted, it will be in harmony with the provisions of the *Constitution of Zambia (Amendment) Act, No. 2 of 2016* and *Local Government Act No. 2, 2019*. The proposed provisions will not only provide for immunity of the Road Development Agency against execution of judgements against its property, but will also enhance its operations. The Committee, therefore, supports the Bill subject to its concerns expressed in the Report.

The Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. It also wishes to thank you, Madam Speaker and the Office of the Clerk of the National Assembly for the guidance and support rendered during its deliberations.

We have the honour to be, Madam, the Committee on Transport, Works and Supply mandated to consider the Public Roads (Amendment) Bill, N.A.B No. 9 of 2022.

A handwritten signature in black ink, consisting of a series of vertical strokes followed by a horizontal line and a stylized flourish.

Mr Mubika Mubika, MP  
**CHAIRPERSON**

July, 2022  
**LUSAKA**



## **APPENDIX I – List of National Assembly Officials**

Mr F Nabulyato, Principal Clerk of Committees (SC)

Mrs C K Mumba, Deputy Principal Clerk of Committees (SC)

Mrs A M Banda, Senior Committee Clerk (SC)

Mrs M H Mweele, Committee Clerk

Mrs R M Kanyumbu, Typist

Mr D Lupiya, Parliamentary Messenger

## **APPENDIX II – List of Witnesses**

Ministry of Justice  
Ministry of Local Government  
Ministry of Transport and Logistics  
Ministry of Infrastructure and Urban Development  
University of Zambia School of Engineering  
Truckers Association of Zambia  
Bus and Tax Owners Association of Zambia  
Zambia Chamber of Commerce and Industry  
National Road Fund Agency (NRFA)  
Zambia Police Service (Traffic Division)  
Road Transport and Safety Agency (RTSA)  
Road Development Agency (RDA)