

**REPORT OF THE COMMITTEE ON ECONOMIC AFFAIRS, ENERGY AND LABOUR ON THE MINES AND MINERALS DEVELOPMENT BILL, N.A.B. NO. 12 OF 2015 FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON TUESDAY, 23<sup>RD</sup> SEPTEMBER, 2014**

Consisting of:

Mr K K Hamudulu, MP (Chairperson); Mr G G Nkombo, MP; Dr S Musokotwane, MP; Mr V Lombanya , MP; Mr F Mutati, MP; Mr W Simuusa, MP; Mr N Chilangwa, MP; and Ms M Miti, MP.

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

Sir,

Your Committee has the honour to present its Report on the Mines and Minerals Development Bill, N.A.B. No. 12 of 2015, referred to it by the House on 25<sup>th</sup> June, 2015.

**2. Functions of the Committee**

In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other order of the House, your Committee is mandated to consider any Bills that may be referred to it by the House.

**3. Meetings of the Committee**

Your Committee held ten (10) meetings to consider the Mines and Minerals Development Bill, N.A.B. 12 of 2015.

**4. Procedure adopted by the Committee**

In order to acquaint itself with the provisions of the Bill, your Committee requested written and oral submissions from various stakeholders.

**5. Objects of the Mines and Minerals Development Bill, N.A.B. No. 12 of 2015**

The objects of the Mines and Minerals Development Bill, N.A.B. No. 12 of 2015 are to:

- a) revise the law relating to the exploration for, mining and processing of, minerals;
- b) provide for safety, health and environmental protection in the mining operations;
- c) provide for the establishment of the Mining Appeals Tribunal;

- d) repeal and replace the *Mines and Minerals Development Act, 2008*; and
- e) provide for matters connected with, or incidental to, the foregoing.

## **6. RATIONALE FOR THE MINES AND MINERALS DEVELOPMENT BILL, N.A.B. NO. 12 OF 2015**

The introduction of the Bill in Parliament was necessary in order to revise the laws relating to exploration, mining and processing of minerals. The Bill seeks to provide for safety, health and environmental protection in mining operations and to repeal and replace the *Mines and Minerals Development Act No. 7 of 2008* so as to bring about the desired regulatory framework in the mining industry.

## **7. GENERAL CONCERNS RAISED BY STAKEHOLDERS**

In order to appreciate the various views on the Bill, your Committee requested both written memoranda and oral submissions from the Ministry of Mines, Energy and Water Development; Ministry of Labour and Social Security; Ministry of Justice; Ministry of Finance; and Ministry of Lands, Natural Resources and Environmental Protection. Further, submissions were received from the Centre for Trade Policy and Development; Kagem Mining Limited; Association of Zambian Mineral Exploration Companies; the Zambia Environmental Management Agency; and the Zambia Chamber of Mines.

Some stakeholders observed that during the review of the Bill, a number of stakeholders were not consulted and where this was done, the time availed to comment on the process was too short.

Stakeholders raised concern with regard to the provisions of clause 72(i) of the Bill. It was noted, in this vein that the Mining License Committee has power to suspend or revoke a mining licence on account of public concern. They were of the view that this was detrimental to investment since public interest was not defined in the Bill. To ensure stability and predictability and to attract green field investments in the sector, the legislation framework should be clear and concise. They proposed the removal of powers to suspend or revoke mining rights due to public interest to promote public confidence.

Under Clause 24, a number of stakeholders supported the increase of the upper limit for an exploration licences for large scale operations from the current one thousand square kilometers (1,000 km<sup>2</sup>) to two thousand square kilometers (2,000 km<sup>2</sup>). They were of the view that this was going to allow for licence holders to access adequate exploration areas after relinquishment and to promote exploration over large areas especially that there was insufficient geological information.

Further, concerns were raised regarding the two tier mineral royalty system where an underground operation was to pay mineral royalty at 6% and open cast at 9%. They submitted that this was insensitive to the peculiar challenges faced by both type of mining operations. They argued that mineral royalty should not be determined using mining

methods but should be the same rate as is the practice worldwide. This concern arose because even if underground mines had high costs, they often mined higher grade ore which compensated the cost, unlike open cast mines which mined low grade ores and usually had a similar cost structure to underground mines. They further argued that mineral royalty alone was not an appropriate basis for determining the level of mineral tax because it did not take into account the grade of the ore. They further argued that some mining operations were both underground and open cast and it would be difficult to identify the ores for tax purposes. The stakeholders, therefore, recommended that mineral royalty should be the same across the entire industry at 6%.

Some witnesses were of the view that mineral royalty should be distinguished and charged by type of minerals as indicated in table 1 below. They argued that mining had significant differentiating characteristics per type of mineral and not necessarily the method used. They cited one major differentiating characteristic as the stripping ratio. They defined the stripping ratio as the ratio of waste rock mined to ore mined. They further argued that, the stripping ratio of base metals is 4:1 and that of gemstones is 90:1. This means that gemstone mining removes higher percentage of waste per rock. They reiterated the view that mineral royalty should be charged per type of mineral and not by the method of mining used.

**Table 1: Proposed Mineral Royalty per Type of Mineral**

<b>NO.</b>	<b>TYPE OF MINERALS</b>	<b>ROYALTY</b>
1	Base Metals	6%
2	Gemstones	8%
3	Precious Metals	10%
4	Industrial Minerals	5%

Various witnesses were also concerned with clause 17(1) which empowered the Government to acquire mining rights for the purpose of mining operations through a Government investment company and that certain identified areas shall be reserved for the Government. They were of the view that this had the potential of crowding out private sector investment in the mining sector. They recommended that Government participation should be restricted to equity holding or the Government owned company should not be given any special incentives or special treatment not available to the private sector.

Some stakeholders expressed concern that the Bill did not provide for renewal of mining licences and the duration for renewal. They recommended that the renewal process and duration be provided for in the Bill.

Stakeholders further raised concern over the immunity of the directors or an authorised officer. They were of the view that clause 11 which provided for immunity of directors or authorised officers should be deleted. They argued that providing immunity to public service workers was a breach of the principles of accountability and good governance which required officers to take responsibility for their actions.

A number of stakeholders expressed concern over the powers given to the Minister in the Bill as it empowered the Minister to appoint members of the Mining Licence Committee and to appoint the Chairperson. Further, the Minister is also empowered to appoint an Environment Protection Fund Committee.

Stakeholders expressed concern that the issue of mining rights and surface rights had been left to the villages to negotiate and give consent. The stakeholders were of the view that the Government and chiefs should take an active role in negotiating the issues of mining rights and surface rights on customary land.

## **8. COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

Having considered the Bill and the submissions by stakeholders, your Committee makes the following observations and recommendations as set out below.

- a) your Committee strongly recommends that all its recommended amendments as contained in Appendix I to this Bill be moved by the Minister on the Floor of the House.
- b) your Committee carefully studied the Mines and Minerals Development Bill, N.A.B. No. 12 of 2015 and appreciates the need to have a new Bill to improve and ensure a coordinated approach in the mining sector. While appreciating the need to come up with the Bill, your Committee observes that the Bill falls short of its intended purpose of holistically addressing the challenges of the mining sector and therefore, the need for wider consultations. Further, your Committee observes that the issue of mining taxation is allotted in two pieces of legislation and has been considered by two Committees i.e. Committee on Estimates and Committee on Economic Affairs, Energy and Labour at the same time. Your Committee recommends that to avoid fragmentation of efforts, mining taxation should be an integral component of the fiscal legislation. Your Committee , therefore, recommends that all matters relating to taxation in the mining sector should be dealt with under the relevant Laws by the ministry of responsible for finance;
- c) your Committee observes that the mining sector is a significant contributor to the country's Gross Domestic Product and export earnings. It is, however, concerned that mining production has been increasing at a slow pace and has been surpassed by countries like the Democratic Republic of Congo and remains a shadow of the production levels of Chile which it once equalled in the 1970's. Your Committee appreciates the benchmarking trip to Chile undertaken by Ministry of Finance, but observes concern that the lessons learnt were conspicuously absent from the Bill. In this regard, your Committee, recommends that a provision be inserted in the Bill to introduce an institutional framework that will address the inadequacies in the current administration and revenue collection capabilities through appropriate specialised institutions;

- d) your Committee welcomes the idea of consolidating mining licences into two categories and streamlining the multiple licensing agents; your Committee thus recommends the expansion of the composition of the Licensing Committee but urges the Government to explore the possibility of setting up a Licensing Authority to deal with all issues relating to licences;
- e) your Committee observes that the issue of surface rights and protected areas versus mining rights is still an area of conflict; your Committee agrees that the issuance of a provisional licence that will be subject to obtaining consent by the Licensing Committee will mitigate the conflicts;
- f) your Committee observes that the Zambian Government suffers from inadequate capacity in taxation and revenue collection relating to the mining sector; your Committee, therefore, recommends that to increase capacity, the Government should engage external experts or institutions to improve tax administration and revenue collection; and
- g) your Committee observes that the Bill provides that the holder of a mining licence shall pay a mineral royalty at the rate of 9% for open cast mining operations and 6% for underground mining operations. Your Committee further notes that the Bill provides that norm value will be used for the base metal or precious metals produced or recovered under the licence and gross value of the gemstone or energy minerals. Your Committee, however, argues that mineral royalty tax should be set at levels comparable to other countries in the region as shown in the table below. Your Committee recommends that as the Government undertakes a comprehensive review of taxation in the mining sector, the pre-2015 mining tax regime which pegs mineral royalty at 6% for all mining operations should be reinstated. Your Committee argues that a tax regime should be simple and consistent.

**Table 2: Mineral Royalty paid in some countries in Africa**

Jurisdiction	Corporate Income Tax	Mineral Royalty Tax
Botswana	22%	3%
DRC Congo	30%	2%
Ghana	35%	5%
Kenya	30%	8%
Namibia	37.50%	3%
Zambia	-	open cast 20%
		underground 9%

## 9. CONCLUSION

Your Committee wishes to pay tribute to all stakeholders who appeared before it and tendered both oral and written submissions. Your Committee also wishes to thank you, Mr Speaker, for affording it an opportunity to study the Bill. Your Committee also appreciates the services rendered by the office of the Clerk of the National Assembly.

We have the Honour to be, Sir, your Committee on Economic Affairs Energy and Labour mandated to consider the Mines and Minerals Development Bill, N.A.B. No. 12 of 2015.

Mr K K Hamudulu, MP  
**Chairperson**

Mr G G Nkombo, MP  
**Member**

Dr S Musokotwane, MP  
**Member**

Mr V Lombanya, MP  
**Member**

Mr F Mutati, MP  
**Member**

Mr W Simuusa, MP  
**Member**

Mr N Chilangwa, MP  
**Member**

Ms M Miti, MP.  
**Member**

## **APPENDIX I**

### **SPECIFIC AMENDMENTS PROPOSED BY THE COMMITTEE**

Taking the submissions of various stakeholders into consideration, your Committee wishes to propose that before the Bill is passed, the amendments set out below be made to it.

#### **Part I - Preliminary**

Clause 2 should be amended to include the definition of ‘Honorary Inspector’.

Clause 2 should be amended by inserting the definition of the “non-mining right” to read as follows, “means a right granted under clause (2) 13.”

#### **Part II of the Bill - Administration**

A Clause should be inserted immediately inserted after Clause 5(2) to provide for an obligation for the Directors to ensure that a Strategic Environmental Assessment (SEA) is conducted for explorations, mineral processing and mining operations in line with the *Environmental Management Act of 2011*.

Clause 5 (4) should be amended to delete the word ‘environment’. Because the Director of Mines Safety is not a competent authority of environmental management or protection and that environmental protection is managed and regulated under ZEMA.

Clause 5(4) should be amended by inserting a proviso to the effect that on matters relating to the environmental protection and public health, the Director of Mines Safety Department shall collaborate with the National Agency responsible for environmental management, the Ministry responsible for health and any other relevant authority.

Clause 5 should be amended by deleting ‘licensing and’ in clause 5(6). Because licensing will be handled by a Licensing Committee.

Clause 6 – to enhance inclusivity and cross-pollination of ideas, the composition of the Mining Licensing Committee should include the private sector and other non-government actors such as the Engineering Institution of Zambia.

Clause 6(1) (d) should be amended by deleting the entire Clause.” determine appeals made by persons under this Act from decision made by any of the Director. Because appeals are a function of the Minister and the Appeals Tribunal and not the Mining Licensing Committee.

Further, Clause 6 (1) (e) should be amended to read remove “and the Directors on matters relating to its functions” so that it reads ‘advise the Minister on matters under this Act’.



Clause 6(2) (d) – No provision has been made in the Bill for the Secretary of the Mining Licensing Committee. In this regard, the Clause should be amended to read ‘the Director of Mining Cadastre who shall be Secretary’.

Further 6 (2) (e) should be amended by the insertion of Forestry and Wildlife.

### **Part III– Mining Rights and Non-Mining Rights**

Clause 15 should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 15 should be amended by inserting the words “whose geological potential is not known” between “land and the Mining Licensing Committee.”

Clause 17(1) should be amended to read ‘Subject to the other provisions of this Act, the Government may reserve mining areas for public investment’.

Clause 17(2) should be amended to read ‘The reserved area referred to in subsection (1) shall be subject to application for the acquisition of a mining right by parastatal companies’.

Clause 17(3) should be amended to read ‘Mining rights acquired under 17(2) shall be granted in accordance with this Act’.

Clause 18 should be amended to insert the following provisions:

- (i) Clause 18(1) an applicant for a mining licence shall submit to the mining cadastre office at the time of application, the proposed positions of all beacons defining the location and extent of the land under application.
- (ii) Clause 18(2) a holder of a mining right or mineral processing licence shall, within one hundred and eighty days of the grant of the mining right or mineral processing licence, at their cost, ensure the survey and demarcation of the area covered by the mining right or mineral processing licence in the prescribed manner and register a pegging certificate at the Mining Cadastre Office.
- (iii) Clause 18(3) - a person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding four years or to both.

Clause 19(1) should be amended by inserting the words ‘with known geological potential’ between ‘areas’ and ‘or’.

Clause 20(1) should be amended to read ‘a holder of mining right or mineral processing licence shall, in the conduct of operations and in the purchase, construction, installation and decommissioning of facilities, give preference to the’.

Clause 20(1)(b) should be amended by inserting “suppliers” after “contractors.” The justification for the inclusion of suppliers is for clarity and to ensure that no one is omitted.

Clause 20(3) should be amended by deleting the words “to the Committee.”

Clause 21(1) should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Further Clause 21(1) should be amended to read:

- a) “the conditional offer referred to in subsection (1) shall be valid for a period of sixty months and shall thereafter lapse and the area shall become free.”
- b) The committee shall within a period of thirty days of receipt of a copy of a decision letter and if the provisions of the Act are complied with grant an exploration license to the applicant.”

Clause 22(1) (c) should be amended to include “Environmentally Protected Area, Joint Forest Management Area, Community Forest, Wetlands” between the words “private forest” and “or.”

Clause 22(2) should be amended by replacing the word ‘Director of Mining Cadastre’ with “Mining Licensing Committee.”

Further, Clause 22(5), should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 25(1) should be amended to delete paragraph (a).

Further, consequent to the amendment in 25(1) above, the clause should be further amended by deleting the words “environmental project brief” and the substitution therefore of the words “environmental impact assessment” and the word ‘or’ which makes clause disjunctive should be replaced by the word ‘and’ at the end of that Section. Because it is possible for exploration to require a detailed impact assessment or environmental impact statement. Also the use of the word or makes it disjunctive and therefore should be replaced by the word ‘and’ as proposed.

Further Clause 25 (1) (f) and 25(1) (h), should be amended by deleting the reference to the “Director of Mining Cadastre” and inserting immediately after the word ‘as’ the following “specified in the Environmental Impact Assessment approval.”

Further, Clause 25(1) (i) should be amended by deletion of the words “the protection of the environment” and the substitution therefore of the words “health and safety of mining operations.” This is because environmental protection is within ambit of ZEMA.

Further, Clause 25(1) (f) and 25(1) (h) should be amended by deleting the reference to the “Director of Mining Cadastre” and inserting immediately after the word ‘as’ the following “specified in the Environmental Impact Assessment approval.”

Further, Clause 25(1) (i) should be amended by deletion of the words “the protection of the environment” and the substitution therefor of the words “health and safety of mining operations.”

Clause 29(4) should be amended to read: “an applicant for an artisanal mining or small-scale mining shall not be granted a mining licence in respect of radioactive minerals or minerals containing highly toxic substances as maybe prescribed.”

Clause 30(2) should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 31(1) should be amended by deleting the words “environmental project brief or” for the text to read as follows, “that the proposed programme of mining operations is adequate and compliant with the decision letter in respect of the environmental impact assessment approved by the Zambia Environmental Management Agency.”

Clause 31(1) (c) should be amended by insertion immediately after the word ‘assessment’ the word ‘report’ as environmental impact assessment is a process and not a report.

- (i) Clause 31 (1) (f) should be amended by inserting:
- (ii) A bankable Feasibility Study Report;
- (iii) the applicant’s undertaking for the promotion of local business development; and
- (iv) the applicant’s capital investment forecast.

The above are key for the Committee to grant or reject an application.

Clause 32(1) should be amended by the insertion of the following: “provided that where the application is for artisanal mining, the committee shall, within sixty days of receipt of an application under section thirty, grant a conditional offer in the prescribed form, if the application complies with the provisions of this Act.”

The Clause should also include the following provisions:

- a) The conditional offer referred to in subsection (1) shall be valid for a period of sixty months and shall thereafter lapse and the area shall become free.

- b) The committee shall within a period of thirty days of receipt of a copy of a decision letter and if the provisions of the Act are complied with grant an exploration license to the applicant.

Clause 35(1)(i) should be amended by deleting the reference to “environmental protection” as this is covered under the Environmental Management Act.

Clause 40 should be amended so that subclause (1) reads:

“(1) The committee shall, within sixty days of receipt of an application under section twenty one, grant a conditional offer in the prescribed form, if the application complies with the provisions of this Act.”

Further, new subclauses should be inserted in Clause 40 to read:

- a) the conditional offer referred to in subsection (1) shall be valid for a period of sixty months and shall thereafter lapse and the area shall become free.
- b) The committee shall, within a period of thirty days of receipt of a copy of a decision letter and if the provisions of the Act are complied with, grant mineral processing license to the applicant

Clause 41 should be amended as follows:

- a) In item (a) line 5, replace the word “assessment” with the word, “statement”
- b) In item (c) (iv) the word “about” should be replaced with the word, “labour”

Clause 41(a) should be amended by the insertion immediately after the word ‘assessment’ the word ‘statement’ as environmental impact assessment is a process and not a report.

Clause 42 should be amended by deleting subclause (3) and replacing it with the following:

“(3) The Director of Mines shall within thirty days of receipt of an application under this section, grant to the applicant a gold panning certificate in a prescribed form, if the application meets the requirements of this Act, and subject to standards and guidelines developed under the Environmental Management Act, 2011 related to the protection of the environment.”

Clause 43(1)(c) should be amended in order that, “eachmonth” to read, “each month”

Clause 46(c) should be amended in order that “copyin” under line two, should read as “copy in.”

Clause 47(3)(a) should be amended by the insertion of sub-paragraph (iii) to read “environmental clearance by ZEMA as one of the requirements to be submitted for consideration.” This will help to ascertain the nature of the mineral being imported and will subsequently protect human health and the environment.”

#### **Part IV of the Bill – Mining Rights and Surface Rights**

Clause 52 should be amended by deleting subclause (1) and replacing it with “a holder of a conditional offer for a mining right or mineral processing licence shall not exercise any rights under this Act-”

The consent should come first before the mining rights because the consent requirements form part of the EIA process.

Clause 52(1) (f) (i) and (ii), should be amended so that both cross reference with the Forests Act.

Clause 52(2) should be amended by the deletion of the words “the Director of Mining Cadastre or.”

Clause 52(3) should be amended to define what is “unreasonably withheld” and to replace the word “arbitration” with “dispute resolution.”

Clause 54 should be amended to delete subclause (2) and replace with it the following “(2) An owner or lawful occupier of land shall not erect any building or structure on land except in accordance with the terms of an access agreement.”

Clause 56(1) should be amended by inserting immediately after the word “into” the words “conciliation or mediation as the parties may agree or refer the matter to an appropriate Tribunal.”

Clause 57(1) should be amended by the including any other articles of value, including indigenous traditional or cultural values that shall be prescribed by a Statutory Instrument” as articles for which compensation would be due if they were damaged in the process or disturbed in the process of exercising the mining right or processing licence.

Clause 57 should be amended by deleting subclause (2).

Clause 57 should be amended to delete subclause (3) and replace it with “(3) The compensation payable for damage to the surface of any land shall be undertaken by a registered valuation surveyor in accordance with the *Valuation Surveyors Act, Chapter 207* of the Laws of Zambia and shall be the extent to which the market value of the land for which purpose it shall be deemed saleable upon which the damage has occurred has been reduced by reason of such damage but without taking into account any enhanced value due the presence of minerals.”

Clause 57(5): should be amended to include the provision for compensation to be paid to government in respect of indigenous wood or timber taken as these funds are needed to allow for regeneration and in any case our indigenous trees are very valuable and very difficult to grow.

Clause 57(7) should be recast not to allow people to disturb the land and then lay a claim. It is redundant in view of section 57(1) as the payment should be made promptly.

#### **Part V of the Bill – Regulatory Provisions**

In Clause 67(2) and Clause 67(3) should be amended by the replacement of the words “Director of Mining Cadastre” with “Minister.”

Clause 68(2) should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 69 should be amended by insertion of a new subsection to read “the affected parties shall apply for new mining licence in accordance with this Act.”

Clause 70(3), should be amended to delete the words either “unconditionally or” after the word “abandonment.”

In Clause 72, the Marginal Note, should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence.”

Further, Clause 72(7) should be amended by the insertion of “Director of Mining Cadastre.”

In Clause 73, the Marginal Note should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence.”

In Clause 74, the Marginal Note should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence.”

Further, Clause 74(1) should be amended by replacing “Director of Mining Cadastre” with “Director of Mines.”

#### **Part IV of the Bill – Mining Rights and Surface Rights**

Clause 52 should be amended by deleting subclause (1) and replacing it with the following:

“(1) a holder of a conditional offer for a mining right or mineral processing licence shall not exercise any rights under this Act-.”

The consent should come first before the mining rights because the consent requirements form part of the EIA process.

Clause 52(2) should be amended by the deletion of the words “the Director of Mining Cadastre or.”

Clause 56(1) should be amended by inserting immediately after the word “into” the words “conciliation or mediation as the parties may agree or refer the matter to an appropriate Tribunal.”

Clause 57(1) should be amended by the including any other articles of value, including indigenous traditional or cultural values that shall be prescribed by a Statutory Instrument as articles for which compensation would be due if they were damaged in the process or disturbed in the process of exercising the mining right or processing licence. Clause 57 should be amended by the deletion of subclause (2).

Clause 57 should be amended by deleting subclause (3) and replacing it with the following:

“(3) The compensation payable for damage to the surface of any land shall be undertaken by a registered valuation surveyor in accordance with the *Valuation Surveyors Act, Chapter 207* of the Laws of Zambia and shall be the extent to which the market value of the land for which purpose it shall be deemed saleable upon which the damage has occurred has been reduced by reason of such damage but without taking into account any enhanced value due the presence of minerals.”

Clause 57 should be amended by deleting subclause (7) and replacing it with “(7) A claim for compensation under subsection (1) shall be made as long as the chain of causation can be linked to the mining right or mineral processing licence.”

Clause 57 (7) should be recast not to allow people to disturb the land and then lay a claim. It is redundant in view of section 57 (1) as the payment should be made promptly.

#### **Part V of the Bill – Regulatory Provisions**

Clause 67 subclause (2) and (3) should be amended by the replacement of the words “Director of Mining Cadastre” with “Minister”.

Clause 68(2) should be amended by replacing the word ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 69 should be amended by insertion of a new subclause to read “the affected parties shall apply for new mining licence in accordance with this Act.”

In Clause 72, the Marginal Note, should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence.”

Further, Clause 72(7) should be amended by the insertion of “Director of Mining Cadastre.”

In Clause 73, the Marginal Note should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence”.

In Clause 74, the Marginal Note should be amended by replacing the words “mining or non-mining right” with “mining right or mineral processing licence”.

Further, Clause 74 (1) should be amended by replacing “Director of Mining Cadastre” with “Director of Mines.”

#### **Part VI of the Bill – Safety, Health and Environmental Protection.**

Clause 80(1) should be amended by replacing ‘Director of Mining Cadastre’ with ‘Mining Licensing Committee’.

Clause 80 should be amended to provide for cross-referencing with the Environmental Management Act.

Further clause 80(1), should be amended by the insertion immediately after the word ‘Cadastre’ the following “in consultation with Zambia Environmental Management Agency.”

Clause 80 should be amended by deleting subclause (2) and replacing it with the following:

“(2) Every Mining operation shall undertake an Environmental Impact Assessment in accordance with the Environmental Management Act, 2011.”

Clause 81 should be amended by deleting paragraph (a) of subclause (1) and substituting it with the following:

- a) “the conservation and protection of-
  - (i) the air, water, soil, flora, fauna, fish, fisheries and scenic attractions, in consultation with the Ministers responsible for Environment, Agriculture and Tourism;
  - (ii) the features of cultural architectural, archeological, historical or geological interests, in consultation with Minister responsible for Traditional and Cultural Affairs; and
  - (iii) in or on the land subject to the right or licence, in consultation with the Minister responsible for land.”



Clause 81 is amended by deleting paragraph (b) of subclause (1) and replacing it with the following:

“(c) the rehabilitation, leveling, re-grassing, reforestation or contouring of such part of the land over which the right of the licence has effect as may have been damaged or adversely affected by exploration operations, mining operations or mineral processing operations, in consultation with the Ministers responsible for Environment and Forests; and

Clause 81(1) should be amended by deleting paragraph (d) and replacing it with the following: “(d) the filling-in, sealing or fencing of excavations, shafts and tunnels, in consultation with the appropriate Ministers as the case maybe.”

Clause 82 should be amended:

(a) in the Marginal Note to read as follows:

“Clearing away of mining or mineral processing plant, decommissioning of the mine, and site rehabilitation.”

(b) by the introduction of a new subclause (4) which should read as follows:

“(4) A holder of a mining right or mineral processing licence over land that ceases to be subject to the mining right or mineral processing licence shall undertake corrective action, including site rehabilitation in accordance with the this Act, Environmental Management Act, Ionising Radiation Act and any other relevant Laws.”

Clause 86 should be amended by deleting subclause (3) and replacing it with the following:

“(1) All mining rights and mineral processing licence holders shall contribute to the Environmental Protection Fund as prescribed in the regulations as follows:

- a) Cash deposits; and
- b) Bank Guarantee.”

Further, Clause 86 should be amended to insert new subclause for penalties as follows:

“Where a holder of a mining right or mineral processing licence fails to pay the prescribed cash deposit or secure the bank guarantee, the holder shall be liable to a fine of:

- a) five percent of the cash deposit due for each month the amount remains unpaid; and
- b) one percent of the bank guarantee amount for every three months the bank guarantee remains unsecured.”

## **Part VIII of the Bill – Appeals**

Clause 97(1) should be amended by inserting “Mining Licensing Committee” after Director of Mines and to replace “Committee” with “Minister”.

Further, Clause 97(2), should be amended by Replacing “Committee” with “Minister”.

Clause 97(4) should be amended to read “a determination of the Minister under this section may include such directions to the Director of Mining Cadastre, Director of Mines Safety, Director of Mines, Director of Geological Survey or Mining Licensing Committee as the Minister considers appropriate for the disposal of the matter, and the Director concerned or the Mining Licensing Committee shall give effect to the directions.”

Further Clause 97(5), should be amended by Replacing ‘Committee’ with ‘Minister’.  
Clause 98(2) should be amended by inserting the words ‘responsible for justice in consultation with in consultation with the Minister’ after the word ‘Minister’.

## **Part X of the Bill – General Provisions**

Clause 119 (2)(d) should be amended to read “decommissioning and closure of mines.”

Further, Clause 119 (2)(e) should be amended to read “regulations for the enforcement of provisions related to employment of citizens and preference for Zambian products, contractors and services and promotion of local business development.”

Clause 119 (2)(n) should be amended to read “fees and annual charges to be paid by a holder of mining right or non-mining right.”

Also, Clause 119(2) (o) should be amended by replacing “fees and annual charges” with “regulations for the administration of the Environmental Protection Fund”.

Further, Clause 119(2) (p) should be amended by replacing the word “exploration” with “exportation”.

## **APPENDIX II**

### **LIST OF OFFICIALS**

#### **National Assembly**

Mr S C Kawimbe, Principal Clerk of Committees  
Ms M K Sampa, Deputy Principal Clerk of Committees  
Ms C Musonda Acting Committee Clerk (FC)  
Mr Simon Mtambo, Budget Analyst-Macroeconomics  
Mr F Chikambwe, Assistant Committee Clerk  
Mrs M E Z Banda, Assistant Committee Clerk  
Mr S Samuwika, Assistant Committee Clerk  
Mrs D Mukwanka, Assistant Committee Clerk  
Mr A Chilambwe, Assistant Committee Clerk  
Mrs R T Mwila, Acting Stenographer  
Ms F Hamakalu, Typist  
Mr R Mumba, Committee Assistant  
Mr M Chikome, Parliamentary Messenger

## **APPENDIX III**

### **LIST OF WITNESSES**

#### **Ministry of Justice (Permanent Witness)**

Mr F.Chilunga, Assistant Commissioner, Law Revision  
Mr M Chola, Senior Parliamentary Counsel  
Ms K Ndulo, Parliamentary Counsel

#### **Zambia Chamber of Mines**

Mr S Shula, Economist  
Mr C M Banda, Tax Manager  
Mr H Pasi, Legal Counsel  
Mr W R Sweta, Councilor AZMEC  
Ms H Maxwell, Office Manager  
Mr G M Mulenga, President-Country Manager  
Mr H Carruthers, Chief Geologist  
Mr M Akakandelwa, Head-Corporate  
Ms P Pio, Country Legal Manager

#### **Zambia Environmental Management Agency**

Mr M Nkoya, Acting Director General  
Mr H L Mwale, Acting Legal Counsel

#### **Ministry of Mines, Energy and Water Development**

Mr M Lumamba, Director of Mines  
Mr G Ndalama, Director of Mines Safety  
Ms B Mwakacheya, Project Documentalist  
Mr A Dokowe, Chief Geologist  
Mr T Mazhamo, Acting Systems Administration  
Mr B Chewe, Chief Micro Energy  
Mr M Chibonga, Acting Head-Cadastre  
Mr S Mulongwe, Mining Engineer

#### **Ministry of Lands, Natural Resources and Environmental Protection**

Mr B Bwalya, Permanent Secretary  
Mr I Makunba, Director-Forestry  
Mr M Sindano, Parliamentary Liaison Officer

**Ministry of Finance**

Mrs P C Kabamba, Permanent Secretary  
Mr M Masiye, Director-Budget  
Mr J Phiri, Analyst-Expenditure

**Kagem Mining Limited**

Mr W Nyrienda, Chairman  
Mr I Mwita, Head Finance  
Mr R Feurier, Group Tax and Treasury Manager  
Mr M Phiri, Tax Advisor