



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS

ON THE

CITIZENS ECONOMIC EMPOWERMENT (AMENDMENT) BILL, N.A.B. 5 OF 2021

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON NATIONAL ECONOMY, TRADE AND LABOUR MATTERS ON THE CITIZENS ECONOMIC EMPOWERMENT (AMENDMENT) BILL, N.A.B. 5 OF 2021 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consists of Dr S Musokotwane, MP (Chairperson); Ms M Miti MP, (Vice-Chairperson); Mr G G Nkombo, MP; Mr E M Mwila, MP; Mr C Chali, MP; Mr D Chisopa, MP; Dr S C Kopulande, MP; Mr D Livune, MP; Mr E Kamondo, MP; and Mr M Mubika, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

The Committee has the honour to present its Report on the consideration of the Citizens Economic Empowerment (Amendment) Bill, N.A.B. 5 of 2021.

2.0 MEETINGS OF THE COMMITTEE

The Committee held eight meetings to consider the Citizens Economic Empowerment (Amendment) Bill, N.A.B. 5 of 2021.

3.0 PROCEDURE ADOPTED BY THE COMMITTEE

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

4.0 BACKGROUND OF THE BILL

This Bill sought to amend the *Citizens Economic Empowerment Act, No. 9 of 2006*, so as to revise the composition of the Commission. The rationale for amending the Act was to remove all the Permanent Secretaries, the Secretary to the Treasury and the Attorney General from the Commission's Board and replace them with representatives from their respective institutions. It had been noted that the appointment of Permanent Secretaries on the Commission compromised good governance principles as Permanent Secretaries who participated and made decisions at the Commission also provided policy direction to the Commission on behalf of Government. This posed a conflict of interest when Permanent Secretaries are executing their roles.

5.0 OBJECT OF THE BILL

The Committee heard that the object of this Bill was to amend the *Citizens Economic Empowerment Act, No.9 of 2006*, so as to revise the composition of the Commission.

6.0 SALIENT PROVISIONS OF THE BILL

The salient provisions of the Bill are set out below.

Clause 1 – Short title

The clause provided for the short title of the Bill.

Clause 2 – Amendment of section 7

This clause sought to amend section 7(1) of the principal Act so as to revise the composition of the Commission. The Bill was proposing an amendment to section 7(1) of the principal Act by the deletion of paragraphs (b), (d) and (e) and substitution therefor of the following:

- (b) a representative of the Secretary to the Treasury;*
- (c) a representative of the Ministry responsible for commerce, trade and industry;*
- (d) a representative of the Ministry responsible for labour and social security; and*
- (e) a representative of the Attorney-General.*

7.0 CONCERNS BY STAKEHOLDERS

Most of the stakeholders who appeared before the Committee fully supported the Bill and stated that the enactment of the Citizens Economic Empowerment (Amendment) Bill, N.A.B. 5 of 2021 was necessary to allow for objective and independent decision making by the members of the Commission and also promote tenets of good governance. However, they raised some concerns as set out below.

- i. Stakeholders noted that while the Bill proposed the amendment of paragraph c, the Bill omitted the deletion of paragraph (c) in Clause 2, which provided for the appointment of the Permanent Secretary in the Ministry responsible for commerce, trade and industry.

To ensure consistency between the measure and the text, they proposed the deletion of paragraph (c) in Clause 2 of the Bill.

- ii. Some stakeholders commended the provision in clause 2, stating that it would enhance the effectiveness of the Board in overseeing the management of the Citizens Economic Empowerment Commission (CEEC), including realising its mandate of promoting broad-based economic empowerment in Zambia. They held the view that the common practice of appointing senior Government officials such as the Secretary to the Treasury, Permanent Secretaries and the Attorney General to multiple boards potentially reduced their effectiveness on the boards owing to the competing demands from various boards and their substantive roles.

- iii. Some stakeholders were of the view that the appointment of senior Government officials to the Commission had the advantage of streamlining the process of engagement between CEEC and the ministries responsible for financing the activities of the CEEC and promoting industrial development, employment and accountability. Others were of the opinion that Permanent Secretaries were conceptually considered to play an oversight role over statutory bodies under their purview and ensure standards, policies and regulations were brought to the attention of the Boards. Therefore, the removal of Permanent Secretaries from the Boards of statutory bodies may risk weakening this oversight role, which could then compromise transparency, accountability and integrity in statutory bodies, thereby potentially weakening their effectiveness in achieving corporate goals.

Further, in supporting the provision, other stakeholders noted that Clause 2 provided for less senior representatives who were not politically exposed and thus at lesser risk of being relieved of their duties, demoted or moved to a different portfolio. Thus, this provision had the potential to promote continuity in the tenure of the Board members, preserve institutional memory and increase the independence of the Board.

- iv. To uphold the oversight role previously played by Permanent Secretaries, some stakeholders proposed that Cabinet Office should consider establishing a corporate governance code of good practice for statutory bodies. This would provide an effective mechanism through which oversight of boards could be undertaken.
- v. To preserve the oversight role previously played by Permanent Secretaries, the Secretary to the Treasury and the Attorney General, the measures outlined below were proposed by stakeholders.
 - a) In order to enhance the performance of CEEC and maintain the competence of the Commission, some stakeholders proposed that the new nominees to the Board of Commissioners should be well-qualified with the relevant education and professional expertise in line with the Organisation for Economic Co-operation and Development (OECD) good practice standards for the boards of state owned enterprises (SOEs) or statutory bodies.
 - b) The Government should consider making regulatory provisions for transparent evaluation criteria for board nominations. They cited the case of Korea, where formal qualifications for board members were stipulated in the Act on the public institutions management.
 - c) The Government should expedite the process of developing the legal and institutional framework for the operationalisation of the National School of Government. This could be used as a vehicle to offer induction and capacity building programmes for board members at statutory bodies.
 - d) Detailed governance audits could form a mandatory chapter in the Auditor General's annual audit reports on statutory bodies to review the effectiveness of governance and audit the performance of boards against the set benchmarks.

8.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Following its interactions with stakeholders, the Committee makes its observations and recommendations as set out below.

- i. While noting its intention, the Committee observes that the Bill does not provide specific criteria for the appointment of representatives to the Board of Commissioners. The Committee observes that in its current state, the Bill has the potential to be interpreted in such a manner as to create room for any representative to attend Commission meetings as long as they come from the same institution.

In light of this, the Committee recommends that the Bill must explicitly state that these representatives must be permanent members of the Commission for the tenure prescribed in Section 9 of *Citizens Economic Empowerment Act, No.9 of 2006* for continuity purposes.

- ii. The Committee observes with concern that the Bill does not specify the requisite qualifications of the representatives to be nominated to the Board of Commissioners. Taking into account the unique mandate of the Commission, the Committee stresses the importance of ensuring that the Commission has the requisite expertise and representation from relevant institutions to execute its functions prescribed in Section 6 of the *Citizens Economic Empowerment Act, No.9 of 2006*.

The Committee recommends that, other than being a representative of the institution or of an individual, as is the case for the Attorney General and the Secretary to the Treasury, the Bill should explicitly state that a person nominated to represent an institution or an individual should have similar expertise to the expertise of the substantive member in order to make their representation relevant to the Commission.

- iii. To uphold the critical role previously played by Permanent Secretaries including the Secretary to the Treasury and the Attorney General, the Committee recommends that Cabinet Office should consider establishing a corporate governance code of good practice for statutory bodies in order to provide an effective mechanism through which the oversight of the boards of such bodies could be undertaken.

9.0 CONCLUSION

The Citizens Economic Empowerment (Amendment) Bill, N.A.B. 5 of 2021 offers valuable amendments to the *Citizens Economic Empowerment Act, No.9 of 2006*. These amendments will contribute to the promotion of a good governance system and will allow for objective and independent decision making by the Commission. The Committee is optimistic that once enacted, the amendments in the Bill will enhance the effectiveness of the Commission in providing oversight on the CEEC.

The Committee, therefore, supports the Bill subject to its concerns expressed in this Report.

The Committee expresses its gratitude to all stakeholders for their oral and written submissions on the Bill. The Committee further thanks the Office of the Speaker and the Clerk of the National Assembly for the guidance and services rendered to it during the consideration of the Bill.

Dr S Musokotwane, MP;
(Chairperson)

Ms M Miti,MP;
(Vice - Chairperson)

Mr G G Nkombo,MP;
(Member)
Mr D Livune, MP;
(Member)

Mr E M Mwila, MP;
(Member)

Dr S C Kopulande, MP;
(Member)

Mr C Chali, MP;
(Member)

Mr E Kamondo, MP;
(Member)

Mr D Chisopa,MP; and
(Member)

Mr M Mubika, MP.
(Member)

February, 2021
LUSAKA

APPENDIX I - National Assembly Officials

Ms C Musonda, Principal Clerk of Committees

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

Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)

Mrs C K Mumba, Senior Committee Clerk (FC)

Mrs E K Zgambo, Committee Clerk

Mr S C Samuwika, Committee Clerk

Mrs D C Mukwanka, Committee Clerk

Mrs V B Tembo, Typist

Mr M Chikome, Committee Assistant

Appendix II – The Witnesses

- i. The Minister of Commerce, Trade and Industry
- ii. The Ministry of Commerce, Trade and Industry
- iii. Ministry of Finance
- iv. Ministry of Justice
- v. Ministry of Foreign Affairs
- vi. Zambia Statistics Agency
- vii. Zambia Institute for Policy Analysis and Research
- viii. Citizens Economic Empowerment Commission
- ix. Zambia Congress of Trade Unions
- x. Zambia Chamber of Commerce and Industry