



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL  
GUIDANCE, GENDER MATTERS AND GOVERNANCE**

**ON THE**

**COMPENSATION FUND (AMENDMENT) BILL, N.A.B. NO. 6 OF 2021**

**FOR THE**

**FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

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# **REPORT OF THE COMMITTEE ON LEGAL AFFAIRS, HUMAN RIGHTS, NATIONAL GUIDANCE, GENDER MATTERS AND GOVERNANCE ON THE COMPENSATION FUND (AMENDMENT) BILL, N.A.B. NO. 6 OF 2021 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

## **1.0 MEMBERSHIP OF THE COMMITTEE**

The Committee consisted of Mr M Jere, MP (Chairperson); Mrs P G M Jere, MP (Vice Chairperson); Mr C Nanjuwa, MP; Evg. H Shabula, MP; Mr E Sing'ombe, MP; Mr R Bulaya, MP; Ms M P Langa, MP; Mr S Banda, MP; Mr S Chungu, MP; and Mr F M Fube, MP.

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

Sir,

The Committee has the honour to present its Report on the Compensation Fund (Amendment) Bill, N.A.B. No. 6 of 2021 for the Fifth Session of the Twelfth National Assembly referred to it by the House on 11<sup>th</sup> February, 2021.

## **2.0 FUNCTIONS OF THE COMMITTEE**

The functions of the Committee are as set out under Standing Order 157(2). Among these functions, the Committee is mandated to consider Bills that may be referred to it by the House.

## **3.0 MEETINGS OF THE COMMITTEE**

The Committee held five meetings to consider the Compensation Fund (Amendment) Bill, N.A.B. No. 6 of 2021.

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

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

## **5.0 OBJECT OF THE BILL**

The object of the Bill was to amend the *Compensation Fund Act, No. 43 of 2016* so as to revise the composition of the Compensation Fund Committee.

## **6.0 BACKGROUND**

The *Compensation Fund Act, No. 43 2016* (hereinafter referred to as the "principal Act") was enacted to, *inter alia*, establish the Compensation Fund Committee and provide for its composition and functions. Noteworthy in the

Act was the fact that the Permanent Secretary of the ministry responsible for justice was the Chairperson of the Committee.

In an effort to enhance transparency and accountability and in adhering to international best practice in corporate governance, the Government undertook reforms in the composition of boards and governing councils or commissions of public institutions.

The introduction of the Compensation Fund (Amendment) Bill, N.A.B 6 of 2021, therefore, sought to revise the composition of the Compensation Fund Committee by removing the Permanent Secretary from the membership of the Committee.

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

The salient features of the Bill were as set out below.

### **7.1 Clause 1 – Short title**

Clause 1 provided for the short title of the Act and that the Act was to be read as one with the principal Act.

### **7.2 Clause 2 – Amendment of section 4**

Clause 2 sought to amend section 4 of the principal Act by removing the Permanent Secretary, who was also the Chairperson, from the membership of the Committee. The Permanent Secretary would be replaced by “the Chairperson”, who may be appointed from amongst the members of the Committee.

## **8.0 STAKEHOLDERS’ SUBMISSIONS AND CONCERNS**

While supporting the Bill, stakeholders raised the concerns set out hereunder.

### **8.1 Clause 1 – Short title**

Stakeholders were concerned that clause 1 did not have a commencement date, which meant that the Act would come into force immediately it was assented to and published in the *Government Gazette*.

### **8.2 Clause 2 – Amendment of section 4**

Stakeholders agreed with the removal of the Permanent Secretary as Chairperson of the Compensation Fund Committee. They noted that the replacement of the Permanent Secretary with any other person from amongst the members of the Committee would enhance accountability and transparency in the management of public resources. They, therefore, welcomed the proposed amendment.

The stakeholders were of the view that the appointment of Permanent Secretaries on some boards and/or technical committees compromised the tenets of good corporate governance such as accountability and transparency as Permanent Secretaries, who made decisions at board or committee level,

also provided policy direction to the same institutions on behalf of the Government. This posed a conflict of interest in the execution of their roles as Permanent Secretaries.

Other stakeholders, however, were concerned that the qualifications of the Chairperson were not provided for in the principal Act. They submitted that since the Fund was established for the purpose of settling claims against the state and would most likely result in litigation, the Chairperson ought to be a person who was conversant with the law and its practice. In this regard, the Chairperson should be a legal practitioner who was qualified for appointment as a High Court judge. They submitted that leaving the appointment of the Chairperson of the Fund Committee to the discretion of the minister responsible for justice could be subject to abuse.

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

The Committee notes that all the witnesses who appeared before it were in support of the Bill. The Committee also supports the Bill, and in supporting it, the Committee observes that removing the Permanent Secretary from the Fund Committee will enhance good corporate governance and avert the conflict of interest in the execution of his or her duty as Permanent secretary.

The Committee, however, is concerned that the proposed amendment has not provided for the qualifications of the Chairperson of the Fund Committee. The Committee, therefore, recommends that the person to be appointed as Chairperson of the Fund Committee should be a legal practitioner, and qualified for appointment as a High Court judge as claims will most likely result in litigation.

## **10.0 CONCLUSION**

The Committee wishes to express its gratitude to all stakeholders who virtually appeared before it and rendered both oral and written submissions. The Committee also wishes to thank you, Mr Speaker, for your guidance throughout its deliberations. The Committee further appreciates the services rendered to it by the Office of the Clerk of the National Assembly and her staff.

We have the honour to be, Sir, the Committee on Legal Affairs, Human Rights, National Guidance, Gender Matters and Governance mandated to consider the Compensation Fund (Amendment) Bill, N.A.B No. 6 of 2021 for the Fifth Session of the Twelfth National Assembly.

Mr M Jere, MP  
(Chairperson)

Mrs P G M Jere, MP  
(Vice Chairperson)

Mr C Nanjuwa, MP  
(Member)

Evg. H Shabula, MP  
(Member)

Mr E Sing'ombe, MP  
(Member)

Mr R Bulaya, MP  
(Member)

Mr S Banda, MP  
(Member)

Ms M P Langa, MP  
(Member)

Mr S Chungu  
(Member)

Mr M F Fube  
(Member)

February, 2021  
**LUSAKA**

## **APPENDIX I - NATIONAL ASSEMBLY OFFICIALS**

Ms C Musonda, Principal Clerk of Committees  
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)  
Mrs C K Mumba, Senior Committee Clerk (FC)  
Ms B P Zulu, Committee Clerk  
Mr A Himululi, Committee Clerk  
Mrs R N Mwiinga, Typist  
Mr M Chikome, Committee Assistant

## **APPENDIX II–LIST OF WITNESSES**

### **MINISTRY OF JUSTICE**

Hon G Lubinda – Minister of Justice

Ms M Siwiwaliondo – Senior Parliamentary Counsel

### **LAW ASSOCIATION OF ZAMBIA**

Mr D Chakoleka – Member

### **ZAMBIA FEDERATION OF EMPLOYERS**

Ms G Samui – Legal Counsel

### **MAGISTRATES’ AND JUDGES’ ASSOCIATION OF ZAMBIA**

Mr N Samaubi – National Secretary