



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON EDUCATION, SCIENCE AND TECHNOLOGY

ON THE

EXAMINATIONS COUNCIL OF ZAMBIA (AMENDMENT) BILL, N.A.B. NO. 18

OF 2021

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

Published by the National Assembly of Zambia

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TABLE OF CONTENTS

No.	Item	Page
1.0	Membership of the Committee	1
2.0	Functions of the Committee	1
3.0	Meetings of the Committee	1
4.0	Procedure adopted by the Committee	1
5.0	Background to the Bill	1
6.0	Salient Provisions of the Bill	2
7.0	Submissions and Concerns by Stakeholders	2
8.0	Response by the Permanent Secretary of the Ministry of General Education to the Concerns raised by Stakeholders	4
9.0	Committee's Observations and Recommendations	4
10.0	Conclusion	5
	Appendix I – National Assembly Officials	6
	Appendix II –Witnesses	7

REPORT OF THE COMMITTEE ON EDUCATION, SCIENCE AND TECHNOLOGY ON THE EXAMINATIONS COUNCIL OF ZAMBIA (AMENDMENT) BILL, N.A.B. NO. 18 OF 2021 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Mr G K Mwamba, MP (Chairperson); Ms A M Chisangano, MP (Vice Chairperson); Prof G Lungwangwa, MP; Mr S Tembo, MP; Mr K H S Kamboni, MP; Mr E Machila, MP; Mr K Sampa, MP; Mr P C Mecha, MP; Mr H S Chansa, MP; and Mr M Mutelo, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

The Committee has the honour to present its Report on the Examinations Council of Zambia (Amendment) Bill, N.A.B. No. 18 of 2021 for the Fifth Session of the Twelfth National Assembly referred to it by the House on Wednesday, 10th February, 2021.

2.0 FUNCTIONS OF THE COMMITTEE

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

3.0 MEETINGS OF THE COMMITTEE

The Committee held seven meetings to consider the Examinations Council of Zambia (Amendment) Bill, N.A.B. No. 18 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 BACKGROUND TO THE BILL

The Committee was informed that the Examinations Council of Zambia (Amendment) Bill, N.A.B No. 18 of 2021 sought to amend the *Examination Council of Zambia Act, Chapter 137 of the Laws of Zambia* so as to revise the composition of the Council. The Committee heard that there was need to amend the provision which provided for the appointment of a Permanent Secretary to the Council of the Examinations Council of Zambia. In this regard, it had been noted that the appointment of Permanent Secretaries on Councils or Technical Committees, such as Council of the Examinations Council of Zambia, compromised good governance principles, as Permanent Secretaries who participated in the decision making process at Council or Committee level also provided policy direction to the Councils on behalf of the Government. This, therefore, posed a conflict of interest in the execution of the Permanent Secretaries' role.

In this regard, the Examinations Council of Zambia (Amendment) Bill, N.A.B No. 18 of 2021, sought to provide for the promotion of good governance by way of removing conflict of interest.

6.0 SALIENT PROVISIONS OF THE BILL

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

Clause 1 – Short title

The clause provided for the short title of the Bill. The Bill was cited as the Examinations Council of Zambia (Amendment) Bill, 2021.

Clause 2 – Amendment of section 5

The clause amended section 5 (1)(b) and (C) of the principal Act in order to revise the composition of the Council by replacing the Permanent Secretary, Vocational Training and Education with representatives of the Ministry of General Education and Ministry of Higher Education.

7.0 SUBMISSIONS AND CONCERNS BY STAKEHOLDERS

General Concerns

- (i) Most stakeholders who appeared before the Committee supported the proposal to amend Section 5(1) of the *Examinations Council of Zambia Act, Chapter 137 of the Laws of Zambia* (the principal Act) by deleting paragraphs (b) and (c) and substituting them with:
 - (b) A representative of the ministry responsible for general education.
 - (c) A representative of the ministry responsible for higher education.
- (ii) Stakeholders supported the amendment by stating that the principal Act should be revised to ensure that Council representation was held by officers at senior level other than Permanent Secretaries. In this regard, stakeholders stated that Permanent Secretaries by function were policy implementers and controlling officers, while the Council of the Examinations Council of Zambia was responsible for policy formulation. Stakeholders, therefore, wondered how Permanent Secretaries as controlling officers could be part of both policy formulation and implementation of those policies. In this vein, stakeholders informed the Committee that Permanent Secretaries would not be impartial, instead they would always impose their views, thereby rendering the entire process of policy formulation and the policy developed questionable. In this regard, stakeholders stated that the amendment would ensure that good governance was upheld.
- (iii) Stakeholders pointed out that this amendment was overdue, as it should have been effected shortly after the education sector was divided into two subsectors, namely general education and higher education. The amendment would, therefore, allow for the appointment of representatives of the two Ministries, although not the Permanent Secretaries but other officers with the relevant experience and expertise required to effectively serve on the Examinations Council.
- (iv) Stakeholders submitted that subsections (d),(e), (f) and (g) of section 5 (1) of the principal Act should also be reviewed in view of the following current conditions:
 - (a) there were more than two public universities;

- (b) there was more than one teachers' union;
 - (c) there were many private schools, colleges and universities; and
 - (d) there were new statutory bodies in the education sector, notably the Higher Education Authority, the Teaching Council of Zambia and the Zambia Qualifications Authority.
- (v) Stakeholders pointed out that the Bill did not address other areas of concern in the Act. Stakeholders informed the Committee that the principal Act, if holistically reviewed, would address a number of issues by:
- (a) redefining the composition of the Council and aligning its functions to current trends and policy reforms in the education system;
 - (b) introducing national, provincial and district examination coordination committees which would ensure that examinations were considered as a national issue and not just an issue of the Ministries of Higher Education and General Education;
 - (c) providing stiffer penalties for involvement in examination malpractices; and
 - (d) introducing measures to enhance the security of examination materials at all levels of the supply and administration process.

In this regard, stakeholders highlighted the need to expeditiously review the principal Act in order to address these concerns.

Specific Concerns

Clause 2: Amendment of Section 5

Stakeholders expressed concern that in Clause 2, the amendment of section 5 (1) (b) and (c) did not explicitly state who should represent a Ministry, as a Permanent Secretary could still present himself or herself as a representative of a Ministry. In this regard, stakeholders submitted that the amendment should explicitly read as follows:

- (b) a representative of the ministry responsible for general education, other than a Permanent Secretary; and
- (c) a representative of the ministry responsible for higher education, other than a Permanent Secretary.

Stakeholders also expressed concern that the amendment of section 5 (1) (b) and (c) did not explicitly state which position at the Ministry should be appointed to represent the Ministry at the Council of the Examinations Council of Zambia. In this regard, stakeholders submitted that a Director be clearly stated in the Bill as the position for the officer who would represent a Ministry at the Council of the Examinations Council of Zambia.

Additionally, stakeholders observed that Clause 5 (1) (d),(e), (f) and (g) of the principal Act was not amended considering that a number of statutory and regulatory bodies in the education sector had been introduced, who would play a critical role in the operations of the Examinations Council of Zambia. Among such regulatory bodies are the Higher Education Authority; the Zambia Qualifications Authority; and the Teaching Council of Zambia.

Further, stakeholders observed that the *Examination Council of Zambia Act, Chapter 137 of the Laws of Zambia* had outlived its usefulness considering that a lot of changes

and reforms had occurred in the country's education system, which needed to be incorporated into the law governing the Examinations Council of Zambia.

8.0 RESPONSE BY THE PERMANENT SECRETARY OF THE MINISTRY OF GENERAL EDUCATION TO THE CONCERNS RAISED BY STAKEHOLDERS

The Committee also interacted with the Permanent Secretary in relation to the Bill in a quest to clarify concerns raised by various stakeholders. The Permanent Secretary responded as set out hereunder.

Asked to clarify which position at the Ministry of General Education should be appointed to represent the Ministry at the Council of the Examinations Council of Zambia, the Permanent Secretary pointed out that a Director or Deputy Director at the Ministry should be appointed to represent the Ministry of General Education at the Council of the Examinations Council of Zambia.

The Committee wished to know whether the Ministry planned to undertake a holistic review of the law in relation to the Examinations Council of Zambia considering that there were a number of on-going examination reforms and processes which were not in fact supported by law. In response, the Permanent Secretary informed the Committee that another Bill was underway which would take care of all the concerns. The Permanent Secretary explained that consultations regarding the review of the Act had been going on for some time, and the Bill would be submitted to the National Assembly for enactment in due course.

9.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

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

- (i) The Committee observes with great concern that the amendment of section 5 (1) (b) and (c) does not explicitly state who should represent a Ministry, considering that a Permanent Secretary can present himself or herself as being a representative of a Ministry. In this regard, the Committee strongly recommends that the amendment should explicitly state as follows:
 - (b) a representative of the ministry responsible for general education, other than a Permanent Secretary; and
 - (c) a representative of the ministry responsible for higher education, other than a Permanent Secretary.
- (ii) The Committee observes with concern that the amendment of section 5 (1) (b) and (c) does not explicitly state which position at the Ministry should be appointed to represent the Ministry at the Examinations Council of Zambia. In this regard, the Committee recommends that the Bill should clearly provide that a Director at the Ministry shall represent a Ministry on the Council.
- (iii) The Committee observes with great concern that section 5 (1) (d),(e), (f) and (g) of the *Examinations Council of Zambia Act, Chapter 137 of the Laws of Zambia* has not been amended to revise the composition of the Council of the Examinations Council of Zambia, considering that a number of statutory and regulatory bodies have been created in the education sector, including the Higher Education Authority;

the Zambia Qualifications Authority; and the Teaching Council of Zambia. The Committee, therefore, strongly recommends that deliberate efforts be made to holistically review the Act in order to take into consideration the issues of the current education system which are not supported by the current Act.

10.0 CONCLUSION

The Committee wishes to express its gratitude to all the stakeholders who appeared before it and rendered both oral and written submissions. The Committee also wishes to thank you, Mr Speaker and the Clerk of the National Assembly for the support rendered to it.

We have the honour, to be, Sir, the Committee on Education, Science and Technology mandated to consider the Examinations Council of Zambia (Amendment) Bill, N.A.B. No. 18 of 2021 for the Fifth Session of the Twelfth National Assembly.

Mr G K Mwamba, MP
(Chairperson)

Ms A M Chisangano, MP
(Vice Chairperson)

Prof G Lungwangwa, MP
(Member)

Mr S Tembo, MP
(Member)

Mr K H S Kamboni, MP
(Member)

Mr E Machila, MP
(Member)

Mr K Sampa, MP
(Member)

Mr P C Mecha, MP
(Member)

Mr H S Chansa, MP
(Member)

Mr M Mutelo, MP
(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)
Mr H Mulenga, Deputy Principal Clerk of Committees (FC)
Ms C K Mumba, Senior Committee Clerk (FC)
Mr E Chilongu, Committee Clerk
Ms C Kabika, Typist
Mr D Lupiya, Committee Assistant

APPENDIX II–WITNESSES

Ministry of General Education

Dr Jabbin Mulwanda, Permanent Secretary - Administration

Ministry of Justice

Ms M Kamangu, Parliamentary Counsel

Zambia Open University

Prof A Sikwibele, Ag Vice Chancellor

University of Zambia

Dr B Nkhata, Dean School of Education

Dr. B Matafwali, Senior Lecturer

Dr. I Mulenga, Senior Lecturer

Mrs. E S Haanyika, Lecturer

Mr. K Kalima, Lecturer

Dr. T Njobvu, Lecturer

Dr. I Milupi, Lecturer

Dr. H Daka, Lecturer

Copperbelt University

Prof. O Shumba, Ag Director, Centre of Academic Development

Prof. K Maseka, Dean, School of Mathematics and Natural Sciences

Mr. S Mwala, Deputy Registrar, Planning Department

Mr. P Himoonga, Head Corporate Affairs

Ms. C Kapamba, Legal Assistant

National Science and Technology Council

Mr F Zulu, Director

Zambia National Education Coalition

Mr G Hamusunga, Executive Director

National Union of Public and Private Educators of Zambia

Mr N Mwale, General Secretary

Zambia Qualification Authority

Ms M Chiyaba, Executive Director

Higher Education Authority

Prof S Simukanga, Director General

Mr B Musoba, Corporate Communications Officer

Teaching Council of Zambia

Dr E Mubanga, Executive Director

Examinations Council of Zambia

Dr M M Chilala, Director

