

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON 24TH SEPTEMBER 2014

Consisting of:

Mr I K Banda, MP (Chairperson); Mr H I Mwanza, MP; Mr B Mutale, MP; Ms M Lubezhi, MP; Mr A D Mbewe, MP; Mr A D Sichula, MP; Mr C Mweetwa, MP and Mr M Mutelo, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

Your Committee has the honour to present its report for the Fourth Session of the Eleventh National Assembly.

Functions of the Committee

2. Your Committee was guided in all its deliberations by Standing Order No. 154 (4) which sets out the functions of your Committee as follows:

“The Committee shall scrutinise and report to the House, through Mr Speaker, whether the powers to make orders, regulations, rules, sub-rules and by-laws delegated by Parliament are being properly exercised by any person or authority within such delegation. As the machinery of delegated legislation is dealt with under the heading “Statutory Instruments,” these instruments must:

- a) be in accordance with the Constitution or statute under which they are made;*
- b) not trespass unduly on personal rights and liberties;*
- c) not make the rights and liberties of citizens depend upon administrative decisions; and*
- d) be concerned only with administrative detail and not amount to substantive legislation which is a matter for parliamentary enactment.”*

If your Committee is of the opinion that a Statutory Instrument should be revoked wholly or in part or should be amended in any respect, it reports that opinion and the ground thereof to the House. The consideration of the report is through a motion in the House which if carried, becomes a decision of the House.

Meetings of the Committee

3. Your Committee held a total of sixteen (16) meetings during the period under review and considered a total of eighty-eight (88) Statutory Instruments. Of these, seventy (70) statutory instruments were issued in 2014 and eighteen (18) were issued between January and March, 2015. Your Committee also undertook a foreign tour to Zimbabwe.

Arrangement of the Committee’s Report

4. Your Committee’s Report is arranged in three parts: Part I deals with your Committee’s consideration of various Statutory Instruments issued from January

to December, 2014 and between January and March, 2015; Part II deals with the findings and recommendations of your Committee arising from its foreign tour to Zimbabwe; and Part III deals with your Committee's consideration of the Action-Taken Report on the Report of your previous Committee for the Third Session of the Eleventh National Assembly.

PART I

CONSIDERATION OF STATUTORY INSTRUMENTS

THE ELECTORAL COMMISSION OF ZAMBIA

STATUTORY INSTRUMENT NO. 3 OF 2014 – THE NATIONAL ASSEMBLY BY-ELECTIONS (KATUBA CONSTITUENCY, MKUSHI SOUTH CONSTITUENCY AND SOLWEZI CENTRAL CONSTITUENCY) (ELECTION DATES AND TIMES OF POLL) ORDER, 2014

Submission by the Director

5. Sir, your Committee was informed that the objective of the Regulations contained in the Statutory Instrument was to stipulate the election dates and times of poll in respect of Katuba Constituency, Mkushi South Constituency and Solwezi Central Constituency by reason of the death of Dr Patrick Chikusu, Member of Parliament for Katuba Constituency and by reason of the nullification of Solwezi Central and Mkushi South Constituencies National Assembly Elections by the Supreme Court. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No 12 of 2006*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to the provisions of section 108 of the *Electoral Act No. 12 of 2006* and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 4 OF 2014 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) ORDER, 2014

6. Your Committee learnt that the purpose of the Statutory Instrument was to stipulate the election dates and times of polls in respect of the wards contained in the schedule of the Statutory Instrument. The enabling provision for this Order was section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 5 OF 2014 – THE NATIONAL ASSEMBLY BY-ELECTION (KASENENGWA CONSTITUENCY NO. 43) (ELECTION DATE AND TIME OF POLL) (NO. 2) ORDER, 2014

Submission by the Director

7. Your Committee heard that the purpose of the Statutory Instrument was to stipulate the election date and time of poll in respect of Kasenengwa Constituency by reason of the nullification of the Kasenengwa National Assembly election by the Supreme Court. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No 12 of 2006* of the Laws of Zambia. The Order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee’s Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument pursuant to section 108 of the *Electoral Act, No 12 of 2006* of the Laws of Zambia and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 6 OF 2014 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) (NO. 2) ORDER, 2014

Submission by the Director

8. Your Committee heard that the objective of the regulations contained in the Statutory Instrument was to stipulate the election dates and times of polls in respect of the wards contained in the schedule of the Statutory Instrument. The enabling legislation for this Order was section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 11 OF 2014 – THE NATIONAL ASSEMBLY BY-ELECTION (KASENENGWA CONSTITUENCY NO. 43) (ELECTION DATES AND TIME OF POLL) (REVOCATION) ORDER, 2014

Submission by the Director

9. Your Committee learnt that the purpose of the Statutory Instrument was to revoke Statutory Instrument No 5, the National Assembly By-Election (Kasenengwa Constituency) (Elections Date and Times of Poll) Order, 2014. The enabling legislation for this Statutory Instrument was Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee’s Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument in accordance with Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 18 OF 2014 – THE LOCAL GOVERNMENT BY ELECTIONS (ELECTION DATES AND TIMES OF POLL) (AMENDMENT) ORDER, 2014

Submission by the Director

10. Your Committee heard that the purpose of the Statutory Instrument was to amend Statutory Instrument No. 6 (Election Dates and Times of Poll) (No. 2) Order, 2014.

The enabling legislation for this Order was section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

Committee’s Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument in accordance with section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 43 OF 2014 – THE NATIONAL ASSEMBLY BY-ELECTION (MANGANGO CONSTITUENCY) (ELECTION DATES AND TIMES OF POLL) (NO. 3) ORDER, 2014

11. Your Committee learnt that the purpose of the Statutory Instrument was to stipulate the election date and time of poll in respect of Mangango Constituency by reason of the nullification of Mangango National Assembly Elections by the Supreme Court. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act No. 12 of 2006 of the Laws of Zambia*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with section 108 of the *Electoral Act No. 12 of 2006 of the Laws of Zambia* and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 44 OF 2014 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATE AND TIMES OF POLL) (NO. 3) ORDER, 2014

Submission by the Director

12. Your Committee was informed that the purpose of the Statutory Instrument was to stipulate the election dates and times of poll in respect of the wards contained in the schedule of the Statutory Instrument. The enabling legislation for this Order was section 12 of the *Local Government Election Act Chapter 282* of the Laws of Zambia.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with the provisions of section 12 of the *Local Government Election Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 45 OF 2014 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATE AND TIMES OF POLL) (NO. 4) ORDER, 2014

Submission by the Director

13. Your Committee was informed that the purpose of the Statutory Instrument was to stipulate the election dates and times of poll in respect of the wards contained in the schedule of the Statutory Instrument. The enabling section for this Order was section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with the provisions of section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 46 OF 2014 – THE NATIONAL ASSEMBLY BY-ELECTIONS (KASENENGWA CONSTITUENCY, MKUSHI SOUTH CONSTITUENCY, SOLWEZI CENTRAL CONSTITUENCY, VUBWI CONSTITUENCY AND ZAMBEZI WEST CONSTITUENCY) (ELECTION DATE AND TIME OF POLL) (NO. 4) ORDER, 2014

Submission by the Director

14. Your Committee heard that the objective of these regulations contained in the Statutory Instrument was to stipulate the election dates and time of poll in respect of Kasenengwa Constituency No. 43, Mkushi South Constituency No. 8, Solwezi Central Constituency No. 110, Vubwi Constituency No. 38 and Zambezi West Constituency No. 114 by reason of the nullification of the Kasenengwa, Mkushi South, Solwezi Central, Vubwi and Zambezi West Constituencies National Assembly Elections by the Supreme Court. The enabling section for this Statutory Instrument is section 108 of the *Electoral Act, No. 12 of 2006* of the Laws of Zambia. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with the provisions of section 108 of the *Electoral Act, No. 12 of 2006* of the Laws of Zambia and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 64 OF 2014 - THE ELECTORAL (PRESIDENTIAL ELECTIONS) (DATES AND TIMES OF POLL) ORDER, 2014

Submission by the Director

Background and Enabling Legislation

15. Your Committee was informed that the objective of these Regulations was to stipulate the nomination dates and times of polls in respect of the Presidential election held on 20th January, 2015, following the demise of His Excellency, Mr. Michael Chilufya Sata, President of the Republic of Zambia. The enabling legal framework was Article 38 (1) of the *Constitution of the Republic of Zambia, Chapter 1*

of the Laws of Zambia and Section 21 of the *Electoral Act, No. 12 of 2006*. The Order was also made pursuant to the powers contained in Regulation 11 of the *Electoral (Presidential Elections) Regulations, 1991*.

Specific Provisions of the Regulations

Regulation 1: Title

This Regulation provided for the title of the Statutory Instrument which came into force on the date of publication, 5th December, 2014.

Regulation 2: Nomination for Election

This Regulation appointed the dates and times within which nominations would be lodged with the Returning Officer.

Regulation 3: Campaign Period

This Regulation stipulated the commencement and close of the campaign period as Wednesday, 19th November, 2014 at 15:00 hours and closing at 18:00 hours on Monday, 19th January, 2015.

Regulation 4: Replacement of Voters' Cards

This Regulation provided the dates and times for the replacement of lost, destroyed or defaced voter's cards at the designated centres, from 28th December, 2014, to 3rd January, 2015, between 08:00 hours and 17:00 hours.

Regulation 5: Times of Poll

This Regulation stipulated the date and time of the Presidential election as 20th January, 2015, to be held between 06:00 hours and 18:00 hours in all polling stations.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued pursuant to the powers contained in Article 38 (1) of the *Constitution of Zambia, Chapter 1* of the Laws of Zambia, section 21 of the *Electoral Act, No. 12 of 2006* and Regulation 11 of the *Electoral (Presidential Elections) Regulations, 1991*.

STATUTORY INSTRUMENT NO. 65 OF 2014 - THE ELECTORAL (PRESIDENTIAL ELECTIONS) (DATE AND TIME OF POLL) (AMENDMENT) ORDER, 2014

Submission by the Director

Background and Enabling Legislation

16. Your Committee heard that the objective of these Regulations was to amend Statutory Instrument No. 64 of 2014, by extending the nomination dates for the Presidential election by four days. The nomination dates for the 20th January, 2015, Presidential election were appointed as 17th to 19th December, 2014, between 09:00 hours and 17:00 hours. Nomination was extended by four days up to 23rd

December, 2014, to cover the high number of candidates who expressed their intention to file nomination papers.

Specific Provisions

Regulation 1: Title

This Regulation provided for the title of the Statutory Instrument which came into force on the date of publication, 19th December, 2014.

Regulation 2: Amendment of paragraph 2.

This Regulation amended Statutory Instrument No. 64 by extending the nomination period by four days.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued pursuant to the powers contained in Article 38 (1) of the *Constitution of Zambia, Chapter 1* of the Laws of Zambia, section 21 of the *Electoral Act, No. 12 of 2006* and Regulation 11 of the *Electoral (Presidential Elections) Regulations, 1991*.

STATUTORY INSTRUMENT NO. 8 OF 2015 – THE NATIONAL ASSEMBLY BY-ELECTION (CHAWAMA CONSTITUENCY NO. 75) (ELECTION DATE AND TIME OF POLL) ORDER, 2015

Submission by the Director

17. The Permanent Secretary submitted that the objective of these regulations was to stipulate the election date and time of polls in respect of Chawama Constituency by reason of the election of the Member of Parliament for that Constituency to the Office of President. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act No. 12 of 2006*. This Order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 108 of the *Electoral Act No. 12 of 2006* and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 9 OF 2015 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATE AND TIMES OF POLL) ORDER, 2015

Submission by the Director

18. The Permanent Secretary submitted that the objective of this Regulation was to stipulate the election dates and times of polls in respect of the wards contained in the schedule of the Statutory Instrument. The enabling legislation for this Order was section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 12 of the *Local Government Elections Act, Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 12 OF 2015 – THE NATIONAL ASSEMBLY BY-ELECTION (MASAITI CONSTITUENCY NO. 13) (ELECTION DATE AND TIME OF POLL) (NO. 2) ORDER, 2015

Submission by the Director

19. The Permanent Secretary submitted that the objective of this Regulation was to stipulate the election date and time of poll in respect of Masaiti Constituency No. 13 by reason of the nullification by the Supreme Court of the election of Michael Katambo as Member of Parliament for Masaiti Constituency. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No. 12 of 2006*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 108 of the *Electoral Act, No. 12 of 2006* and Regulation 8 of the *Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO. 13 OF 2015 – THE LOCAL GOVERNMENT BY-ELECTIONS DATES AND TIMES OF POLLS) (NO. 2) ORDER, 2015

Submission by the Director

20. The Permanent Secretary submitted that the objective of this Regulation was to stipulate the election dates and times of polls in respect of the wards contained in the schedule of the Statutory Instrument. The enabling legislation for this order was section 12 of the *Local Government Elections Act Chapter 282* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 12 of the *Local Government Elections Act Chapter 282* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 15 OF 2015 – THE NATIONAL ASSEMBLY BY-ELECTION (SENGA HILL CONSTITUENCY NO. 97) (ELECTION DATE AND TIME OF POLL) (NO. 3) ORDER, 2015

Submission by the Director

21. The Permanent Secretary submitted that the objective of these Regulations was to stipulate the election date and time of poll in respect of Senga Hill Constituency No. 97 by reason of the nullification by the Supreme Court of the election of Mr Kapembwa Simbao as Member of Parliament for Senga Hill

Constituency. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No. 12 of 2006* of the Laws of Zambia. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued pursuant to the powers contained in section 108 of the *Electoral Act, No 12 of 2006* and Regulation 8 of the *Electoral (General) Regulations, 2006*.

MINISTRY OF LOCAL GOVERNMENT AND HOUSING

STATUTORY INSTRUMENT NO. 9 OF 2014 – THE LOCAL GOVERNMENT (COUNCILLORS' ALLOWANCES) (AMENDMENT) ORDER, 2014

22. Your Committee was informed that this Statutory Instrument was issued to amend Councillors' allowances in terms of sitting allowances for Mayors and Council Chairpersons in accordance with section 71 of the *Local Government Act, Chapter 281* of the Laws of Zambia. In this regard, Statutory Instrument No. 120 of 2013, was amended by Statutory Instrument No. 9 of 2014.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to the provisions of section 71 of the *Local Government Act, Chapter 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 28 OF 2014 – THE PROVINCIAL AND DISTRICT BOUNDARIES (DIVISION) (AMENDMENT) ORDER, 2014

23. Your Committee was informed that this Statutory Instrument was issued to provide for boundary descriptions for Ngabwe District in Central Province in accordance with provisions of the *Provincial and District Boundaries Act, Chapter 286* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to the provisions of the *Provincial and District Boundaries Act, Chapter 286* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 36 OF 2014 – THE TOWN AND COUNTRY PLANNING (APPLICATION) ORDER, 2014

24. Your Committee learnt that this Statutory Instrument was issued to provide for an Application Order for boundary descriptions for Chipili, Chembe, Mwanabombwe and Ikeleng'i in accordance with provisions of the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument in accordance with the provisions of the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 39 OF 2014 – THE LOCAL GOVERNMENT (ESTABLISHMENT OF COUNCIL) ORDER, 2014

25. Your Committee was informed that this Statutory Instrument was issued in respect of the establishment of Ngabwe District Council by the Minister of Local Government and Housing in accordance with section 3 of the *Local Government Act, Chapter 281* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with section 3 of the *Local Government Act, Chapter 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 41 OF 2014 – THE TOWN AND COUNTRY PLANNING (APPOINTMENT OF PLANNING AUTHORITY AND DELEGATION OF FUNCTIONS) NOTICE, 2014

26. Your Committee heard that this Statutory Instrument was issued in respect of the appointment of the Planning Authority and delegation of functions to Muchinga Province Planning Authority in accordance with section 25 of the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument in accordance with section 25 of the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 42 OF 2014 – THE LOCAL GOVERNMENT (FIRE INSPECTORS AND FIRE OFFICERS) ORDER, 2014

27. Your Committee was informed that this Statutory Instrument was issued in respect of the appointment of Fire Inspectors and Fire officers for a period of three years, in accordance with the provisions of the *Local Government Act, Chapter 281* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee duly notes the issuance of the Statutory Instrument in accordance with the provisions of the *Local Government Act, Chapter 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 57 OF 2014 - THE TOWN AND COUNTRY PLANNING ACT

28. Your Committee was informed that this Statutory Instrument was issued to appoint the members of North Western Planning Authority pursuant to the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia. The role of

Provincial Planning Authority was to prepare development and layout plans. The Authority also approved layout and building plans to ensure compliance with the law in infrastructure development in the Province.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the *Town and Country Planning Act, Chapter 283* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 11 OF 2015 – THE LOCAL GOVERNMENT (ESTABLISHMENT OF MANAGEMENT BOARDS) ORDER, 2015

Submission by the Permanent Secretary

29. The Permanent Secretary submitted that the Statutory Instrument was issued in respect of the establishment of Lumwana Management Board by the Minister of Local Government and Housing. This was in compliance with section three (3) of the *Local Government Act, Chapter 281* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section three (3) of the *Local Government Act, Chapter 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 14 OF 2015 – THE TOWN AND COUNTRY PLANNING (MUCHINGA PROVINCE PLANNING AUTHORITY) (MEMBERSHIP) NOTICE, 2015

Submission by the Permanent Secretary

30. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the appointment of members of the Planning Authority for Muchinga Province Planning Authority whose names were set out in the schedule. This was in compliance with the *Town and the Country Planning Act, Chapter 283* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the *Town and the Country Planning Act, Chapter 283* of the Laws of Zambia.

MINISTRY OF AGRICULTURE AND LIVESTOCK

STATUTORY INSTRUMENT NO. 16 OF 2014 – THE ANIMAL HEALTH (LIVESTOCK CLEANSING) ORDER, 2014

31. Your Committee was informed that the Ministry of Agriculture and Livestock initiated Statutory Instrument No. 16 of 2014, the Animal Health (Livestock Cleansing) Order, 2014 in order to facilitate the regulation and control of animal

diseases and livestock health. The powers to issue the Statutory Instrument were contained in *section 40 of the Animal Health Act, No 27 of 2010*.

The Animal Health (Livestock Cleansing) Order, 2014, provides for the following:

- i. the declaration of livestock cleansing areas; and
- ii. the specification of cleansing intervals for livestock.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with section 40 of the *Animal Health Act, No. 27 of 2010*.

STATUTORY INSTRUMENT NO. 24 OF 2014 – THE ANIMAL HEALTH (CONTROL AND PREVENTION OF ANIMAL DISEASE) ORDER, 2014

32. Your Committee learnt that the Ministry of Agriculture and Livestock initiated Statutory Instrument No. 24 of 2014, The Animal Health (Control and Prevention of Animal Diseases) Order, 2014 in order to facilitate the regulation and control of animal disease and livestock health. The powers to issue the Statutory Instrument were contained in section 80 of the *Animal Health Act, No. 27 of 2010*.

The Animal Health (Control and Prevention of Animal Diseases) Order, 2014 provides for the following:

- i. the control and prevention of animal disease;
- ii. the mandatory vaccination of animals against specified diseases; and
- iii. the specification of the vaccination areas and the diseases to be vaccinated against therein.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument in accordance with the powers granted in section 80 of the *Animal Health Act, No. 27 of 2010*.

STATUTORY INSTRUMENT NO. 59 OF 2014 – THE APPOINTMENT OF AUTHORISED AGENCY ORDER, 2014

Background

33. Your Committee was informed that in 2010, various stakeholders in the agricultural sector raised a number of concerns regarding agricultural marketing and finance. They suggested that a number of actions should be taken by the Ministry of Agriculture and Livestock in order to improve trade and credit to the agriculture sector. After consultations, it was agreed that a legal framework that would put a Warehouse Receipt System (WHR) in place should be created.

A warehouse receipt was a legal document in the form of a receipt issued by a person engaged in the business of storing goods and has three key features:

- it was evidence of the legal relationship between the person depositing the goods and the person storing the goods;
- it was evidence of title to goods represented by the receipt; and

- the person issuing the receipt should be a representative of a recognised or certified warehouse.

Rationale of a Warehouse Receipt System (WHRS)

Your Committee was further informed that the Warehouse Receipt System was expected to improve agricultural marketing and finance by:

- i) easing access to commodity finance, enabling crop marketing to be better managed and leading to reduced trade margins and seasonal price variability;
- ii) facilitating trade by making it possible for buyers to purchase without physical sampling of the commodities;
- iii) enabling a thriving commodity exchange with much greater direct involvement of small holders;
- iv) contributing to the development of financing and risk management instruments that could improve commodity marketing; and
- v) enhancing the involvement of the financial sector in agricultural marketing.

For small-scale farmers, the WHRS would provide for the following benefits:

- create opportunities for farmer groups to bulk their crop into economic lot sizes that could be sold further down the marketing chain to processors;
- provide a means for assuring grain quality, thereby reducing the scope for cheating on quality;
- assure the quality, quantity and location of their crop and make it possible for them to access the commercial grain market;
- ensure that storage occurred in well-run warehouses, thus reducing post-harvest losses which could be quite high at the smallholder level (for example due to theft, disease on account of lack of proper storage, among others); and
- make deferred sale possible through access to finance secured against warehouse receipts.

Warehouse Licensing Authority

Your Committee was informed that, among other provisions, the *Agricultural Credits Act of 2010* provides for establishment of the Warehouse Licensing Authority whose main aim is to certify warehouses and approve negotiable warehouse receipt books.

Authorised Agency

The *Agricultural Credits Act of 2010* empowers the Minister of Agriculture and Livestock to appoint an authorised agency to perform the functions of the Warehouse Licensing Authority.

Considering the limited availability of resources to establish the Warehouse Licensing Authority and the provisions of the *Agricultural Credits Act*, a decision was made for the Minister of Agriculture and Livestock to appoint the *Zambian Agricultural Commodity Exchange (ZAMACE)* as the Warehouse Licensing Agency.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the *Agricultural Credits Act of 2010*.

STATUTORY INSTRUMENT NO. 62 OF 2014 - FISHERIES REGULATIONS

Background

34. Your Committee were informed that in 2014, stakeholders raised concerns with respect to the non-compliance of fishers in observing the fishing closed seasons in various fisheries in Zambia. After extensive consultations, it was realised that there was need to amend Statutory Instrument No. 24 of 2012, in order to address the following specific issues:

- i) the ineffective fishing ban on the Lower Zambezi Fishery due to the non-implementation of a similar measure in neighbouring Zimbabwe coupled with the fact that the fishing activities in the fishery were also a tourist activity; and
- ii) the non-compliance by the pelagic fishers in observing the monthly lunar break as this was not a legal requirement.

This Statutory Instrument, therefore, opened fishing throughout the year except for the period from 1st December to the last day of February of the following year in the following fisheries; Lake Mweru - Luapula, Lake Bangweulu, Lake Itzhi-tezhi, Lower Kafue, Lake Mweru-Wantipa, Lukanga Swamps, Upper Zambezi, Super Upper Zambezi, Chambeshi, Upper Kafue, Super Upper Kafue, and Lunga River Fishery. The Statutory Instrument also opened fishing throughout the year for the following fisheries; Lower Zambezi, Lake Kariba and Lake Tanganyika and, furthermore, introduced the ten day monthly Lunar Break for the pelagic fisheries on Lake Kariba and Lake Tanganyika.

Rationale of the Amendments to the Statutory Instrument

Statutory Instrument No. 62 was expected to improve the fishing regulations in Zambia by:

- i) allowing tourists to continue accessing the fishing grounds in the Lower Zambezi, thereby ensuring that the tourism industry in the area continued to be viable;
- ii) including the monthly lunar break for the pelagic fisheries of Lake Kariba and Lake Tanganyika as a way of managing fishing pressure on the targeted fish stocks; and
- iii) re-defining the fishing ban in all the other commercial fishery areas in Zambia.

Closed Fishing Season

Your Committee was further informed that section 14 of the *Fisheries Act, No 22 of 2011*, empowers the Minister in charge of fisheries, by Notice in the Gazette, to impose closed fishing seasons for designated areas, species of fish or methods of fishing. The Act also empowers the Minister to impose any other measures that are necessary for the proper management of fisheries.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 14 of the *Fisheries Act, No. 22 of 2011*.

MINISTRY OF LABOUR AND SOCIAL SECURITY

STATUTORY INSTRUMENT NO. 1 OF 2014 – THE NATIONAL PENSION SCHEME (EXEMPTION) (VARIATION) ORDER, 2014

35. Your Committee was informed that under section 13 of the *National Pension Scheme Act*, the Minister of Labour is empowered, through issuance of a Statutory Instrument, to vary the list of employees or categories of employees to be exempt from the provisions of the Act. In this regard, the Statutory Instrument explained the variation that had been made to the list of employees exempted from the provisions of the Act through issuance of Statutory Instrument No. 1 of 2014. The exemption meant that once an employee moved to another company, he had to access his/her accumulated pension contributions at that premature stage in their career life. However, after lifting the exemption, an employee's accumulated funds could now move with the employee. Portability of accrued benefits would encourage contributing members to continue building on their retirement savings even with change of employment. The increased portability of pensions would also enhance labour efficiency which would contribute to national development.

The exemption posed the danger of compromising the social security coverage for categories of employees such as those that were engaged on short term contractual basis. The lifting of the exemption also led to the fair and equal treatment of investors by Government and was meant to motivate compliance to the *National Pension Scheme Act* by the other employers.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument is in line with the provisions of section 13 of the *National Pension Scheme Act*.

STATUTORY INSTRUMENT NO. 31 OF 2014 – THE WORKERS' COMPENSATION (CAPITALISED VALUES) REGULATIONS, 2014

36. Your Committee was informed that according to section 125 of the *Workers' Compensation Act*, the Minister of Labour and Social Security was empowered, through the issuance of Statutory Instrument, to adjust the basis for the calculation of the capitalised values upon the recommendation of the Board. The Statutory Instrument on capitalised value was issued to provide the basis or actuarial factors upon which calculations of commutation and lump sum benefits were made for injured workers and dependants. The Statutory Instrument also set out the factors to be used for paying workers for disability.

In line with the provisions of the law, the last statutory triennial actuarial valuation was conducted on the Workers' Compensation Fund Control Board in 2008. Among other recommendations, the 2008 actuarial report, which was approved in 2010, proposed the appropriate actuarial factors to be used in the calculation of capitalised values. Statutory Instrument No. 31 of 2014, was, therefore, issued to implement the recommendation of the 2008 actuarial valuation report.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument is in accordance with the provisions of section 125 of the *Workers' Compensation Act*.

MINISTRY OF COMMERCE, TRADE AND INDUSTRY

STATUTORY INSTRUMENT NO. 17 OF 2014 - THE ZAMBIA DEVELOPMENT AGENCY (MULTI-FACILITY ECONOMIC ZONE AND THE INDUSTRIAL PARK PRIORITY SECTORS) (DECLARATION) ORDER

37. Your Committee learnt that until October, 2013, the *Zambia Development Agency (ZDA) Act, No. 11 of 2006* provided for about fifty-nine priority sectors and products in which any investor investing not less than US\$500,000 could access fiscal tax incentives. Fiscal tax incentives were granted on the basis of promoting economic growth and development in Zambia. Investing in priority sectors entitled the investors to be exempted from paying customs duty on imports of machinery and equipment for the first five years and also entitled the investor to a five year income tax holiday. However, the Government resolved to rationalise the granting of tax incentives accessed through the *Zambia Development Agency (ZDA) Act, No. 11 of 2006* so as to ensure that the tax regime was in line with the current changes in the economy. Furthermore, the complexity of Zambia's tax regime coupled with the wide range of priority sectors and products posed challenges in terms of administration of the incentives by the institutions concerned.

The purpose of this Statutory Instrument, therefore, was to outline the priority sectors as contained in the *Zambia Development Agency (ZDA) Act, No. 11 of 2006* that had been realigned to encourage investments to potential growth sectors where the Government has identified a need for development. These sectors included: manufacturing in the Multi-Facility Economic Zones, Industrial Parks and rural areas, construction and establishment of infrastructure in education, health, tourism, housing and agricultural sectors as well as infrastructure for energy and water development.

Committee's Observations and Recommendations

Your Committee duly notes that the issuance of the Statutory Instrument in line with the provisions of the *Zambia Development Agency (ZDA) Act, No 11 of 2006*.

STATUTORY INSTRUMENT NO. 53 - THE COMPANIES (FEES) (AMENDMENT) REGULATIONS, 2014

Background

38. Your Committee was informed that the Minister of Commerce, Trade and Industry was empowered, under section 400 of the *Companies Act, Chapter 388* of the Laws of Zambia, to issue a Statutory Instrument on fees payable by companies for registration purposes.

Rationale

Your Committee was further informed that the fee adjustment had been necessitated by increasing operational costs against the backdrop of stagnating income notwithstanding increasing registrations. The fees were last adjusted in

2005 and had remained static for over nine years, while the cost of registration had been increasing each year. The adjustment was, therefore, intended to make the fees reflective of the cost of administering the *Companies Act* as well as streamlining and aligning the fee schedule with recent developments in corporate law. He added that the new fees took into account the ability to pay and had been weighed against the need to avoid unbearably increasing the cost of business registration. Notably, the fees pertaining to micro and small enterprises had not been adjusted while registration fees for business name registration had been adjusted. This was in order to encourage formalisation of small businesses and thus promote the development of the small scale sector.

Expected Outcomes

It was expected that following the implementation of the revised fees, the Government would be able to raise the resources necessary to put in place an upgraded, decentralised and modern company registration system in the country. This would ultimately result in an effective and efficient provision of the company registration services that would in turn positively impact the business environment.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the section 400 of the *Companies Act, Chapter 388* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 54 – THE REGISTRATION OF BUSINESS NAMES (AMENDMENT) REGULATIONS, 2014

39. Your Committee learnt that the Minister of Commerce, Trade and Industry was empowered, under section 26 of the *Registration of Business Names Act, No. 16 of 2011* to issue a Statutory Instrument on fees for Business Names registration.

Rationale

The fee adjustment had been necessitated by the increasing operational costs against the backdrop of stagnating income, notwithstanding the increasing number of registrations. The adjustment was intended to make the fees reflective of the cost of administering the *Business Names Act* as well as streamlining and aligning the fee schedule in line with recent developments in corporate law. The revised fees took into account ability to pay so as to avoid unbearably increasing the cost of business registration.

Expected Outcomes

The outcome from the implementation of the revised fees was that the Government would be able to raise the resources necessary to put in place an upgraded, decentralised and modern company registration system in the country. This would ultimately result in the effective and efficient provision of company registration services, which would in turn positively impact the business environment.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the section 26 of the *Registration of Business Names Act, No. 16 of 2011*.

MINISTRY OF JUSTICE

STATUTORY INSTRUMENT NO. 22 OF 2014 - THE LEGAL AND JUSTICE SECTOR REFORMS COMMISSION

40. Your Committee was informed that in exercise of the powers conferred on the President by section 2 of the *Inquiries Act, Chapter 41* of the Laws of Zambia, the President appointed a Commission referred to as the Legal and Justice Sector Reform Commission. The Government of the Republic of Zambia was undertaking reforms to ensure effective justice delivery and adherence to domestic and international principles in the appointment, independence, performance and accountability of judicial officers. The focus of the reforms extended to related participants in the delivery of justice, namely the Prisons Service, Zambia Police Force, Legal Aid Board and the National Prosecutions Authority.

Salient Provision of the Statutory Instrument: Schedule

The Schedule specified the particulars of the twenty-one (21) Commissioners appointed to serve on the Commission. The Schedule further required the Commissioners to inquire into, among other things, the accessibility and affordability of justice by citizens, the system of legal training, education and practice and the system of recruitment, appointment and promotion of judicial officers and revocation of such appointments.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of section 2 of the *Inquiries Act, Chapter 41* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 47 OF 2014 – THE CONSTITUTION OF ZAMBIA PROCLAMATION OF 2014, PROROGATION OF PARLIAMENT

41. Your Committee was informed that the Constitution of Zambia Proclamation of 2014, Prorogation of Parliament Statutory Instrument No. 47 of 2014, was issued by the Republican President pursuant to the powers vested in the President by *Article 88(5) of the Constitution of Zambia, Chapter 1* of the Laws of Zambia which empowered him to prorogue Parliament at any time.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to the powers vested in the President by *Article 88(5) of the Constitution of Zambia, Chapter 1* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 48 OF 2014 – THE CONSTITUTION OF ZAMBIA PROCLAMATION NO. 2 OF 2014, SUMMONING OF PARLIAMENT

42. Your Committee was informed that this proclamation was issued by the Republican President pursuant to the powers vested in the President by *Article 88(5) of the Constitution of Zambia, Chapter 1* of the Laws of Zambia which empowered him to appoint a date for the commencement of each session of Parliament.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument pursuant to the powers vested in the President by *Article 88(5) of the Constitution of Zambia, Chapter 1* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 51 OF 2014 - HONOURS AND AWARDS

Background

43. Your Committee learnt that Proclamation No. 3 of 2014, Honours and Awards, was made by the President pursuant to the powers contained in Article 44 (2) (f) of the *Constitution of Zambia, Chapter 1* of the Laws of Zambia. The purpose of the Proclamation was to amend Proclamation No. 6 of 1965.

Salient Provision of the Statutory Instrument: Schedule

The purpose of the amendment to the Schedule of Proclamation No. 6 of 1965 was to create an additional Honour and Award, the “*50th Independence Anniversary Medal*” to commemorate Zambia's Golden Jubilee and provide for the description of the medal.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of Article 44 (2) (f) of the *Constitution of Zambia, Chapter 1* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 52 OF 2014 - THE LAWS OF ZAMBIA (REVISED EDITION) ACT (SPECIFIED DATE) NOTICE, 2014

44. Your Committee was informed that the Laws of Zambia (Revised Edition) Act (Specified Date) Notice, 2014, Statutory Instrument No. 52 of 2014, was promulgated by the Minister of Justice pursuant to the powers vested in the Minister by section 9 of the *Laws of Zambia (Revised Edition) Act, No. 9 of 1968* which empowered the Minister to specify a date for purposes of law revision.

Your Committee further learnt that law revision was a continuous exercise, given the dynamic nature of society, which required the promulgation of new Acts and statutory instruments. The Laws of Zambia were last revised in 1995 and a revised edition of the laws should have been published in 2005; however, technical problems experienced by the Government Printer caused the delay in producing a revised edition of the laws at that time. The purpose of setting a specified date during the preparation of a revised edition of the laws was to determine the content of the updates to be included in the revised edition of the laws. Accordingly, the

Minister of Justice issued a Notice through Statutory Instrument No. 52 of 2014, setting 31st March, 2014, as the specified date. This meant that any Act or statutory instrument enacted or published after 31st March, 2014, shall not be included in the revised edition of the Laws of Zambia.

Prior to the promulgation of Statutory Instrument No. 52 of 2014, the Minister of Justice had, by Notice, through Statutory Instrument No. 24 of 2011 specified 30th April, 2011, as the specified date. However, in order to allow the inclusion of Acts and statutory instruments published between 1st May, 2011 and 31st March, 2014, it became necessary to specify a new date. Consequently, the revised edition of the laws of Zambia would, at publication, contain all the laws and statutory instruments up to 31st March, 2014.

Salient Provision of the Statutory Instrument

Paragraph 2: Specified Date

This paragraph indicated the 31st day of March, 2014, as the date for the purpose of revision.

Paragraph 3: Revocation of Statutory Instrument No 24 of 2011

This Paragraph revoked the Laws of Zambia (Revised Edition) Act (Specified Date) Notice, 2011. This was necessary as Statutory Instrument No. 52 of 2014, provided for a new specified date.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of section 9 of the *Laws of Zambia (Revised Edition) Act, No. 9 of 1968*.

STATUTORY INSTRUMENT NO. 61 OF 2014 - THE PUBLIC HOLIDAYS (DECLARATION) NOTICE, 2014

Background

45. Your Committee was informed that the Public Holidays (Declaration) Notice, 2014, Statutory Instrument No. 61 of 2014, was passed by the Acting President pursuant to the powers granted under section 3 of the *Public Holidays Act, Chapter 272* of the Laws of Zambia which empowered the Minister to declare that any day or days be observed as public holidays throughout Zambia.

Salient Provision of the Statutory Instrument: Paragraph 2 - Declaration of Public Holiday

This paragraph declared Tuesday, 11th November, 2014, a public holiday due to the State Funeral for the Fifth Republican President Mr Michael Chilufya Sata.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 3 of the *Public Holidays Act, Chapter 272* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 66 OF 2014 - THE PUBLIC HOLIDAYS (DECLARATION) NOTICE, 2014

Background

46. Your Committee learnt that the Public Holidays (Declaration) Notice, 2014, Statutory Instrument No. 66 of 2014, was signed by the Acting-President pursuant to the powers granted under section 3 the *Public Holidays Act, Chapter 272* of the Laws of Zambia which empowered the Minister to declare that any day or days be observed as public holidays throughout Zambia.

Salient Provision of the Statutory Instrument: Paragraph 2

This paragraph declared Friday 26th December, 2014 as well as Friday, 2nd January, 2015, public holidays owing to the fact that Christmas Day and New Year's Day both fell on Thursdays.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 3 of the *Public Holidays Act, Chapter 272* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 1 OF 2015 - THE PUBLIC HOLIDAYS (DECLARATION) NOTICE, 2015

Submission by the Permanent Secretary

47. The Permanent Secretary submitted that the Public Holidays (Declaration) Notice, Statutory Instrument No 1 of 2015 was passed by the Acting Republican President pursuant to the powers vested in the President by section 3 of the *Public Holidays Act, Chapter 272* of the Laws of Zambia, which gives the President powers to declare any day as a public holiday.

As regards the salient provisions of the Statutory Instrument, it was stated that Paragraph 2 declared Tuesday, 20th January, 2015, as a public holiday in order to facilitate holding of the Presidential bye-election and enable members of the public to cast their vote.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 3 of the *Public Holidays Act, Chapter 272* of the Laws of Zambia.

MINISTRY OF CHIEFS AND TRADITIONAL AFFAIRS

STATUTORY INSTRUMENT NO. 13 OF 2014 - THE CHIEFS (RECOGNITION) ORDER, 2014

48. Your Committee was informed that the Statutory Instrument was issued on 7th February, 2014, to recognise Ms Diana Beene Choongo of Nteme as new Chieftainess Choongo of the Tonga people of Monze District in Southern Province.

This was done after she was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 19 OF 2014 – THE CHIEFS (RECOGNITION) (NO 2) ORDER, 2014

49. Your Committee learnt that this Statutory Instrument was issued on 21st February, 2014, to recognise Mr Michael Nsangu Tembo of Mbara and Ongolwe as new Senior Chief Kalindawalo of the Nsenga people of Petauke District in the Eastern Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument is in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 21 OF 2014 – THE CHIEFS (RECOGNITION) (NO 3) ORDER, 2014

50. Your Committee learnt that this Statutory Instrument was issued on 28th February, 2014 to recognise Mr Dickson Muyeeka Kamaala of Kachomba and Kasiya as new Chief Hamaundu of the Tonga people of Pemba District in Southern Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 23 OF 2014 – THE CHIEFS (RECOGNITION) (NO 4) ORDER, 2014

51. Your Committee was informed that this Statutory Instrument was issued on 7th March, 2014, to recognise Mr Boyd Chomba of Chikupili as new Chief Chikupili of the Swaka people of Mkushi District in Central Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument pursuant to the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 32 OF 2014 – THE CHIEFS (RECOGNITION) (NO 5) ORDER, 2014

52. Your Committee learnt that this Statutory Instrument was issued on 17th April, 2014 to recognise Mr Winston Kashiba Kalemfu of Kabula as new Chief Kashiba of the Lunda people of Mwense District in Luapula Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee’s Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument is in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 33 OF 2014 – THE CHIEFS (RECOGNITION) (NO. 6) ORDER, 2014

53. Your Committee was informed that this Statutory Instrument was issued on 17th April, 2014, to recognise Mr Felix Mbuji of Chilumba as new Chief Chikwa of the Senga people of Chama District in Muchinga Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee’s Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 34 OF 2014 – THE CHIEFS (RECOGNITION) (NO. 7) ORDER, 2014

54. Your Committee learnt that this Statutory Instrument was issued on 17th April, 2014 to recognise Mr Wilford Kabamba Chipenge of Kakoloshi as new Chief Mutipula of the Chishinga people of Chipili District in Luapula Province. This was done after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee’s Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument in line with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 3 OF 2015 – THE CHIEFS (RECOGNITION) ORDER, 2015

Submission by the Permanent Secretary

55. The Permanent Secretary submitted that Statutory Instrument was issued on 27th January, 2015, to recognise Mr Henry Kanyanta Sosala as Paramount Chief Chitimukulu of the Bemba People of Mungwi District in Northern Province. This was after he was selected by the Bemba Royal Establishment Committee meeting for the selection of Paramount Chief Chitimukulu which was held on 2nd August, 2013, at Chitimukulu Local Court. Mr Henry Kanyanta Sosala was selected to ascend to the vacant throne of Paramount Chief Chitimukulu following the death of

the former Paramount Chief Chitimukulu Chitapankwa III in April, 2012.

Committee's Observations and Recommendations

Your Committee notes that the Statutory instrument has been issued in accordance with the provisions of section 3 of the *Chiefs Act, Chapter 287* of the Laws of Zambia

MINISTRY OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATIONS

STATUTORY INSTRUMENT NO. 38 OF 2014 – THE PUBLIC ROADS (MAXIMUM WEIGHT OF VEHICLES) (AMENDMENT) REGULATIONS, 2014

Submission by the Permanent Secretary

56. The Permanent Secretary submitted that this Statutory Instrument revoked Statutory Instrument No. 28 of 2007 – The Public Roads (Maximum Weight of Vehicles) Regulations. In particular, it amends Regulation 8 of those Regulations as follows:

- (1) (a)(1) by deletion of “12,500”and substitution therefor of “13,500”;
- (b) (2) by deletion of the figure “17,500”and substitution therefor of the figure “18,500”;
- (2) (a) Regulation 35 in the Principal Regulations was amended to allow 5 percent for an access GVM; and
- (b) that a vehicle which had an excess of GVM which was 10 percent above the limits set out in the First and Second Schedules shall be re-weighed using a different scale.

The effect of this Statutory Instrument was to increase the maximum weight, which could not be sustained by *Zambian roads* and therefore, the country may experience a high level of road damage and reduced revenue collection. Further, this Statutory Instrument did not conform to other controls on maximum weight within the region as per requirements of SADC and COMESA.

Due to the above challenges, the Ministry was in the process of revoking the Statutory Instrument and publishing another one which would provide the necessary control measures as regards the maximum weight.

Committee's Observations and Recommendations

Your Committee notes the submission and urges the Ministry to ensure that before a Statutory Instrument is issued, all its ramifications are taken into consideration. Your Committee wishes to be fully informed as regards the revocation of the Statutory Instrument by the Ministry.

MINISTRY OF HEALTH

STATUTORY INSTRUMENT NO 49 OF 2014 - THE PUBLIC HEALTH ACT (NOTIFIABLE INFECTIOUS AND FORMIDABLE EPIDEMIC DISEASES) REGULATIONS

57. Your Committee was informed that the Minister of Health, by Statutory Instrument No. 49 of 2014, declared Ebola Virus Disease a notifiable disease. This was in accordance with section 29 of the *Public Health Act, Chapter 295* of the Laws of Zambia which provided that the Minister may, by Statutory Notice declare that any infectious disease other than those specified in subsection (1) shall be a notifiable disease under the Act. He explained that Ebola Virus Disease had, therefore, now been included among the diseases that the *Public Health Act* prescribed as notifiable diseases in Part III, Section 9 (1) and which required notification at all levels to higher authorities above the office of the health worker and facility once identified. It was also an international requirement under the International Health Regulations of 2005, to notify the World Health Organisation (WHO). The notifiable diseases included, but were not limited to Anthrax, Cholera, Dysentery, Plague and any other emerging infectious diseases as shall be determined by statutory powers of the Minister.

The WHO defined Ebola Virus Disease as a highly infectious, rapidly fatal disease caused by the Ebola virus. It was spread through direct contact with the body fluids including blood, saliva, urine and sexual fluids of an infected person and by contact with contaminated surfaces or equipment, including linen. It caused up to 90% deaths among its victims. Like other epidemic diseases, Ebola Virus Disease should be notified officially to the Ministry of Health on a weekly basis through the Rapid Disease Notification System; and daily updates were required during the outbreaks. This was important as it would enable the Ministry to follow the evolution of the outbreak and guide the adoption of appropriate prevention, control and management strategies. Furthermore, the interventions of dealing with infectious diseases such as restraining individuals from coming into Zambia from affected areas, disinfection, isolation, quarantine contained in the Public Health Act shall apply, including delegating such measures to local authorities as may be deemed efficacious.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 29 of the *Public Health Act, Chapter 295* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 58 OF 2014 - THE IONISING RADIATION PROTECTION (GENERAL) (AMENDMENT) REGULATIONS, 2014

58. Your Committee learnt that the Radiation Protection Authority (RPA) was a statutory regulatory body established under section 5 of the *Ionising Radiation Protection Act, No. 16 of 2005*.

Regulations to be Issued by the Minister of Minister

Under section 46 of the *Ionising Radiation Act*, the Minister may, on recommendation of the Board, by statutory instrument, make regulations for the

better carrying out of the provisions of the Act. In particular, the regulations to be issued under section 46 may:

- (a) prescribe the application and licence forms to be used under the Act. Statutory Instrument No. 98 of 2011 prescribed the application forms to be used by the applicant and licence forms to be issued by the RPA;
- (b) limit the use of radioactive material or equipment producing harmful ionising radiation for any specified purpose; including use for medical or dental purposes. Statutory Instrument No. 98 of 2011 prescribed the guidance levels for medical exposure, the dose limits for both public and occupational exposure, the action levels relating to chronic exposure involving radon in dwelling and workplaces;
- (c) prescribe fees for services rendered by the Authority. The Sixth Schedule of Statutory Instrument No. 98 prescribed the fees for services rendered by RPA; and
- (d) prescribe anything required to be prescribed under the Act.

In light of the above, Statutory Instrument No. 58 of 2014 had been issued pursuant to the powers vested in the Minister under section 46 of the *Ionising Radiation Protection Act*. The Statutory Instrument was meant to amend Statutory Instrument No. 98 of 2011, the Ionising Radiation Protection (General) Regulations by the repeal of the Sixth Schedule and substitution therefor of the Sixth Schedule set out in the Appendix. Further, the repeal of the Sixth Schedule of Statutory Instrument No. 98 of 2011, had been necessitated by the fact that the Schedule was too general and did not specify the actual activities that were being regulated. Statutory Instrument No. 58 of 2014, provided clarity in terms of the actual activities to be regulated by RPA and the fees in Statutory Instrument No. 58 of 2014, were meant to strengthen the quality assurance and compliance programs that were undertaken by RPA. Notably, the fees that had been prescribed in Statutory Instrument No. 58 of 2014, were very low compared with the cost for the verification of compliance incurred by RPA during the inspections of facilities utilising nuclear science and technology countrywide. In addition, prior to the issuance of the Statutory Instrument, RPA held a stakeholders' meeting where the proposed fees were discussed and adopted.

In addition, your Committee was informed that the use of radiation sources of various types and activities was widespread in industry, medicine, research, and teaching in the country. Statutory Instrument No. 58 of 2014, prescribed the fees that applied for the prescribed activities that involved the utilisation of radiation sources or devices. Currently there were 798 radiation sources and devices in the country and 246 facilities using radiation sources and devices. Considerable data had been compiled about radiological accidents in the world. Several such accidents had affected members of the public with some accidents resulting in death. In Zambia, strong radioactive sources had been in use for more than fifty years and so far there had never been a major radiological accident. However, the relatively good safety record for the application of these strong radioactive sources in the country was no ground for complacency, especially where practical, effective steps could be taken to reduce risks of such accidents.

In general, a programme of inspection of radiation sources and devices was very important. However, it was only effective if it was supported with an effective enforcement mechanism and also provided with adequate resources. Statutory Instrument No. 58 would provide RPA with some additional resources to effectively

monitor, control and promote safe use and disposal of radiation sources and devices in the country

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued pursuant to the powers contained in section 46 of the *Ionising Radiation Protection Act, No. 16 of 2005*.

MINISTRY OF HOME AFFAIRS

STATUTORY INSTRUMENT NO 40 OF 2014 - THE BIRTHS AND DEATHS REGISTRATION (GENERAL) (AMENDMENT) RULES

59. Your Committee was informed that this Statutory Instrument was issued pursuant to the provisions of section 21 of the *Births and Deaths Registration Act, Chapter 51* of the Laws of Zambia, and was aimed at revising the fees for National Registration and Registration of Births and Deaths. The revision of fees was necessitated by the length of time since the last revision which took place in 1994. The fees revised were only for replacement of registration documents. Applicants getting the first issuance of births, deaths, national registration identity cards (NRC) would receive this service free of charge. The revision would, on the one hand, encourage Zambian citizens to attach value to identity documents and care for them appropriately. On the other hand, the Government would be able to collect the necessary revenue required to provide these services.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 21 of the *Births and Deaths Registration Act, Chapter 51* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 7 OF 2015 - THE ZAMBIA POLICE (COMPOSITION OF FORCE) REGULATIONS, 2015

Submission by the Permanent Secretary

60. The Permanent Secretary submitted that in 2011, the President issued Statutory Instrument No. 124 of 2011, to amend the first schedule to the *Zambia Police Act* and introduced the rank of Deputy Inspector General between that of Inspector General and Commissioner. Subsequently, the rank of Commissioner which was the second most senior rank in the Police composition, became third. A Deputy Inspector General was appointed to assist the Inspector General while a Commissioner, was appointed for each Province and Special Duties. This was done to enhance supervision and improve service delivery at operational level. Later, it was observed that with the growth in the population and the increase in police strength, there was need to broaden the command structure at the Police Headquarters so that there was a senior officer responsible for police administration and another for police operations, hence this Statutory Instrument was issued. The purpose of this Statutory Instrument was to ensure that there was a creation of the rank of Deputy Inspector General and specify that only two officers could be promoted to this rank at a time, one to be responsible for administration and the other for operations.

It was necessary to introduce another senior rank in the structure of the Zambia Police Force immediately after the rank of Inspector General in order to enhance police operations. Thus the President, in exercise of the powers conferred on him by section 4 of the *Zambia Police Act Chapter 107* of the Laws of Zambia, issued this Instrument.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 4 of the *Zambia Police Act, Chapter 107* of the Laws of Zambia.

MINISTRY OF FINANCE

STATUTORY INSTRUMENT NO. 2 – THE CUSTOMS AND EXCISE (EXCISE DUTY) (SUSPENSION) REGULATIONS, 2014

61. Your Committee learnt that the objective of this Statutory Instrument was to revoke Statutory Instrument No. 23 of 2010 which suspended excise duty on clear beer made from barley to 40 per cent from 60 percent and also suspended excise duty on clear beer made from sorghum from 60 per cent to 20 percent. Therefore, with the issuance of this Statutory Instrument, the excise duty on clear beer reverted to 60 percent while the suspension of excise duty on clear beer made from sorghum at 20 per cent was maintained.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 89 of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 8 OF 2014 - THE FEES AND FINES (FEE AND PENALTY UNIT VALUE) REGULATIONS, 2014

62. Your Committee was informed that the objective of the Statutory Instrument was to increase the value of the fee unit and penalty units from 18 ngwee to 20 ngwee in accordance with the *Fees and Fines Act, Chapter 45* of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 3 of the *Fees and Fines Act, Chapter 45* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 10 OF 2014 – THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS) (AMENDMENT) REGULATIONS, 2014

63. Your Committee learnt that the Government on 31st January 2014 issued this Statutory Instrument to amend some provisions of the Bank of Zambia (Monitoring of Balance of Payments) Regulations, 2013 (Statutory Instrument No. 55 of 2013) which was gazetted to enhance the monitoring of balance of payment transactions, in line with the duty placed on the Bank of Zambia under the *Bank of*

Zambia Act.

Following the coming into effect of Statutory Instrument No. 55, the International Monetary Fund assessment concluded that the Statutory Instrument contravened Article VIII of the Articles of Agreement of the IMF. Article VIII places general obligations on member countries of the Fund to, among other things; avoid restrictions on payments and transfers for current international transactions. The Statutory Instrument was considered not to be in line with the international commitments and obligations of the Government as it had elements that placed restrictions on the making of payments and transfers for current international transactions by restricting subsequent remittances in cases where unrelated previous transactions had not been acquitted. It also restricted further remittances in cases when customs clearance documentation was not provided.

This amendment, therefore, removed the provision that no further funds shall be remitted until an importer acquitted the previous transaction. In place of the provision that restricted commercial banks not to facilitate any further remittance of funds by the importer who had not acquitted previous transactions, the new Statutory Instrument provides that an importer who did not acquit a transaction committed an offence. It further removes the requirement that importers should show proof that they had paid customs duties before commercial banks facilitated further remittance of funds. The non payment of taxes would be enforced under the laws governing the operations of the Zambia Revenue Authority.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 57 of the *Bank of Zambia Act*, Chapter 360 of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 12 of 2014 – THE LOANS AND GUARANTEES (AUTHORISATION) (DELEGATION OF FUNCTIONS) ORDER, 2014

Background

64. Your Committee was informed that in the Revised Sixth National Development Plan, the Government of Zambia had planned to increase investments in infrastructure in the education sector. Therefore, the Government, through the Ministry of Education, Science, Vocational Training and Early Education, had conceived the three teachers training colleges for mathematics, science, technology and applied arts project to be implemented in eastern, western and north-western provinces in order to address technological challenges which Zambia was currently facing. In line with the project appraisal report, the loan from the Kuwait Fund amounting to Kuwait Dinars 4,000,000 would go towards the construction of the teachers college in North-Western Province, which was scheduled to be completed in three years.

Rationale

Your Committee learnt that the Government, through the Ministry of Education, Science, Vocational Training and Early Education had conceived the three teachers training colleges for mathematics, science, technology and applied arts project. The infrastructure would facilitate the acquisition of necessary skills in critical subjects of science and mathematics, and those relevant to the study of science

and mathematics. The Government was unable to finance the project from tax and non-tax sources. Therefore, the Government had to contract a loan in order to provide resources as contribution to the financing requirements of the project. This financial assistance was acquired to enable the Ministry of Education, Science, Vocational Training and Early Education to undertake the project.

Under the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia, the Minister of Finance delegated his authority to Mr. Felix Nkulukusa, who was at that time serving as Acting Secretary to the Treasury in the Ministry of Finance, to sign the loan agreement on behalf of the Government. The loan agreement for the Establishment of Teachers Training College Project in North Western Province was signed on 10th February, 2014, between the Government of Zambia and the Kuwait Fund for Arab Economic Development.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia.

STATUTORY INSTRUMENT NO 14 OF 2014 - THE CUSTOMS AND EXCISE (SUSPENSION) (AMENDMENT) REGULATIONS, 2014

65. Your Committee was informed that the objective of Statutory Instrument No 14 of 2014 was to suspend customs duty on petrol to free and excise duty on petrol to K0.58 per litre from K1.97 per litre and on other fuels to K0.44 per litre from K0.87 per litre when imported by the Ministry of Mines, Energy and Water Development or purchased from a bonded warehouse by an oil marketing company.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 89 of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 15 OF 2014 - THE CUSTOMS AND EXCISE (SUSPENSION) (AMENDMENT) REGULATIONS, 2014

66. Your Committee learnt that the objective of Statutory Instrument No. 15 of 2014 was to delete the suspension of diesel (heading 2710.19.10) which was erroneously included under Statutory Instrument No. 14 of 2014. Statutory Instrument Nos. 14 of 2014 and 15 of 2014 took effect on the same day, 10th February, 2014.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 89 of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 20 OF 2014 – (THE LOANS AND GUARANTEES) (AUTHORISATION) (DELEGATION OF FUNCTIONS) ORDER, 2014

67. The purpose of the Statutory Instrument was to facilitate the delegation of authority under the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia from the Minister of Finance to Mrs Pamela C Kabamba, Permanent Secretary in the Ministry of Finance to sign the loan agreement on behalf of the Government.

The loan agreement for the establishment of a Teachers' Training College Project in North Western Province was signed on 26th February, 2014, between the Government of Zambia and the Abu Dhabi Fund for Development. This financial assistance was acquired to enable the Ministry of Education, Science, Vocational Training and Early Education to undertake the project.

Committee's Observations and Recommendations

Your Committee notes that the issuance of the Statutory Instrument in line with the provisions of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 25 OF 2014 - THE LOANS AND GUARANTEES (MAXIMUM AMOUNTS) (AMENDMENT) ORDER, OF 2014

Background

68. Your Committee was informed that in the Sixth National Development Plan (SNDP), the Government had planned to increase investments in infrastructure development to sustain the growth of the economy that Zambia had experienced over the last decade. The *Loans and Guarantees (Authorisation) Act* authorised the Minister of Finance to raise loans for financing Government programmes, including infrastructure development. Statutory Instrument No. 116 of 2013 prescribed K200, 000,000 as the maximum amount of loans raised within the Republic and payable over a period of not more than one year and K10, 000,000 as the maximum amount of loans raised within the Republic and payable over a period of more than one year that the Minister of Finance could raise under section 3 of the Act. Further, the Statutory Instrument prescribed K200, 000,000 as the maximum amount of contingent liability in respect of guarantees given to the persons ordinarily resident in Zambia and K2, 000,000,000 as the maximum amount of contingent liability in respect of guarantees given to persons ordinarily resident outside Zambia. This state of affairs limited the Minister's ability to continue financing the budget deficit using loans raised domestically.

Rationale

Your Committee was reminded that in March, 2014, the Minister of Finance moved a motion in Parliament to amend the Loans and Guarantees (Maximum Amounts) Order, Statutory Instrument No. 116 of 2013 to adjust the maximum amounts of outstanding domestic loans and total amounts of internal and external guarantees that the Government may issue. The Minister proposed an increase in the maximum amount of loans outstanding at any one time raised within the Republic and payable over a period of not more than one year from K200 million to K13 billion and from K10 million to K20 million for loans outstanding at any one time raised within the Republic and payable over a period of more than one year. The

Minister further proposed an increase in the maximum amount of total contingent liability at any one time in respect of guarantees given to persons ordinarily resident in Zambia from K200 million to K2 billion and from K2 billion to K5 billion in respect of guarantees given to persons ordinarily resident outside Zambia respectively.

Additionally, your Committee learnt that the proposal to adjust the maximum amounts was intended to ensure that contraction and guaranteeing of loans was to be executed within the law as the maximum amounts of total outstanding domestic loans and total outstanding external guarantees prescribed in *Loans and Guarantees (Authorisation) (Maximum Amounts) Order of 2013* were exceeded by the year 2000. These thresholds had not been adjusted to comply with the provisions of the law. It was realised that these thresholds had been exceeded and required adjustments to comply with the provisions of the law. The Loans and Guarantees (Authorisation) (Maximum Amounts) Order, No. 116 of 2013 was, therefore, amended on 21st March, 2014. The amendment brought the total outstanding domestic loans and total outstanding external guarantees within the confines of the law.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of sections 3 and 15 of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 26 OF 2014 - THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS) (REVOCATION) ORDER, 2014

69. Your Committee was informed that the intention of this Statutory Instrument was to revoke the Bank of Zambia (Monitoring of Balance of Payments) Regulations, Statutory Instrument No. 55 of 2013 which was issued in order to ensure better and more credible statistics on the balance of payments so as to better inform policy interventions. However, during the implementation of Statutory Instrument No. 55, a key challenge to its operationalisation was experienced, due to lack of a robust electronic platform for the banking sector and other stakeholders to provide the required information. Additionally, the introduction of Statutory Instrument No. 55 led to perceptions that the Government wanted to introduce exchange controls. In view of these concerns, and the need to engage stakeholders, Statutory Instrument No. 55 was revoked through this Statutory Instrument. Notably, however, issuance of Regulations in this area was paramount if Zambia was to enhance financial inclusion and help fight money laundering and financial crimes by documenting major inflows and outflows of funds and identifying the sources and purposes of movements of these funds. The Government was, therefore, consulting on the way forward.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 57 of the *Bank of Zambia Act, Chapter 360* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 27 OF 2014 - THE BANK OF ZAMBIA (CURRENCY) REGULATIONS (REVOCATION) ORDER, 2014

70. Your Committee was informed that the aim of this Statutory Instrument was to revoke the Bank of Zambia (Currency) Regulations, Statutory Instrument No. 33 of 2013 which was issued in order to ensure that all domestic transactions were conducted in Kwacha. However, following the introduction of Statutory Instrument No. 33 of 2013, foreign exchange risk increased for foreign financed projects, especially in commerce and trade, and the energy sectors. These challenges led to an amendment to Statutory Instrument No. 33 of 2013 using another Statutory Instrument which exempted power generation companies but it was still evident that further consultation and study was required on the matter, hence the revocation.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 57 of the *Bank of Zambia Act, Chapter 360* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 29 - THE LOANS AND GUARANTEES (AUTHORISATION) (DELEGATION OF FUNCTIONS) (NO. 3) ORDER, 2014

Background

71. Your Committee learnt that the Government, through the Ministry of Finance, issued a \$1 billion 10 year Eurobond on 8th April, 2014, as part of programmed financing in the 2014 budget. The programmed financing was intended to finance projects in the energy sector, road sector and state owned enterprises, to mention but a few. Investments in these sectors would increase energy capacity, improve the transportation network and enhance overall economic growth.

Rationale

The Government of Zambia through respective Ministries and Agencies was implementing projects to address challenges faced within the energy and transportation sectors. The Government was unable to finance these projects from tax and non-tax sources. Therefore, on account of the constrained fiscal space and limited revenues, the Government sought alternative financing options to finance these projects.

Under the *Loans and Guarantees (Authorisation) Act, Cap 366* of the Laws Zambia, the Minister of Finance delegated the authority to issue the bond to Mr Felix Nkulukusa, Permanent Secretary - Economic and Financial Management in the Ministry of Finance. On 8th April, 2014, the Government of the Republic of Zambia through the Ministry of Finance issued a \$1 billion 10-year Eurobond to finance these projects. The bond proceeds had since been channeled into the respective sectors, which in turn had enabled the vital energy and road projects to be implemented.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 14 of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 30 – THE LOANS AND GUARANTEES (AUTHORISATION) (EXEMPTION) NOTICE, 2014

Background

72. In February, 2014, ZESCO signed a US\$ 150 Million Engineering, Procurement and Construction (EPC) with Eltel Networks (ELTEL) of Sweden. The financing for the contract was arranged by Nordea Bank AB (publ) of Sweden and the Standard Bank of South Africa.

To support ZESCO's debt plans, in March, 2014, the Minister of Finance issued a guarantee in favour of ZESCO as provided under Section 14 (2) of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia. The guarantee enabled ZESCO to obtain two loan facilities of US \$133,385,105 and US \$29,568,148 from Nordea Bank and Standard Bank in March, 2014.

Rationale

The Minister of Finance as the guarantor exercised powers under section 14 (4) to waive the requirement for ZESCO as the beneficiary of the guarantee to pay the two percent of the total loans guaranteed amounting to US \$3,259,065. The action was meant to assist ZESCO implement its strategic plan for the development of electricity infrastructure in North-Western province by improving its cash flow through, among other measures, avoidance of payment of two percent legal requirement. The development of electricity infrastructure in North-Western province would increase electricity supply to the province and enhance economic activity.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the *Loans and Guarantees (Authorisation) Act, Chapter 366*.

STATUTORY INSTRUMENT NO. 37 of 2014 - THE PUBLIC-PRIVATE PARTNERSHIP (KASUMBALESA BORDER POST) (USER FEES) REGULATIONS, 2014

73. Your Committee was informed that the objective of Statutory Instrument No. 37 of 2014 was to legislate the collection of terminal service charges on vehicles crossing at Kasumbalesa Border, which initially were collected based on the concession agreement between the Government and the developer of the Kasumbalesa border infrastructure.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 66 of the *Public Private Partnership Act, No 14 of 2009*.

STATUTORY INSTRUMENT NO. 50 of 2014 - THE INCOME TAX (PAY AS YOU EARN) REGULATIONS, 2014

74. Your Committee was informed that the objective of Statutory Instrument No. 50 of 2014, was to update various changes that had been made to the Pay as You Earn (PAYE) Regulations into one piece of legislation. The principal PAYE Regulations were published in 1999. Further, the Statutory Instrument seeks to update the Regulations in line with recent developments in the treatment of personal income around the world. This Statutory Instrument further revokes the Income Tax (Pay as You Earn) Regulations, 1999.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 71 of the *Income Tax Act, Chapter 323* of the Laws of Zambia.

STATUTORY INSTRUMENT No. 55 OF 2014: - THE LOANS AND GUARANTEES (AUTHORISATION) (DELEGATION OF FUNCTIONS) ORDER, 2014,

75. Your Committee was informed that the European Union delivered its support through three year cycles under the European Development Fund (EDF). Zambia had thus far had 10 EDF programmes and was in the process of signing its Programming for the 11th EDF, whose implementation would commence in March, 2015, in the amount of €484 million. Zambia's National Indicative Programme (NIP) that operationalised the 11th EDF, was due to be signed between the Minister of Finance and the European Union Commissioner, in June, 2014, on the side-lines of the ACP-EU Council of Ministers. However, due to other commitments, the Minister of Finance was not able to travel and the EU Delegation consequently agreed to have the NIP signed with the Secretary to the Treasury, who was the National Authorising Officer under the EU development cooperation framework on the side lines of the annual meetings in Washington, DC.

In light of the above, Statutory Instrument No. 55 of 2014, was issued on 8th October, 2014. This Order delegated to the Secretary to the Treasury the functions of the Minister under the Act, in so far as the functions related to the signing of the NIP with the EU as specified in the schedule. The NIP covered the period 2014 to 2020 and operationalised the 11th EDF which would provide financing amounting to €484 million.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of the *Loans and Guarantees (Authorisation) Act, Chapter 366* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 56 of 2014 - THE INCOME TAX (EUROPEAN INVESTMENT BANK) (APPROVAL AND EXEMPTION) ORDER, 2014

76. Your Committee learnt that the objective of this Statutory Instrument was to exempt income of the European Investment Bank. The exemption of income of the European Investment Bank was pursuant to the Second Schedule to the *Income Tax Act* which provided for exemption of income of organisations which operated in Zambia to assist in development of the Republic. The exemption was also in line with tax exemption requirements under the Partnership Agreement the members of the African, Caribbean and Pacific group of States and the European Community and its Member States as signed in Cotonou on 23rd June, 2000.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 15 of the *Income Tax Act, Chapter 323* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 60 OF 2014 - THE CUSTOMS AND EXCISE (PORTS OF ENTRY AND ROUTES) (AMENDMENT) ORDER, 2014

77. Your Committee learnt that the intention of the Customs and Excise (Ports of Entry and Routes) (Amendment) Order, 2014 was published on 7th November, 2014 to extend the working hours at Chirundu border from 18:00hrs to 22:00hrs. This Statutory Instrument is also aimed at gazetting Namfulo as a port of entry, export and customs post in addition to designating Kasumbalesa, Katima Mulilo and Solwezi as warehousing posts in order to meet the growing demand for warehousing services in the above stated areas. It was explained to your Committee that the other details concerning days and hours of operation at Chanida, Kariba, Kasumbalesa, Katima Mulilo, Kazungula, Mwami, Kapiri Mposhi, Livingstone, Nakonde and Lusaka Airport remain unchanged and these were simply included in the Statutory Instrument in order to ensure proper sequencing of the paragraphs.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of sections 13 and 199 of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 67 OF 2014 - THE VALUE ADDED TAX (GENERAL) (AMENDMENT) REGULATIONS

78. Your Committee learnt that the VAT law provides for a business that was registered for VAT before the supplier began production or trading of goods (an intending trader) to claim input VAT prior to commencement of production or trading activities. Before this Statutory Instrument, the VAT General Regulations did not restrict the input VAT claimable by intending traders to corresponding business product lines. The purpose of this Statutory Instrument was, therefore, to amend the law on the Intending Trader Scheme to restrict deductions of input Value Added Tax (VAT) incurred by intending traders. Further, the new Regulation would restrict input VAT claimable by intending traders to corresponding business product lines while also providing that intending traders may not claim any more

input taxes after the expiry of the period of the tax relief unless the producer or trader had commenced operations.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of sections 2, 18 and 51 of the *Value Added Tax Act, Chapter 331* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 68 OF 2014 - THE VALUE ADDED TAX (EXEMPTION) ORDER, 2014

79. Your Committee was informed that prior to the issuance of this Statutory Instrument, goods and services that were exempt from Value Added Tax (VAT) were provided for under the First Schedule of the *Value Added Tax Act*. Goods and services that were exempt from VAT would now be provided for under this Statutory Instrument. This would ensure flexibility in reviewing goods and services exempt from VAT. This Statutory Instrument was also intended to clarify the VAT exemption on animal feeds by replacing the word "stock feed" with "animal feed" in Group 16 (e) (iv) of the Schedule to the Exemption Order. The term "animal feed" shall have the meaning assigned to it in the *Animal Health Act of 2010*. Further, this Statutory Instrument was intended to provide clarity on the nature of agricultural products that were exempt under Group 16 of the Schedule to the Exemption Order by changing the punctuation in the provision. The measure was also intended to clarify that the term "fresh" referred only to the fruits and vegetables and not the nuts, cereals, beans and others as was initially intended in the law and was actually being implemented.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of sections 15 and 51 of the *Value Added Tax Act, Chapter 331* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 69 OF 2014 - THE VALUE ADDED TAX (ZERO-RATING) ORDER, 2014

80. Your Committee was informed that prior to the issuance of this Statutory Instrument, goods and services that were zero-rated were provided for under the Second Schedule of the *Value Added Tax Act*. Goods and services that were zero-rated for VAT purposes would now be provided for under this Statutory Instrument. This would ensure flexibility in reviewing goods and zero-rated services. Notably, the term "zero-rated" referred to goods and services for which VAT was charged at zero percent. Therefore, the final consumer of the good did not pay VAT, but the supplier of the good was still able to claim back the input VAT for the goods or services supplied. The Statutory Instrument further clarified that, under agreements regarding technical aid programmes or projects that were funded wholly by donors or co-financed with the Government, only goods and services that were for direct benefit of the programme or project qualified for VAT zero-rating while goods and services for the contractors on such projects did not qualify to be zero-rated so as to avoid possible abuse of tax relief under technical aid programs.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of sections 15 and 51 of the *Value Added Tax Act, Chapter 331* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 70 OF 2014 - THE INCOME TAX (TURNOVER TAX) (AMENDMENT) REGULATIONS, 2014

81. Your Committee heard that the aim of the Statutory Instrument was to strengthen the definition of "turnover" by clarifying that income or earnings from interest payments, rentals, royalties or dividends, which was regarded as passive income, was excluded from turnover for tax purposes. This change was aimed at aligning the definition in the Regulations with the provisions of the *Income Tax Act* which clearly indicated that passive income was excluded from the Turnover Tax regime. It was also intended to provide for electronic submission of turnover tax returns in addition to manual returns as well as provide for a different due date (the fifth day of the month) for the filing of manual returns. This amendment was intended to increase the uptake of electronically filed returns. This would reduce both the cost of administration and compliance as well as enhance efficiency.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section 64A of the *Income Tax Act, Chapter 323* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 4 OF 2015 - THE CUSTOMS AND EXCISE (EXCISE DUTY) (SUSPENSION) REGULATIONS, 2015

Submission by the Permanent Secretary

82. The Permanent Secretary submitted that the purpose of Statutory Instrument No. 4 of 2015, was to suspend the Excise Duty of 125 percent on un-denatured alcohol when this commodity was imported directly or taken out of a bonded warehouse by manufacturers who were licensed to produce portable spirits. This amendment was done in order to encourage the formalisation of entities engaged in the manufacture of beverages with high alcoholic content, as well as support the growth of the local manufacturers of portable spirits.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section eighty-eight of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 5 OF 2015 - THE CUSTOMS AND EXCISE (SUSPENSION) (FUEL) REGULATIONS, 2015

Submission by the Permanent Secretary

83. The Permanent Secretary submitted that the intention of Statutory Instrument No. 5 of 2015 was to:

- (i) suspend customs duty on petrol when imported by the Ministry responsible for energy in order to allow the Ministry to import petrol without paying duty; and
- (ii) suspend excise duty on diesel to 44 ngwee/litre from 87 ngwee/litre as well as suspend excise duty on petrol to 58 ngwee/litre from K1.97/litre. The suspensions were intended to ensure that fuel prices remained moderate to enable citizens procure petrol and diesel affordably. She added that the substantive customs duty rate on diesel was zero percent. Therefore, import duty had no effect on the price of this commodity.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section eighty-nine of the *Customs and Excise Act of the Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 6 OF 2015 – THE CUSTOMS AND EXCISE (GENERAL) (AMENDMENT) REGULATIONS, 2015

Submission by the Permanent Secretary

84. The Permanent Secretary submitted that the aim of the Statutory Instrument No 6 of 2015 was to:

- (i) amend Regulation 85A in order to extend the qualification period for duty free importation of household goods and personal effects imported by an administrator on behalf of a deceased person, from 6 months to 12 months. This amendment was intended to take into consideration delays that may be beyond the control of the appointed Administrator;
- (ii) amend Regulation 88 in order to clarify that an organisation involved in a scientific, relief, agricultural, technical assistance or development programme or scheme in Zambia was entitled to import goods into the country duty free as long as the goods would be used for the purpose specified in an Agreement or Memorandum of Understanding signed between the organisation and the Government;
- (iii) amend Regulation 88B in order to clarify that contractors engaged to undertake a development programme or scheme would be required to pay assessed duties where the Agreement or Memorandum of Understanding (MoU) under which they operated required them to pay the assessed duties;
- (iv) specify that where an Agreement or MoU specified that the contractor should pay the taxes the, Government would not bend the law to grant exemptions-under such circumstances in order to protect the rights and privileges of contractors (third parties) working on development programmes or schemes that were entitled to customs duty remissions.
- (v) introduce a new sub-Regulation (4) in order to make it mandatory for all ministries and implementing agencies to communicate any amendments made to a Bill of Quantities associated with a development project directly to the Commissioner General in order for the Zambia Revenue Authority to facilitate the importation of goods;
- (vi) amend Regulation 98A in order to include definitions for the terms: "assembly"; "equipment and machinery"; and "rural area". She explained that the absence of definitions for the terms "assembly", "equipment and

machinery", or "rural area created uncertainty for investors seeking to benefit from customs duty remissions related to the terms due to the wide spectrum of interpretations that could be ascribed to them; this amendment is intended to bring clarity regarding the definitions of "assembly", "equipment and machinery" and "rural area".

- (vii) repeal and replace Regulations 98C and 98D in order to:
- Remove expansion and rehabilitation projects from being eligible for customs duty exemptions provided pursuant to recommendation from the Zambia Development Agency. The amendment was intended to align the law with the policy directive of limiting tax incentives to the establishment of business enterprises;
 - Clarify that, for tax incentives related to machinery, equipment and component parts required for the assembly of motor vehicles and trailers, companies registered with the Zambia Development Agency may apply directly to the Minister of Finance without having to seek a recommendation from the Director General of the Zambia Development Agency;
 - Clarify that business enterprises that were involved in the manufacture of roofing sheets or roofing tiles, and registered with the Zambia Development Agency, may apply directly to the Minister of Finance without having to seek recommendation from the Director General of the Zambia Development Agency.

It was explained that according to the Customs and Excise General Regulations of 2000 when an implementing agency in receipt of financial assistance from an organisation involved in a scientific, relief, agricultural, technical assistance or development programme or scheme in Zambia, contracted a third party to undertake works on a project, the implementing agency was required to submit a Bill of Quantities (BoQ) to the Commissioner General. This was required in order for the Zambia Revenue Authority to facilitate the importation of goods in accordance with the BoQ. However, in circumstances where items needed to be added to the BoQ the law did not provide for these changes to be communicated to the Commissioner General and this led to implementation challenges and delays. The amendment, therefore, intends to mandate all Ministries, Provinces and Spending Agencies, which contracted a third party to undertake a project financed by approved organisations involved in technical or development projects or schemes, to communicate any changes that may be made to an earlier submitted BoQ directly to the Commissioner General.

- (viii) amend the First Schedule of the Customs and Excise (General) Regulations, 2000 in order to:
- a) increase the ASYCUDA processing fee to 415 fee units (K83.00 from 278 fee units (K55.60). This measure was intended to bring the ASYCUDA processing fee to a cost reflective level as it had not been revised since 2007. The ASYCUDA processing fee was meant for the maintenance, replacement and expansion of automated customs services, including the provision of internet connectivity for enhanced real-time communication.
 - b) introduce a penalty of 5000 penalty units (K1, 000) for submission of multiple declarations for the same transaction and provide for de-registration of declarants after the third

offence. This measure was intended to curb the malpractice of creating duplicate entities on the ASYCUDA system with the aim of deliberately ignoring any query raised by customs authorities. The duplicated entries created opportunities for tax evasion because clearing agents kept repeating their declarations, hoping to avoid queries or to get better charges on their consignments and only cleared their goods when this was achieved. Further, duplicated entries bloated the debt status of ZRA by exaggerating the amount of duties owed to the institution. Therefore, the penalty fee had been introduced in order to curb this malpractice;

- c) introduce a penalty of 5000 penalty units (K1,000) for a vehicle or goods in transit that diverted from the route designated by the Customs Services Division. Diversion of transit traffic was usually used in committing transit fraud by way of making false exit acquittals or dumping goods deemed to have been in transit onto the domestic market; the measure is intended to mitigate the risk of transit fraud by compelling transit traffic to make exit only at the designated port of exit; change of route that may be necessitated by circumstances beyond the control of the carrier would be considered, subject to prior authorization;
- (ix) update the Third Schedule of the Customs and Excise (General) Regulations, 2000 in order to provide for the listing of newly approved organisations that provided development assistance to the Government of Zambia. The Third Schedule of the Customs and Excise General Regulations, 2000 listed all the organisations involved in scientific, relief, agricultural, technical assistance or development programs or schemes in Zambia that had Agreements or Memoranda of Understanding with the Government. The Third Schedule to the Customs and Excise (General) Regulations, 2000 was last updated in 2012; and
- (x) updates the Fourth Schedule of the Customs and Excise (General) Regulations, 2000 (as amended in 2012) in order to include business enterprises that had been approved for remission of customs duty in accordance with the *Zambia Development Agency Act* of 2006; the Fourth Schedule to the Customs and Excise (General) Regulations of 2000 listed all business enterprises that were registered with the Zambia Development Agency and had been approved for customs duty exemptions by the Minister of Finance. The Schedule was last updated in 2012; this amendment thus is intended to update the list.

It was explained that before 2012, companies involved in the assembly of motor vehicles and trailers and companies involved in the manufacture of roofing sheets and tiles, applied to the Ministry of Finance through the Investment Centre. However, following the repeal of the *Investment Act*, the Investment Centre was dissolved. This necessitated the removal of references to it in the tax law. Therefore, from 2012 to 2014, companies involved in the assembly of motor vehicles and trailers and companies seeking customs duty rebates related to inputs used in the manufacture of roofing sheets and tiles were required to apply to the Director General of the Zambia Development Agency who would then recommend the companies to the Ministry of Finance for approval. The amendment was part of the house keeping measures undertaken following the repeal of the *Investment Act*.

Over time however, it was noted that the rules that applied to recommendations under the *Zambia Development Agency Act* differed from the rules governing recommendations under the *Investment Act*. According to the law, the Director General of the Zambia Development Agency could only recommend companies for customs duty rebates if the investor intended to invest US\$ 500,000 or more and the investment was located in a rural area, Multi-Facility Economic Zone, Industrial Park or in a stipulated priority sector. These conditions did not apply to recommendations from the Investment Centre. The 2015 amendment, therefore, reverts the law to its original form in order to capture the original intention which aimed to grant all investors operating in the assembly of motor vehicles and trailers, or the manufacture of roofing sheets, relief from customs duty;

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of section *one hundred and ninety-eight* of the *Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 16 OF 2015 – THE LOANS AND GUARANTEES (AUTHORISATION) (DELEGATION OF FUNCTIONS) ORDER, 2015

Submission by the Permanent Secretary

85. The Permanent Secretary submitted that the aim of the Statutory Instrument No. 16 of 2015, was to delegate powers to Mrs Pamela Chibonga Kabamba, who was a public officer in the service of the Government of the Republic of Zambia, at present serving as Permanent Secretary (Budget and Economic Affairs) at the Ministry of Finance, to sign the financing agreement between the Republic of Zambia and the International Fund for Agriculture Development (IFAD). The financing agreement would provide resources required on the project to improve animal disease control and livestock production systems in the targeted areas under the enhanced Smallholder Livestock Investment Programme which was national in scope. The enhanced Smallholder Livestock Investment Programme (E-SLIP) was expected to benefit approximately 18,000 smallholder livestock-keeping households, including members of producer organisations. The loan was highly concessional and the terms included zero interest, 0.75 percent annual service charge, a repayment period of forty years and a grace period of ten years.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued pursuant to the powers contained in the *Loans and Guarantees (Authorisation) Act, Chapter of the Laws of Zambia*.

STATUTORY INSTRUMENT NO. 18 OF 2015 - THE CUSTOMS AND EXCISE (GENERAL) (AMENDMENT) REGULATIONS, 2015

Submission by the Permanent Secretary

86. The Permanent Secretary submitted that the aim of the Statutory Instrument No 18 of 2015 was to update the Third Schedule of the Customs and Excise (General) Regulations, of 2000 in order to provide for the listing of newly approved organisations that provided development assistance to the Government of

Zambia. The Third Schedule of the Customs and Excise General Regulations, 2000 listed all the organisations involved in scientific, relief, agricultural, technical assistance or development programmes or schemes in Zambia that had Agreements or Memoranda of Understanding with the Government whose funds may not be used for the financing of tax-related expenses. The organisations provided for in the schedule were working in tandem with the Government and were deemed to be co-operating partners who were providing technical assistance.

Committee's Observations and Recommendations

Your Committee notes that the Statutory instrument has been issued in accordance with the provisions of *section eighty-nine of the Customs and Excise Act, Chapter 322* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 63 - THE PUBLIC SERVICE (RETIREMENT AGE) REGULATIONS, 2014

Consideration of submissions from various stakeholders

87. Your Committee noted that the promulgation of Statutory Instrument No. 63 had been met with strong, albeit mixed, reactions from various sections of society. In this regard, your Committee resolved to analyse the Instrument more closely and get stakeholder views. In this regard, various stakeholders who were invited to appear before and make submissions to your Committee raised the observations and concerns regarding the Instrument in question as set out hereunder.

- i) It was submitted that Zambia had a youthful population with about 53% of the population below eighteen years and 90% of the population below the age of forty five years.
- ii) Zambia had high levels of youth unemployment among young people. The plight of the unemployed youth should have been taken into consideration before such a measure was taken. There was currently huge shortage of skilled labour opportunities. A lot of young people, therefore, ended up in unskilled casual employment with poor safety and no long term benefits. It was posited that Statutory Instrument No 63 was likely to have the effect of exacerbating this problem. It could also increase the loss of the much needed human resource in the country through increased brain drain.
- iii) There was need to create room for more young people to take up positions in the public service so as to allow for the infusion of ideas, innovation and youth exuberance by infusing young people in the labour market through retirement of the ageing, especially at the age of fifty-five years. This measure (Statutory Instrument No. 63) would result in continued inefficiency and low productivity as the old order would continue. Younger people would not have a chance to either enter the public service or progress through promotion as the older generation would continue to hold the senior positions.
- iv) Zambia was further faced with a low life expectancy. Although little was known of how this varied across formal and informal employment, the average life expectancy for both camps was likely to remain below the current retirement threshold because of the prevalence of HIV/AIDs, poor health, inadequate social security systems and other socio-economic demographics. The low life expectancy tempered any likelihood that a higher minimum retirement age would lead to people working longer, thus translating in greater economic output. Lower life expectancy also meant

that people had less time on earth to enjoy their pension. Increasing the retirement age would, therefore, only result in people dying without enjoying any sort of retirement. In developed countries, life expectancy was significantly higher than the retirement age, not the opposite. Therefore, giving individuals the chance to retire early accorded them an opportunity to enjoy their benefits as well as to use their remaining time to engage in other personal productive endeavors and innovations.

Recommendations by stakeholders

The various stakeholders made the recommendations set out below.

- i) the Government should consider having different retirement ages cross sectors, for example certain professions, such as the military, could have a lower retirement age while the judicial service could have a higher one, taking into account the amount of physical exertion that these professions demanded. For example, it was proposed that just as there were exemptions for lower ranks in the Police Service and Prisons, there should be also exemptions in the Public Service. It was, therefore, recommended that Statutory Instrument No. 63 of 2014 should only affect officers in the lower ranks in the Public service as well. At the same time, it was emphasised that the Government should ensure that there was an adequate supply of requisite qualified human resources to ensure that service provision was not compromised.
- ii) There should be wider stakeholder consultation before taking such far reaching measures.
- iii) The Government should come up with social security policies that would take care of the needs of the retirees rather than increase the retirement age way above the life expectancy.
- iv) The Government should be pro-active and focus on the alternative of the re-skilling. For example, the Government could initiate an empowerment programme for retirees by introducing a robust program to transform those retired with their vast experience into business entrepreneurs, creating jobs for the skilled and semi-skilled youth with the help of Government grants and their own retirement packages as liquidity. This would be a more positive alternative than creating “employees for life”.
- v) The Government should consider revamping trades training institutes and agriculture training centres and cooperatives so as to offer entrepreneurship skills training to more young people to enhance self sustainability as a way of addressing youth unemployment.
- vi) Some stakeholders called for the urgent reversal of Statutory Instrument No 63 on account of it not being helpful in the current socio-economic environment, whilst other stakeholders supported the Statutory Instrument with a caveat that retirement age be increased to sixty years and thirty years of service, with retirement at fifty-five years and sixty-five years of age being optional.

Consideration of the Submission by the Secretary to the Cabinet

In a quest to clarify various issues raised by stakeholders regarding Statutory Instrument No. 63 of 2014, the Secretary to the Cabinet submitted as set out below.

1. The definition of public service in the subject statutory instrument was not only consistent with the definition of public service in the Constitution, but also with the definition of the term in the *Public Service Pensions Act, Chapter 260* of

the Laws of Zambia. Article 139 of the Constitution provides that:

"the public service" subject to clauses (2) and (3) shall have the meaning assigned to it by an Act of Parliament."

The clauses (2) and (3) referred to in this definition excluded offices of, among others, Judges, the Attorney-General, Commissions established by the Constitution and the Clerk of the National Assembly from being categorised as offices in the public service. Further, the Public Service Pensions Act, which was the Act under which the subject statutory instrument was issued, assigned the following meaning to the term public service:

"Public Service" means the Judicial Service, the Civil Service, the Defence Forces, the Police and Prisons Service, the Teaching Service, the Zambia Security and Intelligence Service, and any other Government Service prescribed by the President".

He stated that the definition in the subject statutory instrument did not contain the words "and any other Government Service prescribed by the President". However, this did not render it inconsistent with the definition in the Act. It only meant that at the time the statutory instrument was made, there was no other Government Service prescribed by the President. In other words, the definition in the statutory instrument was consistent with the Act and consequently in line with the Constitution.

2. With regard to the definition of public officer, the Secretary to Cabinet stated that the statutory instrument did not contain a definition for public officer and neither did the *Public Service Pensions Act*. The Act and the statutory instrument defined the term officer and their definitions were the same save for gender- neutral language used in the latter. It was acknowledged that the Constitution defined the term public officer. However, considering that the *Public Service Pensions Act* and the subject statutory instrument did not define the said term, the question of the constitutionality or otherwise of the term in the said laws did not arise.
3. The Secretary to the Cabinet clarified that regulations 5 and 6 of the subject statutory instrument were within the ambit of section 33 of the *Public Service Pensions Act*. Section 33 empowers an appropriate authority (in this case the Republican President), in consultation with the Public Service Pensions Board, to prescribe earlier or later dates for the retirement of all or any of the officers falling under the authority.
4. Regulation 5 provides further clarity with regard to the date on which a person retiring under regulation 4 becomes entitled to the retirement benefits referred to in the said regulation 5. It was, therefore, within the prescriptive mandate of an appropriate authority provided for in section 33 of the Act. In any case, a person's entitlement to retirement benefits was inevitably tied to the prescribed age for retirement.
5. As for regulation 6, he stated that the revoked Zambia Security Intelligence Service (Retirement Age and Benefits) Regulations, Statutory Instrument No. 76 of 2006, provided for the retirement age for officers in the said service. The Zambia Security Intelligence Service was one of the Services in respect of which, in terms of section 33 of the Act, the President could prescribe dates of retirement for officers therein. In other words, the revocation of the said statutory instrument ensured the application of the regulation 4 retirement age to the said Zambia Security Intelligence Service. He reiterated that regulation 6

was based on section 33 of the Act.

6. On the question regarding the implications of the subject statutory instrument on accrued rights of officers engaged prior to its issuance, the Secretary to Cabinet was of the view that accrued pension rights of the said category of officers have not been taken away by the statutory instrument. The statutory instrument was generally applicable to officers to whom the *Public Service Pensions Act*, Cap. 260, and who had not attained the previous retirement age of fifty-five years on the date the statutory instrument came into operation. However, officers who had not attained the previous retirement age of fifty-five years and would have retired at that age if the law had not been revised were legally entitled to exercise their right to retire at the said fifty-five years should they wish to do so. This position was founded on Article 124 of the Constitution, which provides for accrued pension rights.
7. Moreover, your Committee was informed that consultations with stakeholders on the retirement age issue had culminated in agreement that the retirement age be revised as follows:
 - a) introduction of early retirement upon attaining the age of fifty-five years;
 - b) adjustment of the normal retirement age to sixty years; and
 - c) introduction of late retirement at the age of sixty-five years.

In view of the foregoing, your Committee was informed that the Government had embarked on undertaking a comprehensive review of the social security policy, aimed at addressing some of the challenges associated with the pension system in Zambia. In this regard, benchmarking studies had been done with Kenya and Chile, which revealed that the two countries had a sustainable pension system worth emulating.

With regard to the proposed introduction of early retirement, normal retirement and late retirement, the Secretary to the Cabinet informed your Committee that once these became law, those retiring at fifty-five years would be paid about 66 percent of their pension and would be entitled to a small monthly annuity till death. Those who would opt to retire at sixty years would be entitled to about 10 percent of their pension and would be paid a handsome annuity till death. The rationale behind this proposal was that studies had shown that in the current pension regime where a lump sum was paid on retirement, pensioners tended not to know how to handle the lump sum and sooner regressed into poverty due to the meager annuity paid to them. Furthermore, lump sum payments were not immediately available in view of the challenges which the Public Service Pensions Fund was experiencing. It was however, hoped that if the amount of annuity was increased, pensioners would have some reasonable monthly allowance that would allow them survive from day to day.

Committee's Observations and Recommendations

Your Committee notes that Statutory Instrument No. 63 of 2014, is still in effect as it has not been revoked. Noting the submissions by the Secretary to the Cabinet that the Government was in the process of reviewing the provisions of the Instrument in light of various consultations undertaken, your Committee makes observations and recommends as set out below.

- i) Your Committee notes that the proposed graduated retirement ages will result in older, high ranking public officers in the public holding on to

positions at the expense of younger persons wishing to join the public service. In this regard, these measures are likely to result in the retardation of progression by younger professionals as well as stifling job opportunities in the public service. In turn, this may lead to young professionals seeking job opportunities in other countries, which would further increase the brain drain that the country is already suffering.

- ii) Your Committee reiterates that all public service workers engaged prior to the issuance of these Regulations must be allowed to exercise their accrued right to retire at the age of fifty-five years should they so wish. For the avoidance of doubt, your Committee wishes to stress that officers who had not attained the previous retirement age of fifty-five years and would have retired at that age if the law had not been revised are legally entitled to exercise their right to retire at the said fifty-five years should they wish to do so, and call upon the Government to ensure that this accrued right is upheld as it is founded on Article 124 of the Constitution, which provides for accrued pension rights.
- iii) Your Committee expresses its concern that the submission by the Secretary to the Cabinet does not have any proposed provisions as regards how those public officers who retire at the age of sixty-five years will be treated in terms of payment of benefits. Your Committee, therefore, recommends that these details be provided to them.
- iv) Your Committee does not agree that it is the Government's duty to manage retirees' pension benefits and, in any case, your Committee is of the view that this cannot be used as a justification for such radical changes in the manner of paying pension benefits.
- v) Your Committee notes that the proposed amendments would seek to provide, among other things, that an officer "*retiring at fifty-five years would be paid about 66 percent of their pension and would be entitled to a small monthly annuity till death while an officer who would opt to retire at sixty years would be entitled to about 10 percent of their pension and would be paid a handsome annuity till death.*" In this regard, your Committee is seriously concerned that it appears that an officer who opts to retire at 60 years would be disadvantaged as such an officer would only receive 10 percent of their pension. Your Committee is particularly worried over the fact that the remainder of the pension (90 percent) which is to be paid as annuity to such a retiree is not transferrable and cannot be claimed by the heirs of such a retiree in the event of his/her death. This means that a person who retires at the age of 60 years and receives 10 percent of his/her pension as a lumpsum and dies soon thereafter will have lost most of his/her pension earnings. Your Committee feels that this is unfair to the retiree and strongly recommends that this provision be removed from the proposed Regulations.
- vi) Your Committee is concerned as regards the fact that it is apparent that many public service workers do not fully understand the implications of the proposed pension reforms. Therefore, your Committee doubts whether the public service unions have undertaken adequate sensitisation of their members on these matters. In this regard, your Committee recommends that prior to the implementation of the pension reforms, the Government should carry out countrywide sensitisation campaigns among all public service workers (not just the unions) as regards the proposed provisions so that there is a full understanding and acceptance of the implications of the reforms by public service workers.

MINISTRY OF TOURISM AND ART

STATUTORY INSTRUMENT NO. 10 OF 2015 – THE ZAMBIA WILDLIFE (GAME ANIMALS) ORDER, 2015

Submission by the Permanent Secretary

88. The Permanent Secretary submitted that the Zambia Wildlife Authority was responsible for regulating trade in wildlife as provided for in *section thirty of the Zambia Wildlife Act No. 12 of 1998*. However, the enforcement of the Act has not been easy due to changes in trade of some wildlife which initially was not part of the list of wildlife being frequently traded. Certain species which were not on the list of wildlife for trade in the past were being frequently traded. As a consequence, it was difficult for the authority to control the movement of this wildlife resulting into challenges in enforcing the Act. In addition to this, the list of other wildlife which traditionally was not frequently traded had continued to increase, hence the need to regulate them.

The Zambia Wildlife Authority (ZAWA), sometimes had to regulate trade in wildlife species that were not included on the list of animals as protected animals. Typical examples were Nyala and spotted deer, which were common on private wildlife estates, which usually traded in these species. Despite these animals not being indigenous, their movement and trade needed to be regulated. They therefore, needed to be included on the list of animals called game animals even though they were not indigenous.

Another area of concern was the growing demand for trade in reptiles and insects. The trade in these animal species required control and regulation but could only be done justifiably if they were included on the list of animals to be protected. In other words, the situation had been complicated by the inclusion of what had been termed as "game animals" on the list of wildlife for trade which initially had not been on the list.

For these reasons, the *Zambian Wildlife (Game Animals) 60 of 1993 Order* was revoked and replaced with *The Zambia Wildlife (Game Animals) Order of 2014*, which was more inclusive in the list of game animals. In the new Order, animal species have been categorised as mammals, reptiles, birds and insects. Mammals had further been divided into indigenous and exotic species. Indigenous species are those that are naturally occurring in Zambia and exotic species are those that are not native or not naturally occurring in Zambia, but have been imported from other countries where they occur naturally.

There were 237 recorded indigenous mammal species in Zambia. Not all mammal species needed listing to be protected; only those frequently involved in trade and required close monitoring and regulation were included on the list. Similarly, regulation and monitoring of trade in birds, reptiles and insects would be handled in a similar manner and where they were too numerous and the list too long to be itemised; the Order provides for "all species".

The Statutory Instrument on game animals has been necessitated by the dynamics in the trade in wild animals which included what is termed as "game animals". In the past, some wild animals were not included on the list of wildlife for regulation for purposes of trade. However, the list of wildlife to be traded had dramatically increased in the recent past, hence the need to expand the list. In addition to that,

there were some reptiles which were initially not included on the list of animals for regulation for trade hence the need to include them.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the provisions of *section thirty of the Zambia Wildlife Act No. 12 of 1998*.

MINISTRY OF LANDS, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

STATUTORY INSTRUMENT NO. 2 OF 2015-THE NATIONAL FOREST NO. 29: CHISAMBA (CESSATION) ORDER, 2015

Submission by the Permanent Secretary

89. The Permanent Secretary submitted that Chisamba National Forest No. 29 was declared a protected forest in 1962 under gazette Notice No 221. The forest area was gazetted for protection and production. The total hectarage of Chisamba National Forest No. 29 was 5,789. However, following the creation of Chisamba as a District, Chisamba District Council requested the Ministry of Lands, Natural Resources and Environmental Protection to degazette the entire Chisamba National Forest No. 29 to enable the Council implement developmental projects. In this regard, the purpose of degazetting the Chisamba National Forest No. 29 was to avail land to enable the new district, which was constrained in terms of land for development, to meet its developmental needs. As such, the entire 5,789 hectares of the Chisamba National Forest No. 29 had been degazetted to facilitate for development needs of the district.

The Government, through the Ministry of Lands, Natural Resources and Environmental Protection, would ensure that new areas were identified which could be gazetted as national forests to serve as protection and production areas.

Committee's Observations and Recommendations

Your Committee, while noting that the Statutory Instrument has been issued in accordance with the *Forests Act, Chapter 199* of the Laws of Zambia, is concerned that the entire 5,789 hectares has been degazetted. Your Committee wonders why this is being done before a new area is identified for production and protection and what environmental impact this measure will have. Your Committee, therefore, recommends that in order to maintain a balance between environmental conservation and development, at least a portion of the 5,789 hectares should remain protected, while another area should expeditiously be identified for protection.

STATUTORY INSTRUMENT NO. 17 OF 2015-THE NATIONAL FOREST NO. F38: NDOLA (ALTERATION OF BOUNDARIES) ORDER, 2015

Submission by the Permanent Secretary

90. The Permanent Secretary submitted that the Ndola National Forest No. F38 was first gazetted in 1942 under Gazette Notice No. 238. The purpose of gazetting

the area was for protection and production. Before the current partial degazetting (excision) of Ndola National Forest No. F38, the total hectarage of the forest was 2,910. However, following an increase in development needs in Ndola City, the Council made a request to the Ministry to have part of the forest to be degazetted to enable the district expand its development activities. As a result of infrastructural development needs of the city, a total of 511 hectares was excised through Statutory Instrument No. 17 of 2015.

The excised area includes land where the Levy Mwansawasa Stadium was currently located. The partial degazetting has therefore, formalised the use of the land where the stadium was located. This would also ensure that other supporting infrastructure such as hotels, restaurants and shopping complex were constructed in the area. In addition, the area excised would enable Ndola City Council to construct a housing complex comprising of over 1,200 housing units and undertake other socio-economic development activities. These activities would result in job creation for the local community and beyond. Furthermore, the excision of the forest would enable sitting tenants at Dola Hill who were sold formerly ZAFFICO and Government houses to obtain certificates of title. Further, as a result of the partial degazetting of this area, a total of 2,399 hectares would remain as a forest reserve. This area would ensure that the Ndola National Forest No F38 continued to perform its initial purpose of serving as a protection and production area. The Permanent Secretary added that the Ministry would always undertake a careful evaluation of any area proposed for excision or degazetting before making any recommendation to the President. This would ensure maintaining a balance between environmental protection and socioeconomic development, which would lead to sustainable development.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in accordance with the *Forests Act, Chapter 199* of the Laws of Zambia.

PART II

FINDINGS FROM THE FOREIGN TOUR OF THE COMMITTEE TO ZIMBABWE

Introduction

91. Your Committee undertook a study tour to Zimbabwe as part of its Programme of Work for the Fourth Session of the Eleventh National Assembly. The purpose of the tour was to learn from the counterpart Committee in that Parliament and other relevant institutions in the host country as regards how the operations of your Committee could be facilitated and improved. Therefore, the tour not only afforded your Committee an opportunity to exchange experiences and best practices with its sister Committee on the operations of the two Committees in their respective jurisdictions, but also to exchange views with other relevant stakeholders, particularly those involved in the handling and processing of delegated legislation. This report contains the findings, observations and recommendations of the Committee during its foreign tour.

Legislative Arrangements in the Republic of Zimbabwe

Your Committee learnt that Section 110 of the Constitution of Zimbabwe provides for the functions of the President, which includes assenting to legislation. Sections 116 and 117 of the Constitution establish the legislature and confer legislative power on Parliament. Further, section 134 of the Constitution provides as follows:

“Parliament may, in an Act of Parliament, delegate power to make statutory instruments within the scope of and for purposes laid out in the Act, but-

- (a) Parliament’s primary law-making power must not be delegated;
- (b) statutory instruments must not infringe or limit any of the rights and freedoms set out in the Declaration of Rights;
- (c) statutory instruments must be consistent with the Act of Parliament under which they are made;
- (d) the Act must specify the limits of the power, the nature and scope of the statutory instrument that may be made; the principles and standards applicable to the statutory instrument;
- (e) statutory instruments do not have the force of law unless they have been published in the *Gazette*; and
- (f) statutory instruments must be laid before the National Assembly in accordance with the Standing orders and submitted to the Parliamentary Legal Committee for scrutiny.”

Your Committee was informed that certain legislative powers cannot be delegated. These include the power to impose taxes, and the abridgement of individual civil rights and liberties.

The Parliament of Zimbabwe is made up of two Houses: the National Assembly and the Senate. Your Committee noted that most of the work of the House was done through the Committee system. The National Assembly has nineteen portfolio Committees and the Public Accounts Committee (PAC), while the Senate has six Thematic Committees.

Establishment of the Parliamentary Legal Committee

The Parliament of Zimbabwe does not have a specific Committee designated as the Committee on Delegated Legislation. In this regard, all subsidiary legislation is considered by the Parliamentary Legal Committee (PLC). This Committee is established in terms of *section 152(1)* of the Constitution of the Republic, which states that:

“As soon as practicable after the beginning of each session of Parliament, the Committee on Standing Rules and Orders must appoint a Committee to be known as the Parliamentary Legal Committee, consisting of at least three Members of Parliament who are not Ministers or Deputy Ministers.”

Composition of the Parliamentary Legal Committee

Your Committee also learnt that in accordance with the Standing Rules and Orders of the Parliament of Zimbabwe, the PLC constituted of five members. The Constitution of Zimbabwe provides that at least three of the Members should be legal practitioners unless the number of legal practitioners elected to Parliament is

inadequate to meet this requirement, in which case members other than legal practitioners could be appointed to serve on the Committee. In this regard, Section 152(2) of the Constitution was relevant. It provides that:

“A majority of the member of the Parliamentary Legal Committee must be qualified to practice in Zimbabwe as legal practitioners unless there are insufficient such persons eligible to be appointed to the committee.”

This requirement that the majority of the members of the PLC must be qualified lawyers ensured that members who were appointed understood the various legal issues that may arise from proposed legislation. The Constitution further provides that the PLC is sessional and is re-appointed at the beginning of every session. The PLC was constituted by the Committee on Standing Rules and Orders (CSRO) upon nominations from the major political parties represented in Parliament. The members elect the Committee chairperson from among themselves.

Current membership

The current membership of the Committee consist of five Members, four of whom are qualified practicing lawyers and are from the National Assembly, and one Member who is not a lawyer and is from the Senate. The Committee was appointed on the 7th of May, 2015, for the Second Session of the 8th Parliament.

Mandate and Functions of the Parliamentary Legal Committee

The PLC derives its mandate from the Constitution and the Standing Orders. In a nutshell, the mandate was to ensure that all legislation (both substantive and subsidiary) is consistent to the Constitution and case authorities and was well drafted to avoid problems of interpretation. In the case of subsidiary legislation, the Committee is also required to ensure that such legislation conformed to the parent or enabling legislation. The Committee determines the constitutionality of proposed legislation and reports accordingly to Parliament. Unlike other Committees of Parliament, its area of focus is limited to issues of constitutionality of legislation or proposed legislation. In other words, its primary role was to scrutinise legislation, both primary and subsidiary, and to determine whether it is consistent with the Constitution. The Committee reports to Parliament accordingly. In case of statutory instruments, it considers whether or not anything contained in the statutory instruments is *ultra vires* the enabling Act. This means that it ensures that each statutory instrument operates within its scope and powers, subject to the enabling Act. It also ensures that no Statutory Instrument makes the rights and liberties of persons unduly dependent upon administrative decisions which are not subject to review by judicial tribunal nor changes an Act of Parliament.

In terms of *section 152(3)*, the functions of the Committee are:

- to examine every Bill, other than a Constitutional Bill, before it receives its final vote in the Senate or the National Assembly;
- to examine any Bill which has been amended after being examined by the Committee, before the Bill receives its final vote in the Senate or National assembly;

- to examine every statutory instrument published in the Gazette;
- to examine every draft Bill which has been referred to the Committee by a Vice President or a Minister; and
- to examine every draft statutory instrument which has been referred to the Committee by the authority empowered to make the instrument.

Apart from the functions stated above specifically provided in the Constitution, the PLC, in terms of Standing Order 201, also has the following additional terms of reference:

- (a) the Parliamentary Legal Committee shall ensure that no statutory instrument-
- contains matters more appropriate for parliamentary enactment;
 - make the rights and liberties of persons unduly dependent upon administrative decisions which are not subject to review by a judicial tribunal; and
 - change an Act of Parliament.
- (b) the Committee-
- may call for the correction of any error or omission in any statutory instrument or Bill;
 - shall ensure that no Bill derogates from the exercise of legislative power;
 - shall consider all petitions including petitions praying for pensions, grants, gratuities or other benefits which are not authorized by law but which are in respect of services rendered to the State submitted to the Speaker and make recommendations to the House; and
 - shall review existing law and interact with the Law Development Commission for its development.

The PLC can consider legal instruments within a period of 26 days and 6 days for a Bill amended during committee stage, and the Chairperson can apply for extension of this period to the Speaker or President of the Senate, depending on the complexity of the legal instrument. The period can be extended for a further 26 days and for a Bill amended during the committee stage for a further 6 days.

Your Committee further learnt that certain Statutory Instruments have a lifespan not exceeding six months after which they would lapse unless sooner confirmed by Parliament. These were Statutory Instruments which were not specifically provided for in any relevant statute, for example those issued under *Presidential Powers Act* to deal with various special circumstances which may arise in the country. Such Statutory Instruments could even amend substantive law where this was provided for by statute. For example, in the recent past, Zimbabwe was required to amend the provisions of its Anti-Money Laundering legislation to be consistent with its international obligations. Failure to do this would have resulted in the country facing severe sanctions, which could have been prejudicial to the economic interests of the country. As Parliament was not sitting at that time, the President issued regulations under the *Presidential Powers Act* which effectively amended the anti-money laundering legislation in the manner required. In the absence of such provisions, the alternative would have been to declare a state of emergency in order

to enable the President to resolve this exigency. However, declaring a state of emergency would have also meant suspending the civil rights and liberties of all the citizens of Zimbabwe, a clearly undesirable course of action.

It was also noted that according to section 152 (2) of the Constitution of Zimbabwe, a Statutory Instrument could be tabled before the PLC for review either during the drafting stage or upon its publication in the gazette.

Meetings of the Committee

Your Committee further learnt that in order to keep abreast with the developments and meet the strict timeframes set out for consideration of various legal instruments, the PLC met at least twice a month, even when the House was in recess, to consider any legal instruments issued during that period.

Reports of the Committee

Your Committee further learnt that after consideration of a proposed legal instrument, if the PLC reached the conclusion that the instrument would, if enacted, be or was inconsistent with and therefore in contravention of the Bill of Rights or any other Constitutional provisions, the Committee issued an *adverse report* to that effect. This was a report to Parliament and was laid before the House. The minutes of the Committee's meetings were also submitted to Parliament. The Parliament may accept or reject the PLC's report since it was not binding on Parliament. Should the House accept the opinion of the PLC, the Bill or statutory instrument was effectively nullified. If the Committee was of the opinion the legal instrument did not violate the bill of rights or any provision of the Constitution or was *intra vires*, in case of statutory instruments, it issued a *non-adverse report (certificate)*.

Reports of the Parliamentary Legal Committee on Statutory Instruments

The Committee may withdraw an *adverse report* before it was considered by the House if it was satisfied that the provision had been repealed or amended in such a way as to remove the contravention. If the *adverse report* on a statutory instrument was on the constitutionality of the instrument and adopted by the House after due consideration, the Clerk of Parliament needs to report the resolution to the authority which enacted the instrument within twenty-one days after the notification. The authority may either –

- apply to the Constitutional Court for a declaration that the statutory instrument was in accordance with the Constitution; or
- repeal the statutory instrument.

The statutory instrument remains suspended pending the Court's decision. It was indicated that any aggrieved person (whether the concerned authority or even a member of the public) could approach the Constitutional court challenging the decision of the National Assembly on the constitutionality or otherwise of a statutory instrument.

If the *adverse report* states that the instrument was *ultra vires* the enabling Act of Parliament and the report was considered and adopted by the House-

- the provision thereupon ceases to have effect; and
- the Clerk of Parliament must publish a notice in the Gazette without delay, giving public notice of the resolution and its effect.

If the House rejects the Committee's *adverse report*, the Statutory Instrument is confirmed. Similarly, if the Committee did not make a report to the House within the stipulated 26 days, the law stipulates that the Committee is deemed to have concurred with the provisions of the instrument and will stand confirmed. It was stressed that in practice, the Committee always invited the Government Drafting Department and the issuing authority of the piece of legislation in question to a consultative meeting at which the Committee highlighted its concerns regarding the instrument and any response given was taken into account in reaching a conclusion. If the two parties do not reach a consensus, the PLC could approach the Constitutional Court for a resolution of the matter, or alternatively issue an adverse report. If, on the other hand, the Minister gave an undertaking to make an amendment to the legal instrument in line with the PLC's recommendations, the PLC then followed up the matter to its logical conclusion before issuing a non-adverse report. The process was, therefore, non-confrontational, but rather consultative and there had, to date, not been an incident where a matter had to be resolved by the Constitutional Court.

Counsel to Parliament

Counsel to Parliament is the Secretary to the PLC and plays an advisory role to the Parliamentary Legal Committee and other Committees of Parliament. The office of Counsel was responsible for obtaining copies of Government Gazettes and keeping abreast of any Bills, Acts or statutory instruments that may be published. He or she must keep track of the legislative process and track progress of Bills so that PLC was kept advised of time limits in respect of bills and statutory instruments referred to it.

Oversight of Implementation of Statutory Instruments

Your Committee learnt that other than ensuring that Statutory Instruments conformed to the Constitution and enabling legislation, the PLC does not have the mandate to oversee the implementation or impact of delegated legislation as this fell within the purview of the Portfolio Committees of the House.

Visit to the Centre for Applied Legal Research (CALR)

Your Committee learnt that the CALR was an independent research institute that aims to empower people, organisations and governments with sound and evidence-based legal and policy solutions and services that enhance development as well as ensure that the law was utilised to respond to everyday societal challenges. CALR offers legal expertise, resources, tools and technical support to governments, developmental partners, and civil society organisations. It operates at both national and regional level. Its work links the law (as it is and as it ought to be) with developmental needs across the multiple sectors of a country's economy. Its inter-disciplinary work revolves around two thematic areas, namely: (a) Law, Economics and Science; and (b) Law, Democracy and Governance.

Capacity Building Support to the Attorney-General's Office and Line Ministries

In 2012, the CALR entered into a Memorandum of Understanding (MoU) with the Attorney-General's Office whereby the CALR undertook to support capacity enhancement of Law Officers in legislative drafting. This was necessitated by an exodus of experienced drafters from the AG's Office that affected government business in preparation of Bills for submission to Parliament. The MoU culminated in the development of a training course on Legislative Drafting, targeting:

- (a) Legislative Drafters in the Attorney General's Office, and
- (b) Law Officers/Legal Advisors from all line Ministries.

In 2013, the CALR initiated discussions with the Ministry of Justice to ascertain whether they had technical support needs required to facilitate the implementation of the new Constitution. This resulted in the Government of Zimbabwe responding by identifying critical areas requiring support as those involving technical legal research and drafting support to facilitate the harmonisation of laws with the new Constitution. This led to CALR undertaking a needs assessment, and devising the mechanisms required to address those needs. This initiative commenced in April, 2015, and activities were now underway. The project aims to:

- i) enhance the institutional capacity of the Ministry of Justice, Parliamentary and Legal Affairs in coordinating the constitutional legislative alignment process;
- ii) enhance the capacity of Government line Ministries in reviewing laws and policies for compliance with the Constitution; and
- iii) engage the public and civil society organisations in the process of constitutional implementation.

It was noted that there were over 400 pieces of legislation on Zimbabwe's statute book which required to be aligned with the Constitution.

Committee's Observations and Recommendations

Following this study tour to Zimbabwe, your Committee wishes to recommend as set out below.

- a) The mandate of the Committee on Delegated Legislation ought to be reviewed urgently in order to clarify and strengthen the Committee's oversight role on subsidiary legislation.
- b) To ensure timely review of delegated legislation by the legislature, the time frame for the Committee's sittings should also be urgently reviewed. A specific time frame should be stipulated within which the Committee should sit to consider any subsidiary legislation promulgated by delegated authorities and submit a report thereon to the House, and the Committee must be facilitated to meet more regularly in order to adhere to these time stipulations.
- c) To give effect to the legislative power of Parliament, the powers of the Committee should be reviewed such that its recommendations, if adopted by the House, should be effective, that is to say, a negative recommendation by the Committee, once adopted by the House on a statutory instrument should result in the immediate nullification of such an instrument.

- d) The Government should endeavour to engage independent think tanks to ensure that all laws are consistent with the Constitution so as to ensure that the constitutional rights of citizens were upheld at all times.

Your Committee recommends that these recommendations be referred to the appropriate Committee of the House for consideration.

PART III

CONSIDERATION OF THE ACTION TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

92. Your Committee considered the Action Taken Report on the Report of the previous Committee for the Third Session of the Eleventh National Assembly as set out below.

MINISTRY OF EDUCATION, SCIENCE, VOCATIONAL TRAINING AND EARLY EDUCATION

STATUTORY INSTRUMENT NO. 108 OF 2013: THE MUKUBA UNIVERSITY (DECLARATION) ORDER, 2013

93. Your Committee had been informed that the purpose of this Statutory Instrument was to declare the Copperbelt Secondary Teachers' College (COSETCO) a university to be called Mukuba University. Your previous Committee had observed that there was a potential conflict in the use of the name Mukuba University, with an already existing private University going by the same name. Your previous Committee had recommended that the Government should revisit the issue of the use of the name by two institutions with a view to resolving this matter amicably.

Executive's Response

It was reported in the Action-Taken Report that the Ministry had written to the Patents and Registration Agency (PACRA) to establish whether a conflict would arise in the use of the name Mukuba University by two institutions.

Committee's Observations and Recommendations

Your Committee urges the Ministry to pursue the matter vigorously and notes that this is not a matter on which PACRA would be helpful given that the Mukuba University was created by Statutory Instrument rather than by registration at PACRA. Therefore your Committee is of the view that the Government ought to seek a legal opinion from the Attorney General on how to proceed with this matter. Your Committee will await a progress report on the matter.

MINISTRY OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATIONS

STATUTORY INSTRUMENT NO. 73 OF 2013 – THE TOLLS REGULATIONS

94. Your previous Committee had called upon the Government to consider making special arrangements to allow suppliers of essential services such as bulk

carriers of fuel and entities involved in provision of utility services up country, the option to pay toll fees in advance and at discounted rates.

Executive's Response

In response, the Government stated that the matter would be addressed under phase II of the National Road Tolling Programme, scheduled for implementation in 2015. Under this programme, the RDA planned to introduce various innovative toll payment methods such as toll cars and electronic cash among many other options which RDA anticipated would encourage road users to pay tolls in advance.

Committee's Observations and Recommendations

Your Committee resolves to seek an update on the matter.

CONCLUSION

95. Your Committee wishes to pay tribute to all the stakeholders who appeared before it and made both oral and written submissions. It also wishes to thank you, Mr Speaker for your invaluable guidance throughout the Session. Your Committee also appreciates the services rendered to it by the Office of the Clerk of the National Assembly.

Your Committee is confident that the observations and recommendations contained in this report will be favourably considered and fully implemented by the Executive.

I K Banda
CHAIRPERSON

June, 2015
LUSAKA

APPENDIX I

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 G Zulu, Assistant Committee Clerk
Mrs S M Mensah, Personal Secretary II
Mr R Mumba, Committee Assistant
Mr C Bulaya, Committee Assistant
Mr M Chikome, Parliamentary Messenger