

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE FIRST SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON 19TH OCTOBER 2011

Consisting of:

Mr C Mweetwa, MP (Chairperson); Mr M Mutelo, MP; Mr E J Muchima, MP; Mr G Kunda, SC, MP; Mr D Mwangi, MP; Mr D Phiri, MP; Ms M Lubezhi, MP; and Mr M Sichone, MP.

Following the Presidential appointments of Hon M Sichone and Hon E J Muchima to ministerial positions, Mr J Chishiba, MP and Mr A Sichula, MP were appointed to the membership of your Committee. At its first meeting, your Committee elected Mr G Kunda, S C, MP, as its Chairperson. However, Hon Kunda passed away, MHSRIP. Mr C Mweetwa, MP was eventually elected as Chairperson of your Committee.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

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

Functions of your Committee

2. Your Committee was guided in all its deliberations by the relevant Standing Orders which set 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 depend upon administrative decisions; and
- (d) be concerned only with administrative details 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 the decision of the House.

3 **Meetings of Your Committee**

Your Committee held nine (9) meetings during the period under review and considered a total of seventy seven (77) Statutory Instruments. Your Committee also undertook a local tour of Statutory Housing Areas in Lusaka and Kitwe.

Part I

CONSIDERATION OF STATUTORY INSTRUMENTS

4 **MINISTRY OF FINANCE AND NATIONAL PLANNING**

Statutory Instrument No. 5 of 2010 – The Value Added Tax (Zero-Rating) (Amendment) Order, 2010

The Statutory Instrument was to extend the zero-rating of accommodation in Livingstone City up to 31st December, 2010. The rationale was to realise the projected investments in tourism and also to allow for the rebound of the tourism sector after the shock of the financial and economic crises.

In 2000, the Government signed an investment agreement with Sun International for the development of tourism infrastructure in Livingstone. One of the terms in the agreement was the zero-rating of accommodation at the Sun Hotels International. Instead of zero-rating accommodation at Sun International Hotels only, the Government zero-rated accommodation in all hotels, lodges or similar establishments within Livingstone City. This incentive had been in place since 2001 to 2009 and Statutory Instrument No. 5 of 2010 extended to December, 2010, to help the sector during the aftershocks of the financial and economic crises.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument. However, your Committee wishes to learn whether the decision by Government not to extend the validity of Statutory Instrument No. 5 of 2010 has had an impact on the cost of accommodation in tourist facilities in Livingstone. To this effect, your Committee wishes to know the level of revenue which tourism operators in Livingstone have contributed to the national Treasury since the expiry of the Statutory Instrument compared to the time before its expiration. In addition, your Committee urges Government to consider zero-rating accommodation in other areas with tourism potential in an effort to promote the Tourism Industry in the country.

Statutory Instrument No. 12 of 2010 – The Income Tax (TAZAMA Petroleum Products Company Limited) (Approval of Exemption) Order, 2010

The Statutory Instrument was issued in order to ensure the continuous and efficient operation of the pipeline from Tanzania to Zambia. The objective was

to approve TAZAMA Petroleum Products Company Limited as an exempt entity and also exempt its income from tax.

The Governments of Tanzania and Zambia formed the Company, a subsidiary of TAZAMA Pipeline, in order to secure a sustainable and most efficient means of transporting fuel to Zambia. Over the years, TAZAMA Petroleum has made financial losses which has affected its capacity to continue facilitating the shipment of fuel to Zambia.

Due to Zambia's dependence on this pipeline, it was of paramount importance to ensure that there was no disruption in fuel transportation through the pipeline. In order to ensure continuous operations of TAZAMA Petroleum Products Company Limited and avert the potential catastrophic consequences of fuel shortages, Government issued this Statutory Instrument.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 23 of 2010 – The Customs and Excise (Excise Duty) (Suspension) Regulations, 2010

The Statutory Instrument was issued to reduce excise duty on clear beer made from barley from 65 percent to 40 percent and clear beer made from sorghum from 35 percent to 20 percent in order to strengthen forward linkages between producers of barley and manufacturers of beer. Barley and sorghum are some of the ingredients used in the production of clear beer.

The rationale was to empower the local farmers by encouraging them to grow more barley and sorghum. Zambian Breweries partnered with farmers by giving them inputs and purchasing their produce, i.e., barley and sorghum. The reduction of excise duty on clear beer was expected to stimulate more production and create employment for more farmers.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 39 of 2010 – The Customs and Excise (Remission) (TGP Properties Limited) Regulations, 2010

The Statutory Instrument was issued in order to promote the development of infrastructure that would facilitate more commercial activities in the economy. The Government signed an Investment Promotion and Protection Agreement (IPPA) with TGP Properties Limited, the developers of Copperbelt City, to import requisite materials and equipment into the country free of taxes. This was to encourage the development of infrastructure to facilitate the conduct of business and other commercial activities. The investment was expected to contribute to transformation of the city by the provision of a world class

business infrastructure, thereby attracting international and reputable companies to further invest in the retail sector.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 40 of 2010 – The Customs and Excise (Remission) (Manda Hill Centre) Regulations, 2010

The Statutory Instrument was issued in order to promote the development of infrastructure that would facilitate more commercial activities in the country. The Government signed an Investment Promotion and Protection Agreement (IPPA) with Manda Hill Centre in which the parties agreed that the Centre was going to put up infrastructure in Lusaka and the Government would grant remission of duty on the required materials and equipment.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument and observes that its implementation has resulted in the expansion of Manda Hill Shopping Centre.

Statutory Instrument No. 43 of 2010 – The Income Tax (Sino Metals Leach Zambia Limited) (Rebate) Regulations, 2010

The Statutory Instrument was issued to facilitate the implementation of incentives which the Government agreed to provide under the investment agreement between the Government and Sino Metals Leach Zambia Limited. In 2005, Government signed an investment agreement with Sino Metals Leach Zambia Limited in which it was agreed that the Government would provide income tax incentives. Although the Investment Licence was issued during the same year, the legislation incentives were only provided in the Income Tax Act in 2008. Since the Government had committed to provide these incentives on the basis of which Sino Metals Leach Zambia Limited invested in Zambia, there was need to fulfil this commitment and avert any legal consequences.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 13 of 2011 – The Customs and Excise (Suspension) (Fuel) Regulations, 2011

The Statutory Instrument was issued to suspend customs duty on petrol, diesel and kerosene to free and excise duty on petrol to 10 percent for the period 1st January to 31st December 2011. The rationale was to replenish the stocks of fuel which were depleted during the period INDENI Oil Refinery was shut down for routine repairs and maintenance. Further, the piece of legislation was aimed at enabling the Ministry of Energy and Water Development to start early

on building stocks in preparation for the 2011 scheduled shutdown of the refinery for maintenance planned for 1st September 2011 in order to avert fuel shortages similar to those experienced in the past.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument. Your Committee however, wishes to know the impact which the suspension of customs duty on petrol, kerosene and diesel had on the national Treasury during the period it was in effect.

Statutory Instrument No. 33 of 2011 – The Income Tax (Tax Clearance) (Exemption) Regulations, 2011

The Income Tax Act provides that a person, partnership, institution, organisation or association could not transact with a supplier of goods or services unless the supplier produced a tax certificate issued by the Commissioner General. However, the Act further provides that where maize of a value not exceeding ten million kwacha per transaction was supplied, the supplier was not required to produce a tax clearance certificate.

This measure was intended to extend the ten million kwacha threshold to all agricultural products other than maize as it had been noted that most of the small scale businesses in the country were in the agriculture sector. The exemption was expected to help ease the burden associated with the requirement to produce a tax clearance certificate suffered by small scale businesses in the agriculture sector.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 34 of 2011 – The Income Tax (China-Africa Development Fund) (Approval and Exemption) Order, 2011

The Statutory Instrument was issued with regard to income tax exemption for China-Africa Development Fund and the emoluments payable to any foreign employee. This was in line with the Agreement signed between the Government and China-Africa Development Fund.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 35 of 2011 – The Income Tax (Foreign Personnel) (Approval and Exemption) Order, 2011

The Statutory Instrument was issued with regard to emoluments payable to foreign employees temporarily employed in the Republic of Zambia.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 45 of 2011 – The Customs and Excise (Suspension) (Fire-fighting Equipment) Regulations, 2011

The Statutory Instrument was issued in order to remove customs duty on fire-fighting equipment in order to reduce costs and improve fire safety and compliance in the country. For a long time, the country had faced a number of challenges regarding efficient response to putting out fires in order to save property and lives.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 47 of 2011 – The Customs and Excise (General) (Amendment) Regulations, 2011

The Statutory Instrument was issued in order to specify the mining equipment eligible for tax exemption. Prior to the issuance of the Statutory Instrument, the law provided for exemption on dump-trucks and this allowed dump-trucks in general to be cleared under the line and, therefore, not achieving the intended purposes which was to provide for off-highway dumping trucks used in the mining sector. Therefore, the rationale behind the issuance of the Statutory Instrument was to provide for exemption of off-highway dumping trucks and not dump-trucks in general.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 62 of 2010 – The Loans and Guarantees (Authorisation) (Delegation of Functions) Order, 2010

The Statutory Instrument was issued to facilitate the signing of a Financing Agreement between the Republic of Zambia and the Arab Bank for Economic Development. The Minister of Finance and National Planning, in exercise of the powers contained in Section 27 of the *Loans and Guarantees (Authorisation) Act*, delegated the authority to sign the Agreement to Lieutenant General H R C Simutowe, who was at the time serving as Ambassador to Egypt.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 119 of 2011 – The Customs and Excise (General) (Amendment) (No. 4) Regulations, 2011

The Statutory Instrument was issued in order to introduce the examination fee on goods requiring physical or digital imaging examination at importation or exportation.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 85 of 2011 – The Property Transfer Tax (Exemption) Order, 2011

The Statutory Instrument was issued to facilitate the reorganisation of China Non-Ferrous Mining (Group) Ltd (CNMC)’s shareholding interests in NFC Africa Mining PLC, CNMC Luanshya Copper Mines PLC, Chambeshi Copper Smelter Limited and Sino Metal Leach Zambia Limited for purposes of listing at the Hong Kong Stock Exchange. It was envisaged that the listing would help raise funds for further investment in Zambia.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument. Your Committee wishes to know whether this measure has yielded positive increase in investments for the country.

5 **MINISTRY OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATION**

Statutory Instrument No. 25 of 2010 – The National Council for Construction (Forms and Fees) (Amendment) Regulations, 2010

The Statutory Instrument was issued in a bid to provide better service for the National Council for Construction’s (NCC) stakeholders and see how the system of registering contractors could be improved and enhanced. To this effect, the NCC in consultation with the stakeholders revised the registration criteria and application forms. Previously there were complaints that the requirements for renewal of registration were tedious and repetitive. The previous registration forms required contractors to submit all their particulars including their personnel, plant and equipment, which information was already captured in the NCC database.

The new criteria and forms were intended to reduce the amount of paperwork that contractors renewing and upgrading their registration certificates needed to submitted. The review in the application forms also incorporated the increment in the NCC annual fees which resulted in foreign contractors paying more than the Zambian contractors.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 29 of 2010 – The Information and Communication Technologies (National Numbering) Regulations, 2010

The Statutory Instrument was issued to facilitate the administration of the *Information and Communication Technologies Act No. 15 of 2009*. The National Numbering Plan Regulations prescribed the framework for administering the number resource to ensure efficient use and allocation of numbers in the delivery of information and communication technology services.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 55 of 2010 – The Engineering Institution of Zambia Act (Commencement) Order, 2010

The Statutory Instrument was issued to bring into force the *Engineering Institution of Zambia Act No. 17 of 2010*.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Commencement Order.

6 ELECTORAL COMMISSION OF ZAMBIA

Statutory Instrument No. 45 of 2010 – The National Assembly By-Elections (Chifubu Constituency No. 034 and Luena Constituency No. 142) (Election Dates and Times of Poll) Order, 2010

The Statutory Instrument was issued to provide for the nomination, polling date and time of Parliamentary by-elections in Chifubu and Luena Constituencies for which nominations were held on Thursday 8th July, 2010 between 09:00 hrs and 15:00 hrs. The polls were held on Thursday 5th August, 2010 between 06:00 hrs and 18:00 hrs. These followed the death of Mr Benson Bwalya as Member of Parliament for Chifubu Constituency and the resignation of Mr Charles Milupi as Member of Parliament for Luena Constituency.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 74 of 2010 – The National Assembly By-Elections (Mpulungu Constituency No. 096) (Elections Dates and Times of Poll) (No. 3) Order, 2010

The Statutory Instrument was issued to provide for the nomination and polling date and time of the Parliamentary by-election in Mpulungu Constituency No. 096 for which nominations were set for Thursday 7th October, 2010 between 09:00 hrs and 15:00 hrs. The polls were set for Thursday 28th October, 2010 between 06:00 hrs and 18:00 hrs. This followed the death of Mr L Chibombamilimo, MP for Mpulungu Constituency.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 80 of 2010 – The National Assembly By-Election (Chilanga Constituency No. 72) (Election Dates and Times of Poll) (No. 4) Order, 2010

The Statutory Instrument was issued to provide for the nomination and poll date and times for the Parliamentary by-election in Chilanga Constituency No. 72 for which nominations were set for Monday 7th October, 2010 between 09:00 hrs and 15:00 hrs. The polls were set for Thursday 28th October, 2010. This followed the expulsion of Mr N Magande Member of Parliament for Chilanga from the Movement for Multi Party Democracy.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 84 of 2010 – The National Assembly By-Elections (Chilanga Constituency No. 72) (Mpulungu Constituency No. 96) (Election dates and Times of Poll) (No. 5) Order, 2010

The Statutory Instrument was issued to revoke Statutory Instruments No.s 74 and 80 of 2010 for the nomination and polling dates for Mpulungu Constituency No. 96 and Chilanga Constituency No. 72. The Statutory Instrument was also issued to provide for the nomination dates and times for the two constituencies which were set for Monday 7th October, 2010 while the poll dates were set for Saturday 30th October, 2010 between 06:00 hrs and 18:00 hrs.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 91 of 2010 – The National Assembly By-Elections (Chilanga Constituency No. 072) (Mpulungu Constituency No. 096) (Election Dates and Times) (No. 6) Order, 2010

The Statutory Instrument was issued to provide for the revision of the nomination dates and times of poll for Mpulungu Constituency No. 096 and Chilanga Constituency No. 072.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 93 of 2010 – The Electoral (Registration of Voters) (Suspension of Registration Period and Places) Order, 2010

The Statutory Instrument was issued to back the suspension of continuous voter registration in Mpulungu and Chilanga Constituencies and several wards prior to the by-elections poll date in the respective constituencies and wards.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 76 of 2011 – The Electoral (General Elections) (Date of Poll) (Declaration) Order, 2011

The Statutory Instrument was issued by former Republican President Mr Rupiah Bwezani Banda to declare the date of the General Election as 20th September, 2011.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 77 of 2011 – The Local Government Elections (Election Dates and Times of Poll) Order, 2011

The Statutory Instrument was issued to publish the date, time and place for Local Government By-Elections of councillors in wards. The instrument also guided on the date of nominations for the elections.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 86 of 2011 – The Electoral (Presidential Elections) (Amendment) Regulations, 2011

The Statutory Instrument was issued to amend Regulation 7 in the principal regulations to enable returning officers to immediately determine the validity of nominations received during nomination day.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 88 of 2011 – The National Assembly Elections (General Elections) (Election Dates and Times of Poll) Order, 2011

The Statutory Instrument was issued to provide for the nominations, campaign period, poll day and times for the National Assembly General Elections of 2011.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 89 of 2011 – The Electoral (General) (Amendment) Regulations, 2011

The Statutory Instrument was issued to amend the Electoral Regulation so as to:

- a) enable a returning officer to determine the validity of a nomination for election immediately after it is lodged;
- b) enable a returning officer to assist a voter with a physical disability who is on a voting queue to cast that voter’s vote promptly;
- c) enable assistant presiding officers to assist in the counting of ballot papers; and
- d) allow election agents, monitors or polling agents to counter sign election results announced or declared by returning officers.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 90 of 2011 – The Local Government Elections (Amendment) Regulations, 2011

The Statutory Instrument was issued to amend the Local Government Elections Regulations so as to:

- a) enable a returning officer to determine the validity of each nomination paper for a ward election;
- b) enable returning officers to assist voters with physical disabilities to vote promptly;
- c) empower a country assistant to assist in country ballot papers where a polling station has more than one voting stream; and
- d) empower election agents, polling agents and monitors, if present, to counter sign declared election results.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 92 of 2010 – The Local Government By-Elections (Election Dates and Times of Poll) (No. 5) Order, 2010

The Statutory Instrument was issued to publish the date, time and place for Local Government By-Elections of Councillors in wards and also to set the date of nominations for elections in accordance with Section 12 of the *Local Government Elections Act*, Cap 282 of the Laws of Zambia.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 12 of 2011 – The Local Government By-Elections (Election Dates and Times of Poll) Order, 2011

The Statutory Instrument was issued to set the date, time and places for Local Government by-elections of councillors in seven (7) wards in Copperbelt, Luapula, Northern and Southern Provinces. The instrument also set the date for nominations of candidates for the elections.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

7 **MINISTRY OF LOCAL GOVERNMENT AND HOUSING**

Statutory Instrument No. 3 of 2010 – The Local Government (Re-Appointment of Local Government Administrator) (Milenge District Council) Order, 2010

The Statutory Instrument was issued in respect of the re-appointment of the Local Government Administrator for Milenge District Council in accordance with Section 89 of the *Local Government Act*, Cap 281 of the Laws of Zambia.

The Administrator was re-appointed from the date of publication of the Order for a period of ninety (90) days.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 105 of 2010 – The Provincial and District Boundaries (Division) (Amendment) Order, 2010

The Statutory Instrument was issued in respect of the establishment of Ikelenge District in the North-Western Province by His Excellency the President of the Republic of Zambia.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 8 of 2011 – The Local Government (Appointment of Local Government Administrator) (Livingstone City Council) (Revocation) Order, 2011

The Statutory Instrument was issued in respect of the revocation of the appointment the Local Government Administrator for Livingstone City Council. The Administrator ceased to be administrator from the date of publication of the order. Further, the order provided for the reinstatement of the suspended Councillors from the date of publication.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 9 of 2011 – The Local Government (Establishment of Council) Order, 2011

The Statutory Instrument was issued in respect of the establishment of Ikelenge District Council.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 11 of 2011 – The Local Government (Appointment of Local Government Administrator) (Lusaka City Council) Order, 2011

The Statutory Instrument was issued in respect of the appointment of a Local Government Administrator for a period of ninety (90) days for Lusaka City Council following the suspension of Councillors.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 37 of 2011 – The Local Government (Re-Appointment of Local Government Administrator) (Lusaka City Council) Order, 2011

The Statutory Instrument was issued to re-appoint the Local Government Administrator for Lusaka City Council for a further period of ninety (90) days from the date of expiration of his appointment.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 42 of 2011 – The Provincial and District Boundaries (Division) (Amendment) Order, 2011

The Statutory Instrument was issued in respect of the establishment of Mafinga District in the Northern Province of Zambia by His Excellency the President of the Republic of Zambia.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 91 of 2011 – The Statutory Housing Area (Kamwala South) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing Area covering an area of land in extent of 267 hectares more or less being Stand No. 917 within the City of Lusaka Planning Authority.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 92 of 2011 – The Statutory Housing Area (Kamwala South) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing area covering an area of land in extent of 262 hectares more or less being Stand No. 1080 within the City of Lusaka Planning Authority.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 93 of 2011 – The Improvement Area (New Ipusukilo) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing Area covering an area of land in extent of 148.0077 hectares more or less being Stand No. 8740 within the City of Kitwe Planning Authority.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 94 of 2011 – The Statutory Housing Area (Chelstone) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing Area covering an area of land in extent of 88.0171 hectares more or less being Stand No. 37520 within the City of Lusaka Planning Authority.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 95 of 2011 – The Improvement Area (Chibolya) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing Area covering an area of land in extent of 46.0155 hectares more or less being Stand No. 20467 within the City of Lusaka Planning Authority.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 96 of 2011 – The Liquor Licensing (Permitted Hours) Regulations, 2011

The Statutory Instrument was issued to regulate the trading hours in respect of the supply and sale of intoxicating liquor in accordance with section fifty three of the *Liquor Licensing Act* of 2011.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument and its good intentions. Your Committee however, notes that these regulations are grossly violated and the local authorities seem incapable to enforce these regulations.

8 **MINISTRY OF LANDS, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**

Statutory Instrument No. 55 of 2011 – The Environmental Management (Appointed Date) Order, 2011

The Statutory Instrument was issued in accordance with the powers contained in paragraph 5 of the Second Schedule to the *Environmental Management Act* by the Minister of Tourism, Environment and Natural Resources in order to operationalise the Environmental Management Act No. 12 of 2011.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 41 of 2011 – The Lands (Ground Rent, Fees and Charges) (Amendment) Regulations, 2011

The Statutory Instrument was issued to allow the Government to charge higher fees, in exceptional cases, to non-Zambians to whom the Government has alienated land.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 44 of 2011 – The National Park No. 20 Lusaka (Declaration) Order, 2011

The Statutory Instrument was issued to create Lusaka National Park. This move was taken in order to create a park within a short distance from Lusaka to allow residents access to wildlife for purposes of encouraging local tourism and to also save the declared area from illegal encroachment and adverse activities like illegal charcoal burning, agricultural cultivation, mining, quarrying of sand and stones which degraded the forest area.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 20 of 2011 – The National Forest No. 28: Lusaka North (Ceasation) Order, 2011

The Statutory Instrument was issued in order to demarcate the National Forest No. 28 into plots and allocate them to; displaced residents of Ng’ombe Compound totalling 701; Forestry Department; Ministry of Youth and Sport; Football Association of Zambia; and Confederation of African Football.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

9 MINISTRY OF HOME AFFAIRS

Statutory Instrument No. 2 of 2010 – The Immigration and Deportation (Amendment) Regulations, 2010

The Statutory Instrument was issued to regulate the various activities that are carried out by the Immigration Department such as issuance of permits, notices and warrants in a prescribed manner and to ensure the full implementation of the new *Immigration and Deportation Act* No. 18 of 2010

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

10 MINISTRY OF INFORMATION, BROADCASTING AND LABOUR

Statutory Instrument No. 98 of 2010 – The National Pension Scheme (Pensionable Earnings) Regulations, 2010

The Statutory Instrument was issued to adjust the levels of pensionable earnings by an index based on national average earnings. The national average earnings were determined annually by the National Pensions and Scheme Authority (NAPSA) by applying statistics and data compiled by the Central Statistical Office.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instruments No.s 1, 2, and 3 of 2011 – Revision of Minimum Wages and Conditions of Employment

Your Committee requested the Ministry of Labour, Youth and Sport to appear before it to shed more light on the three Statutory Instruments.

In his submission, the Permanent Secretary, Ministry of Labour, Youth and Sport submitted that the *Minimum Wages and Conditions of Employment Act*, Cap 276 of the Laws of Zambia grants powers to the Minister of Labour to issue Statutory Instruments that stipulate minimum wages to protect against erosion of decent wages and conditions of employment for vulnerable workers such as those with no union representation, not in management positions and those not on contracts. This is because this category of workers is at risk of being exploited by employers.

In 2011, under Statutory Instruments No. 1 and 2 (General Order and Shop Workers, respectively), the Minimum Wages and Conditions of Employment for

General Workers and Shop Workers were revised upwards to the current levels. In addition, a Statutory Instrument No. 3 of 2011 was issued to protect domestic workers.

Revision of the current minimum wages

Considering the current minimum wages of K419,000 (General Order and Shop Workers) and K250,000 (Domestic Workers) in comparison to the cost of living, His Excellency the Republican President directed that these figures be reviewed to enable the concerned workers earn more decent incomes.

Following the directive, the Ministry of Labour, Youth and Sport initiated the process of reviewing the statutory instruments. A Tripartite Consultative Labour Council (TCLC) meeting was convened on 21st December 2011 at which, among other things, the review of minimum wages was discussed. However, before the Minister of Labour could announce the new Minimum Wages and Conditions of Employment, Cabinet needed to be informed about the details of the revised statutory instruments. In this regard, a Cabinet Memorandum was prepared and submitted to Cabinet Office. The Ministry had been informed that Cabinet Office had processed the matter and that it would soon come up for discussion before Cabinet.

Committee's Observations and Recommendations

Your Committee notes the submission and hopes that the process to revise the minimum wage and improvement of conditions of service for workers in the country will be expedited.

11 MINISTRY OF MINES, ENERGY AND WATER DEVELOPMENT

Statutory Instrument No. 100 of 2010 – The Mines and Minerals Development (Mining Rights and Non-Mining Rights) Order, 2010

The Statutory Instrument was issued to extend the compliance period for holders of mining and non-mining licences from 1st October, 2010 to 30th September, 2011. This was due to the low compliance levels especially among holders of small mining licences.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 82 of 2011 – The Water Board (Charges and Fees) (Amendment) Regulations, 2011

The Statutory Instrument was issued for the purpose of excluding hydropower companies from paying water charges on a volumetric basis as was provided for under Statutory Instrument No. 20 of 1993.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 83 of 2011 – The Water Board (Generation of Hydropower) (Amendment) Regulations, 2011

The Statutory Instrument was issued to provide a mechanism through which hydropower companies are charged for the amount of energy they generate using water. The system of charging for the energy they use rather than the amount of water they use is common practice worldwide.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 57 of 2011 – The Petroleum (Exploration and Production) (National Petroleum Company) Regulations, 2011

The Statutory Instrument was issued in order to enable the Minister responsible for Mines to execute functions relating to the National Petroleum Company.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

12 **MINISTRY OF COMMUNITY DEVELOPMENT, MOTHER AND CHILD HEALTH**

Statutory Instrument No. 10 of 2011 – The Non-Governmental Organisations' Act (Commencement) Order, 2011

The Statutory Instrument was issued to bring into force the *Non-Governmental Organisations' Act* No. 16 of 2009.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

13 **MINISTRY OF JUSTICE**

Statutory Instrument No. 75 of 2011 – Proclamation No. 1 of 2011, The Constitution of Zambia, Dissolution of Parliament

The Statutory Instrument was issued to dissolve Parliament and facilitate the holding of General Elections in 2011.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 107 of 2011 – Proclamation No. 2 of 2011, The Constitution of Zambia, First Session of the Eleventh Parliament

The Statutory Instrument was issued by the President of the Republic of Zambia, His Excellency Mr Michael Chilufya Sata to summon the new Parliament after the General Elections of 2011.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

14 **MINISTRY OF COMMERCE, TRADE AND INDUSTRY**

Statutory Instrument No. 49 of 2010 – The Zambia Development Agency (Sub-Sahara Gemstone Exchange Industrial Park) (Declaration) Order, 2010

The Sub Sahara Gemstone Exchange Industrial Park was declared an Industrial Park by the Zambia Development Agency Act, in May 2010, through Statutory Instrument No.49 of 2010. The Industrial Park is being developed and managed by a wholly Zambian owned company, Phoenix Materials Limited.

Your Committee requested the Ministry of Commerce, Trade and Industry to provide clarity on the following:

- i. Progress that had been made on works at the Sub-Sahara Gemstone Exchange such as power installation, roads, residential and other developments since the Committee's tour in 2011 and;
- ii. What sanctions, if any have been meted on the previous investor who vandalized the infrastructure at the Sub-Sahara Gemstone Exchange.

The Permanent Secretary, Ministry of Commerce, Trade and Industry submitted as set out hereunder.

i. Progress made at the Sub-Saharan Gemstone Exchange

Since the last visit by the Committee, the Ministry, through the Zambia Development Agency undertook two visits on the Sub-Sahara Gemstone Exchange Industrial Park. On both occasions, nothing tangible was evidenced in terms of developments. It was evident that the developer was facing some challenges in the marketing of the Park in view of the limited infrastructure developed. Only two enterprises were currently operating in the Park.

In this regard, the Developer was requested to address the infrastructure challenges and should consider inviting the Zambia Development Agency (ZDA) to acquire space to set up incubation facilities for Micro, Small and Medium Enterprises.

- ii. **What sanctions, if any have been meted on the previous investor who vandalized the infrastructure at the Sub-Sahara Gemstone Exchange**

According to information made available to the Ministry by the developer, no investor under the Sub-Sahara Gemstone Exchange Industrial Park vandalized infrastructure. The infrastructure was acquired from the liquidator in a dilapidated state. No sanctions have been meted on the previous owners of the premises.

Committee’s Observations and Recommendations

Your Committee notes the submission and urges the Ministry of Commerce, Trade and Industry to ensure that investors in the Industrial Park implement their investment obligations.

Statutory Instrument No. 68 of 2011 – The Registration of Business Names (Amendment) Regulations, 2011

The Statutory Instrument was issued to prescribe the procedure, forms and fees payable in relation to registration of business names and matters incidental thereto.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument. Your Committee however notes that the title of the Statutory Instrument has typographical errors on the words “business” and “amendments”.

15 **MINISTRY OF AGRICULTURE AND LIVESTOCK**

Statutory Instrument No. 18 of 2011 – The Veterinary and Veterinary Para-Professions Act (Commencement) Order, 2011

The Statutory Instrument was issued to bring into force the *Veterinary and Veterinary Para-Professions Act* No. 45 of 2010.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 19 of 2011 – The Dairy Industry Development Act (Commencement) Order, 2011

The Statutory Instrument was issued to bring into force to the *Dairy Industry Development Act* No. 19 of 2011.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

16 MINISTRY OF EDUCATION, SCIENCE, VOCATIONAL TRAINING AND EARLY EDUCATION

Statutory Instrument No. 97 of 2010 – The Education (District Education Board) (Establishment) Order, 2010

The Statutory Instrument was issued to establish Ikelenge District Education Board in North-Western Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 39 of 2011 – The Education (District Education Board) (Establishment) Order, 2011

The Statutory Instrument was issued to establish Mafinga District Education Board in Muchinga Province.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 38 of 2011 – The Education (High School Boards) (Establishment) Order, 2011

The Statutory Instrument was issued to establish high school boards in Central, Copperbelt, Luapula, North-Western, Western and Southern Provinces.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

Statutory Instrument No. 14 of 2011 – The Education (Secondary Schools) Order, 2011

The Statutory Instrument was issued to establish five (5) secondary schools in Northern Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

17 **MINISTRY OF FOREIGN AFFAIRS AND TOURISM**

Statutory Instrument No. 73 of 2011 – The Diplomatic Immunities and Privileges (Levy Patrick Mwanawasa Regional Centre for Democracy and Good Governance) Order, 2011

The Statutory Instrument was issued for the purpose of conferring diplomatic status on the Levy Patrick Mwanawasa Regional Centre for Democracy and Good Governance which hosts the Regional Centre for Promotion of Democracy, Good Governance, Human Rights and Civic Education under the International Conference on the Great Lakes Region (IC/GLR). The Centre is housed at New Government Complex seventh floor.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No. 72 of 2011 – The Diplomatic Immunities and Privileges (World Fish Centre) Order, 2011

The Statutory Instrument was issued to confer diplomatic status on the World Fish Centre, an international, non-profit scientific research and technical centre which conducts, stimulates and accelerates research on fisheries and other living aquatic resources with the mission of reducing poverty and hunger through improving fisheries and aquaculture in developing countries. The Centre is next to the Turkish Embassy in Longacres.

Committee’s Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

18 **MINISTRY OF DEFENCE**

Statutory Instrument No. 123 of 2011 – The Defence (Regular Forces) (Officers) (Amendment) Regulations, 2011

The Statutory Instrument was issued in order to harmonise the mandatory retirement age of fifty five (55) years as was provided for under the Defence (Regular Forces) (Officers) Regulations with the substantive provisions of the *Public Service Pensions Act Cap 260* of the Laws of Zambia to avoid the misinterpretation of the mandatory retirement age.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

MINISTRY OF CHIEFS AND TRADITIONAL AFFAIRS**Statutory Instrument No. 122 of 2011 – The Chiefs (Recognition) (No. 9) Order, 2011**

The Statutory Instrument was issued in order to recognise Mr Bob Bwembya Luo as Chief Chibesakunda of the Bisa people of Chinsali District in Muchinga Province.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No 8 of 2010-The Chiefs (Recognition) (No. 2) Order 2010

The Statutory Instrument was issued to recognize Mr Fanwell Chikalakasa of Chiyuni area as new Chief Chitanda of the Lenje people of Chibombo District in Central Province.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instrument No 63 of 2010-The Chiefs (Recognition) (No. 7) Order 2010

The Statutory Instrument was issued to recognize Mr Loni Livingi Kalunga of Upper Mumbenji area as new Chief Kalunga of the Luchazi people of Kabompo District in North-Western Province.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instruments No 27 of 2011-The Chiefs (Recognition) Order 2010

The Statutory Instrument was issued to recognize Mr Bothwell Sialeka of Chaboola area as new Chief Simwatachela of the Tonga People of Kalomo District in Southern Province.

Committee’s Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instruments No 28 of 2011-The Chiefs (Recognition) (No. 2) Order 2010

The Statutory Instrument was issued to recognize Mr Mike Mutumba Kachuule of Basanga Luubwe area as new Chief Musungwa of the Ila People of Itezhi-tezhi District in Southern Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

Statutory Instruments No 29 of 2011-The Chiefs (Recognition) (No. 3) Order 2010

The Statutory Instrument was issued to recognize Mr Benson Kasongo Shapi of Kalanga area as new Chief Chimese of the Ushi People of Mansa District in Luapula Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument.

PART II

20. **Local Tours for the First Session of the Eleventh National Assembly**

1. **The Statutory Housing Areas (Kamwala South) (Declaration) Order, 2011**

The Statutory Instruments No.s 91 and 92 were issued in respect of the declaration of the Statutory Housing Areas covering an area of land in extent of 267 and 262 hectares, respectively, more or less on Stand No.s 917 and 1080 in Lusaka City.

Your Committee wished to know whether the said land was within the jurisdiction of the Lusaka City Council and was held in simple fee or leasehold or grant. Your Committee also wished to know whether the said land had valid plans which were duly approved by the Surveyor-General and included; the name and description by which the Statutory Housing Area was known or was to be known; the existing roads, if any; the roads proposed to be constructed; the existing areas for common user; the proposed areas for common user; the area and dimensions of each piece or parcel of land identified by a serial number.

Findings of the Committee

Survey Map of the Area

Your Committee found that the Stand No.917 Kamwala South was duly surveyed and plans were duly approved. There was however, an area which was earmarked for a play park which had been illegally occupied without

Lusaka City Council's approval. The occupiers of the land had since developed their plots and to date, the Council had still not approved the settlements.

In Stand No. 1080, your Committee was informed that the settlements were illegal and that the Council was working towards legalizing the settlements in due course.

Name of Area

The area was duly named Kamwala South.

Existing Roads

The roads in Kamwala South, although demarcated and graded, were not marked with signs and names. The roads were also in very bad state and in some instances encroached.

Proposed Roads

Your Committee did not find any new proposed roads.

Area and Dimensions of Demarcated Plots and Serial Numbers

The plots were duly demarcated and had serial numbers except for the illegal plots in Stand No. 1080.

2. The Statutory Housing Area (Chelstone) Declaration, Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Statutory Housing Area covering an area of land in extent of 88.0171 hectares more or less in Stand No. 37520 in Lusaka City.

Your Committee wished to know whether the said land was within the jurisdiction of the Lusaka City Council and was held in simple fee or leasehold or grant. Your Committee further wished to know whether the said land had valid plans which were duly approved by the Surveyor-General and included; the name and description by which the Statutory Housing Area was known or was to be known; the existing roads, if any; the roads proposed to be constructed; the existing areas for common user; the proposed areas for common user; the area and dimensions of each piece or parcel of land identified by a serial number.

Findings of the Committee

Survey Map of the Area

The area was duly surveyed and approved.

Name of Area

The area was duly named Chelstone.

Existing Roads

There were existing roads in both gravel and tar.

Proposed Roads

There were no proposed roads.

Area and Dimensions of Demarcated Plots and Serial Numbers

The plots were duly demarcated and had serial numbers except for an area near the small market which did not fall under the jurisdiction of the Council.

3. The Improvement Area (Chibolya) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Improvement Area covering an area of land in extent of 46.0155 hectares more or less in Stand No. 20467 in Lusaka City.

Your Committee wished to know whether the said land was within the jurisdiction of the Lusaka City Council and was held in simple fee or leasehold or grant. Your Committee further wished to know whether the said land had valid plans which were duly approved by the Surveyor-General and included; the name and description by which the Improvement Area was known or was to be known; the existing roads, if any; the roads proposed to be constructed; the existing areas for common user; the proposed areas for common user; the area and dimensions of each piece or parcel of land identified by a serial number.

Findings of the Committee**Survey Map of the Area**

Your Committee was informed that Chibolya is an unplanned settlement and was not surveyed.

Name of Area

Although it is an illegal settlement, Chibolya is duly named.

Existing Roads

Your Committee found that Chibolya had gravel roads which were even recently graded. The roads were in a bad state.

Proposed Roads

Your Committee did not find any proposed roads.

Area and Dimensions of Demarcated Plots and Serial Numbers

The boundary of the area was surveyed. However, Chibolya had no legally demarcated plots. The owners of the structures were however, given occupancy licences.

4. The Improvement Area (New Ipusukilo) (Declaration) Order, 2011

The Statutory Instrument was issued in respect of the declaration of the Improvement Area covering an area of land in extent of 148.0077 hectares more or less in Stand No. 8740 in Kitwe City.

Your Committee wished to know whether the said land was within the jurisdiction of the Kitwe City Council and was held in simple fee or leasehold or grant. Your Committee further wished to know whether the said land had valid plans which were duly approved by the Surveyor-General and included; the name and description by which the Improvement Area was known or was to be known; the existing roads, if any; the roads proposed to be constructed; the existing areas for common user; the proposed areas for common user; the area and dimensions of each piece or parcel of land identified by a serial number.

The areas toured were the Old Ipusukilo, which was an unplanned settlement and the New planned Ipusukilo.

Findings of the Committee

Survey Map of the Area

Both areas had been surveyed and mapped.

Name of Area

The area was duly named Ipusukilo.

Existing Roads

There were very bad existing roads in the unplanned Ipusukilo which were barely passable with extremely bad sanitation.

Proposed Roads

The proposed roads in new Ipusukilo were yet to be worked on although they had already been surveyed.

Area and Dimensions of Demarcated Plots and Serial Numbers

The dimensions of the areas and serial numbers were already done and approved.

Committee's Observations and Recommendations

Your Committee is saddened that the illegal encroachment of land resulting into unplanned settlement has continued for a long time and is still prevalent. This has been attributed to the situation when the land agency was taken away from local authorities and taken back to the Commissioner of Lands in the Ministry of Lands, which was the principal authority for land allocation in Zambia.

The illegal encroachment has been exacerbated by the unfortunate political interference at all levels in land administration.

Your Committee recommends that this matter be revisited to find an amicable solution to ensure equity in land allocation and the control and eradication of illegal encroachment.

21 **Conclusion**

Your Committee, Mr Speaker, would like to express its appreciation to you for the wise counsel and direction given to it during the First Session of the Eleventh National Assembly.

Your Committee also wishes to thank all the witnesses who submitted memoranda to it thereby providing the basis for it to make informed decisions on the issues before it.

Lastly, your Committee wishes to express its appreciation for the services rendered by the Office of the Clerk of the National Assembly throughout its deliberations.

C Mweetwa, MP
CHAIRPERSON

June 2012
LUSAKA