

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE SECOND SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON 26TH SEPTEMBER 2012

Consisting of:

Mr C Mweetwa, MP (Chairperson); Ms M Lubezhi, MP; Mr J E S Chishiba, MP; Mr I K Banda, MP; Mr A Sichula, MP; Mr B Mutale, MP; Mr A D Mbewe, MP; and Mr M Mutelo, MP. The membership of your Committee was reduced to seven (7) following the resignation of Mr J E S Chishiba, MP, as the Member of Parliament for Kafulafuta.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee has the honour to present its Report for the Second 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 nine (9) meetings during the period under review and considered a total of twenty-one (21) statutory instruments. Your Committee also undertook a local tour of Lusaka, Ndola, Kitwe, Mufulira and Lufwanyama Districts.

PART I

CONSIDERATION OF STATUTORY INSTRUMENTS

4. MINISTRY OF LOCAL GOVERNMENT AND HOUSING

STATUTORY INSTRUMENT NO. 14 OF 2012 – THE LOCAL GOVERNMENT (APPOINTMENT OF LOCAL GOVERNMENT ADMINISTRATOR (SIAVONGA DISTRICT COUNCIL) ORDER, 2012

The statutory instrument was issued to recognise the appointment of the Local Government Administrator for Siavonga District Council.

COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 88 of the *Local Government Act, Cap 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 41 OF 2012 – THE LOCAL GOVERNMENT (ESTABLISHMENT OF DISTRICTS) ORDER, 2012

The statutory instrument was issued to formalise the creation and establishment of new district councils as follows:

DISTRICT	COUNCIL
Chikankata	Chikankata District Council
Chilanga	Chilanga District Council
Chirundu	Chirundu District Council
Lunga	Lunga District Council
Mulobezi	Mulobezi District Council
Nsama	Nsama District Council
Sinda	Sinda District Council
Vubwi	Vubwi District Council

COMMITTEE’S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 3 of the *Local Government Act, Cap 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO.75 OF 2012 – THE LOCAL GOVERNMENT (ESTABLISHMENT OF DISTRICTS) ORDER, 2012

The Ministry of Local Government and Housing submitted that the statutory instrument was issued to formalise the creation and establishment of new district councils as follows:

DISTRICT	COUNCIL
Chembe	Chembe District Council
Chipili	Chipili District Council
Mwansabombwe	Mwansabombwe District Council
Pemba	Pemba District Council
Rufunsa	Rufunsa District Council
Shibuyunji	Shibuyunji District Council
Zimba	Zimba District Council

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the statutory instrument as it is provided for under section 3 of the *Local Government Act, Cap 281* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 23 OF 2012 – THE LIQUOR LICENSING (INTOXICATING LIQUOR) (QUANTITIES AND PACKAGING) REGULATIONS, 2012

The statutory instrument was issued to regulate the packaging of intoxicating liquor in plastics, polythene etc, in compliance with section 53 of the *Liquor Licensing Act No. 20 of 2011*. The statutory instrument also provides for the recommended packaging of the various types of liquor. Further, the statutory instrument prohibits the manufacture, importation, etc of certain intoxicating liquor such as 'Tujilijili'.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the statutory instrument as it is provided for under section 53 of the *Liquor Licensing Act No. 20 of 2011*. However, your Committee observes that the statutory instrument came into effect without any consideration to compensate the affected traders and manufacturers for the loss of business.

Your Committee also observes that the statutory instrument allows hotels and aircrafts to stock alcoholic beverages when packaged in quantities similar to those of the infamous 'tujilijili'. To this effect, your Committee wishes to know the rationale behind this exemption.

STATUTORY INSTRUMENT NO. 20 OF 2012 – THE LOCAL GOVERNMENT (BUSINESS LEVY) (AMENDMENT) REGULATIONS, 2012

The statutory instrument was issued to amend Statutory Instrument No. 70 of 2011 and provide for all the necessary definitions and repeal and replacement of the fee schedule accordingly.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

STATUTORY INSTRUMENT NO. 1 OF 2012 – THE CHIEFS (RECOGNITION) ORDER, 2012

The statutory instrument was issued to recognise Ms. Ireen Mbuyu Imwiko of Nalolo as new Senior Chieftainess Litunga-La Mboela of the Lozi People of Senanga District of Western Province. This was after she was elected by the Electoral College in accordance with the traditions and customs obtaining in the area.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 3 of the *Chiefs Act, Cap 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 9 OF 2012 – THE CHIEFS (RECOGNITION) ORDER, 2012

The statutory instrument was issued to recognise Mr. Hedley Chibuluma of Lusaka as new Chief Chibuluma of the Ila people of Mumbwa District in Central Province. This was after he was elected by the Electoral College in accordance with the traditions and customs obtaining in the area.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 3 of the *Chiefs Act, Cap 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 10 OF 2012 – THE CHIEFS (RECOGNITION) ORDER, 2012

The statutory instrument was issued to recognise Mr. Kafula Maxwell Mucheleka of Ituna-Kasenga as new Chief Chikwanda of the Bemba people of Mpika District in Muchinga Province. This was after he was elected by the Electoral College in accordance with the traditions and customs obtaining in the area.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 3 of the *Chiefs Act, Cap 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 25 OF 2012 – THE CHIEFS (RECOGNITION) ORDER, 2012

The statutory instrument was issued to recognise Mr. Jeremiah Mutambo of Utamba as new Chief Katyetye of the Tambo people of Isoka District in Muchinga Province. This was after he was elected by the Electoral College in accordance with the traditions and customs obtaining in the area.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the statutory instrument as it is provided for under section 3 of the *Chiefs Act, Cap 287* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 79 OF 2012 – THE PROVINCIAL AND DISTRICT BOUNDARIES (DIVISION) (NO. 3) (AMENDMENT) ORDER, 2012

The statutory instrument was issued to adhere to the provisions of the *Provincial and District Boundaries Act, Cap 286* of the Laws of Zambia which vests powers in the President of the Republic of Zambia to create districts. This was also in line with the Decentralisation Policy which is meant to devolve the presence of the Government closer to the people. The boundary descriptions of the following districts were aligned appropriately:

- Chipili District;
- Mwense District;
- Choma District;
- Kalomo District;
- Pemba District;
- Siavonga District; and
- imba District.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the statutory instrument as it is provided for under section 2 of the *Provincial and District Boundaries Act, Cap 286* of the Laws of Zambia.

5. **MINISTRY OF AGRICULTURE AND LIVESTOCK**

STATUTORY INSTRUMENT NO. 8 OF 2012 – THE VETERINARY AND VETERINARY PARA-PROFESSIONS ACT (COMMENCEMENT) ORDER, 2012

The statutory instrument was issued against the background that in 2010, the Government of the Republic of Zambia, through Parliament, repealed the Veterinary Surgeons Act No. 243 of 1964 to provide for the enactment of the *Veterinary and Veterinary Para-Professions Act No.45 of 2010*. It was necessary to enact the new law as the Veterinary Surgeons Act was enacted over forty (40) years ago and had many short comings which would have made the regulation of the veterinary profession and the livestock industry difficult.

It was also important to provide for the establishment of the Veterinary Association of Zambia and renaming of the Board of Veterinary Surgery as the Veterinary Council of Zambia. This allows the registration and participation of other professionals other than veterinary surgeons in the delivery of veterinary services.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

STATUTORY INSTRUMENT NO. 36 OF 2012 – THE CONTROL OF GOODS (IMPORT AND EXPORT) (AGRICULTURE) (PROHIBITION OF EXPORT) ORDER, 2012

The statutory instrument was issued to ban the exportation of maize and wheat bran. The ban was necessitated by various stakeholders' concerns that local livestock farmers were facing difficulties in acquiring bran for their farm use. The stakeholder observed that this situation was negatively affecting livestock production in the country as it was creating an artificial shortage, thereby raising the price of maize and wheat bran, which in turn led to increased cost of livestock production and resulted in high prices of livestock products on the domestic market.

The statutory instrument was revoked on 3rd October, 2012 after the millers indicated that the price for the two commodities had normalised.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument as it is provided for under section 3 of the *Control of Goods Act, Cap 421* of the Laws of Zambia.

6. **MINISTRY OF MINES, ENERGY AND WATER DEVELOPMENT**

STATUTORY INSTRUMENT NO. 34 OF 2012 – THE MINES AND MINERALS DEVELOPMENT (GENERAL) (AMENDMENT) REGULATIONS, 2012

The statutory instrument was issued to monitor mining companies' compliance with the requirement to give preference to Zambian products and services, employment of Zambians to the maximum extent possible and to the promotion of local business development.

Although section 13 of the *Mines and Minerals Development Act of 2008* provided that all holders of mining rights issued under the Act should give preference to Zambians in employment, the lack of regulations to enforce the provision had not effected the provision. The statutory instrument was meant to enable the Government to enforce the provision thereby benefitting from the mining sector.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

STATUTORY INSTRUMENT NO. 32 OF 2012 – THE ZAMBEZI RIVER AUTHORITY (KARIBA DAM WALL) (AMENDMENT) BY LAW, 2012

The statutory instrument was issued to enable Zambezi River Authority to charge fees for use of the Kariba Dam wall by drivers of light motor vehicles, heavy motor vehicles, vehicles carrying abnormal loads or buses, as set out here under.

Vehicle Fee

1. Light Motor Vehicle (under 3 tonnes): US\$ 1
2. Buses (public service vehicle 7 passengers or more): US\$ 5
3. Heavy Motor Vehicles (3-56 tonnes, axle load below 11 tonnes per axle): US\$ 30
4. Abnormal Load Vehicle (gross mass over 56 tonnes, axle load below 11 tonnes per axle): US\$ 50

The Zambezi River Authority had entered into an agreement with the Zambia Revenue Authority (ZRA) and the Zimbabwe Revenue Authority (ZIMRA) to collect the fees on its behalf, considering the fact that the Authority was being managed by the two countries.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

STATUTORY INSTRUMENT NO. 19 OF 2012 – THE WATER RESOURCES MANAGEMENT ACT (COMMENCEMENT) ORDER, 2012

The statutory instrument was issued to improve the legal and institutional framework for the water resources management sub-sector by repealing and replacing the old *Water Act of 1949*. It was expected that the overall impact of the transformation in water resources management in Zambia would be positive and would bring the much needed effectiveness, co-ordination and efficiency, an area that had been neglected for a long time.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

7. OFFICE OF THE VICE-PRESIDENT

STATUTORY INSTRUMENT NO. 39 OF 2012 – THE DISASTER MANAGEMENT (NATIONAL DISASTER MANAGEMENT COUNCIL) REGULATIONS, 2012

The statutory instrument was issued to make regulations which would guide the procedures, meetings and quorum for the National Disaster Management Council. Furthermore, the Regulations also prohibit the publication and disclosure of any information discussed during the Council meeting to any unauthorised persons. It also provides for penalties for failure to adhere to this provision.

The Regulations also provides for immunity for any act or thing done or omitted in good faith in the exercise or performance or purported exercise or performance of any of the powers, functions or duties conferred under the regulations.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

STATUTORY INSTRUMENT NO. 40 OF 2012 – THE DISASTER MANAGEMENT (QUALIFICATIONS OF NATIONAL CO-ORDINATOR) REGULATIONS, 2012

The statutory instrument was issued to provide the guidance on the appointment of the National Co-ordinator to head the Disaster Management and Mitigation Unit.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the statutory instrument as it is provided for under section 13 of the *Disaster Management Act of 2010*.

8. MINISTRY OF FINANCE

STATUTORY INSTRUMENT NO. 33 OF 2012 – THE BANK OF ZAMBIA (CURRENCY) REGULATIONS, 2012

The statutory instrument was issued to re-enforce the use of the Kwacha, which is Zambia's legal tender, in domestic transactions. Over the past years, the economy had experienced distortions, one of which was the management of the currency. There was excessive demand for foreign currency resulting from, some extent, the need to settle purely domestic transactions in foreign currency.

It was observed that a number of entities began to quote and demand to be paid in foreign currency for goods and services produced in Zambia. Payment in foreign currency for domestic transactions posed several challenges for economic management, particularly implementation of monetary policy.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the statutory instrument as it is provided for under section 57 of the *Bank of Zambia Act, Cap 360* of the Laws of Zambia. Your Committee notes that in spite of the good intention of the regulations to reinforce the use of the Kwacha in the economy, the penalties prescribed in the instrument i.e. imprisonment for up to ten years, are not only excessive, but unnecessary, and should, therefore, be removed.

STATUTORY INSTRUMENT NO. 78 OF 2012 – THE BANK OF ZAMBIA (CURRENCY) (AMENDMENT) REGULATIONS, 2012

The statutory instrument was issued to address and clarify concerns that were raised by various stakeholders regarding Statutory Instrument No. 33 of 2012, particularly on Regulations 2 and 4. The Statutory Instrument gave more clarity on the definition “Domestic transactions” and “Currency”. It also provides for new definitions such as “Bank” and “Financial institution” to provide more clarification on the application of Statutory Instrument No. 33 of 2012.

In addition, Regulation 2A has been inserted to provide for transactions to which the regulations did not apply such as international transactions, foreign currency loans, foreign currency deposits, loans, deposits, transactions involving foreign exchange, hedging instruments and employment contracts under section 4 of the *Diplomatic Immunities and Privileges Act*.

Under Regulation 4, the Statutory Instrument provides for the outlawing of indexation as a way of circumventing the provisions of Statutory Instrument No. 33 in addition to banning the use of foreign currency in quotation and payment for domestic transactions.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

9. MINISTRY OF COMMERCE, TRADE AND INDUSTRY

STATUTORY INSTRUMENT NO. 2 OF 2012 – THE STANDARDS (COMPULSORY STANDARDS) (DECLARATION) (AMENDMENT) ORDER, 2012

The statutory instrument was issued under the *Standards Act Cap 416* of the Laws of Zambia which gave authority to the Minister to declare compulsory standards on the recommendation of the Zambia Bureau of Standards.

The amendment was necessitated by the fact that stakeholders had raised concerns over the changes in the international standards on petrol. This was to include acceptable additives to unleaded petrol which was not initially there. The compulsory standards were being used to inspect and test the quality of petrol on the Zambian market, which would give confidence to both users and importers/suppliers of fuel.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument, as it is within the requirement of section 7 of the *Standards Act, Cap 416* of the Laws of Zambia.

STATUTORY INSTRUMENT NO. 3 OF 2012 – THE REGISTRATION OF BUSINESS NAMES (REGULATION), 2012

The statutory instrument was issued under the *Registration of Business Names Act No. 16 of 2011*.

The *Business Names Act* repeals and replaces the *Registration of Business Names Act Chapter 381* of the Laws of Zambia. The statutory instrument contains regulations for the Act and prescribes the procedures, forms, and fees payable in relation to the registration of business names and matters incidental thereto.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

Your Committee notes the issuance of the Statutory Instrument.

PART II

10. LOCAL TOUR REPORT

Your Committee undertook a local tour to Lusaka, Ndola, Kitwe, Mufulira and Lufwanyama Districts on the Copperbelt Province. Your Committee's tour was a fact finding mission to assess the implementation and challenges thereof, of Statutory Instrument No. 47 of 2012 – The Minimum Wages and Conditions of Employment (Shop Workers) (Amendment) Order, 2012 and Statutory Instrument No. 64 of 2012 – The Liquor Licensing (Permitted Hours) Regulation 2012.

i) **COURTESY CALL ON THE PROVINCIAL MINISTER – COPPERBELT PROVINCE**

Your Committee commenced its tour by paying a courtesy call on the Provincial Minister of Copperbelt Province. The Minister welcomed your Committee and thanked it for choosing the Copperbelt to carry out its fact finding mission. With regard to the statutory instruments which your Committee was following-up, the Minister informed your Committee that there was a lot of resistance by employers to implement the minimum wage and improve worker's conditions of service. He added that some workers did not have a platform to air their grievances, while those who had were scared to speak out for fear of losing their jobs. He therefore, urged your Committee to be vigilant and tactful as they gathered information.

On the operating hours of liquor outlets, the Minister stated that the challenges were far-reaching due to the indiscriminate sale of alcohol on the streets and markets without licences. He urged your Committee to exert pressure on the local authorities so that they could in turn, vigilantly enforce the provisions of the statutory instrument.

ii) **MEETING WITH THE PRINCIPAL LABOUR OFFICER, COPPERBELT PROVINCE**

Your Committee held a meeting with the Principal Labour Officer for Copperbelt Province, in order to be acquainted with the implementation of Statutory Instrument No. 47 of 2012. Your Committee learnt that there was a general outcry by employers when the statutory instrument was first issued. Consequently, most employers resisted to adjust their employees' conditions of service as required by the Statutory Instrument. Employees were coerced into accepting anything they were offered for fear of losing their jobs.

She added that the labour office was overwhelmed with complaints from various employees, but could not adequately attend to all the complaints due to shortage of labour inspectors and labour officers. She sighted the Ndola Office which was supposed to have five (5) officers, but had only one (1) Officer. The Principal Labour Officer informed your Committee that the entire Copperbelt Province only had seven (7) labour Officers. Representations were made to the Ministry Headquarters in Lusaka about this shortage of staff but nothing had been done to address the acute shortage of officers in the Province.

iii) **VISIT TO NDOLA SHOPRITE STORE**

Following its meeting with the Ndola Shoprite management and union officials, your Committee learnt from the Regional Manager-North, that Shoprite operated a centralised system where all information concerning the conditions of service for all employees was kept in Lusaka. Your Committee learnt that management at the store did not know how much each worker got in terms of emoluments because this information was at their headquarters in Lusaka. Furthermore, the store did not have a human resource manager or officer as this portfolio was just at headquarters, where all human resource or industrial matters were handled from.

With regard to the categories of workers at the store, your Committee learnt that apart from management workers, Shoprite had staff on permanent and pensionable basis who were unionised and whose conditions of service were fixed through collective bargaining. There were also part-time workers who were not unionised but usually served on fixed-term contracts and were remunerated on a weekly basis depending on the amount of hours worked.

Your Committee learnt from the union officials representing the unionised Shoprite workers that most of the workers received pay that was below the minimum wage. Those who had worked for longer periods were paid slightly above the minimum wage. However, the situation was very bad for the part-timer employees, who were paid as low as KR150.00 per week.

In order to verify the information gathered from the meetings, your Committee randomly interviewed several workers within the store. Your Committee was concerned to learn that there were a number of workers who were paid basic salaries including allowances, which were below the minimum wage. The most affected were those on hourly contracts who were never paid over-time even if they worked beyond the agreed hours. They were however, apprehensive to speak openly for fear of losing their jobs. Your Committee also interacted with employees who had worked for Shoprite for periods of more than fifteen (15) years. Your Committee was informed that such employees' take home pay was a paltry KR1,500.00. Although they were entitled to bonuses, this came in form of gift vouchers of about KR600.00 for use within the store.

iv) VISIT TO NDOLA PICK 'N' PAY STORE

Your Committee interacted with management staff and union representatives and was informed that Pick 'n Pay was paying the minimum wage to all its workers. Data shown to your Committee revealed that the basic pay for shelf packers was KR1,010.00 while that of counter workers was KR850.00. Your Committee was informed that the store had both permanent and part time workers. Both categories were paid above the minimum wage. Random interviews with the employees in the shop proved that the data presented by management was accurate.

v) VISIT TO KITWE SHOPRITE STORE

Your Committee held a meeting at Kitwe Shoprite with management and union officials, your Committee received similar resistance from management as was the case in Ndola, where it was learnt that information on the salaries or wages of the workers could only be obtained from headquarters in Lusaka. The union officials however, informed your Committee that a lot of workers' salaries were below the minimum wage. They submitted that even the process of collective bargaining which was done in Lusaka was a mockery because Shoprite always sent a representative from South Africa with pre-determined remunerations which the workers could either take or leave. The union officials felt that this was unfair as they had no option in the matter but to take whatever was offered from South Africa without any meaningful negotiations. Your Committee was shown some payslips which indeed revealed that there were workers in Shoprite whose salaries were below the minimum wage. This state of affairs was also confirmed by the random interviews undertaken in the store by your Committee. Your Committee also learnt that Shoprite had been denying to pay its workers their pension contributions from a previous scheme they had been subscribing to which had been terminated. Workers had since been migrated to a new scheme.

vi) COURTESY CALL ON THE DISTRICT COMMISSIONER KITWE

Before interacting with the local authorities over Statutory Instrument No. 64 of 2012, your Committee paid a courtesy call on the District Commissioner for Kitwe District. The District Commissioner welcomed your Committee and asked them to be free so that they could obtain as much information as possible required for their mission.

vii) MEETING WITH THE ACTING TOWN CLERK – KITWE DISTRICT COUNCIL

The Chairperson of your Committee explained your Committee's mission with regard to Statutory Instrument No. 64 of 2012. The Acting Town Clerk informed your Committee that Statutory Instrument No. 64 of 2012 was preceded by Statutory Instrument No. 96 of 2011, which was revoked following a barrage of complaints from stakeholders. Under Statutory Instrument No. 96 of 2011, the operating hours for most liquor outlets was 14:00 to 22:00 hours. Statutory Instrument No. 64 of 2012 changed this from 10:00 hours to 22:00 hours.

Your Committee learnt that the operating hours of liquor outlets in Kitwe was not being adhered to. Liquor outlets opened very early in the morning and only closed as late as past midnight. The Kitwe City Council was finding it difficult to enforce the statutory instrument because the number of illegal bars was overwhelming in comparison to the Council Police manpower. The Council had tried to sensitise the general public on the statutory instrument but to no avail. Bottle Stores had also joined in the scourge as patrons were consuming alcohol from their premises which was contrary to the law.

The Acting Town Clerk was of the view that prescribed opening time of 10:00 hours was counterproductive as it promoted underage drinking and attracted certain public workers to drink during working hours. Your Committee undertook an on-the-spot check of some illegal liquor outlets at Chisokone market which had no fixed opening or closing times. Your Committee observed that youths of productive age were already indulging in illicit beer drinking in the morning.

viii) **COURTESY CALL ON THE DISTRICT COMMISSIONER – MUFULIRA**

Your Committee extended its visit on the Copperbelt to Mufulira to follow-up on the enforcement of Statutory Instrument No. 64 of 2012. After paying a courtesy call on the District Commissioner, your Committee had a meeting with the District Council.

ix) **MEETING WITH THE MAYOR OF MUFULIRA DISTRICT COUNCIL**

Your Committee was welcomed to the Council by his Worship the Mayor of Mufulira and heads of all Government Departments and Colleges in the District. Your Committee learnt that Mufulira District Council faced a lot of challenges in enforcing the statutory instrument. There was resistance from the traders especially when Statutory Instrument No. 96 of 2011 was passed. Traders complained of low profits which triggered job losses and failure to pay the minimum wage. However, despite revising the operating hours of liquor outlets, there was no adherence to the statutory instrument.

The Council was unable to effectively enforce the statutory instrument because the penalty under the statutory instrument was KR150.00, which could easily be paid by traders. The Council also faced the challenge of illegal trading in markets in addition to the formal trading places which were hundred and sixty-six (166) against two (2) inspectors for the whole District. Your Committee received representation to the effect that the opening time for liquor trading places of 10:00 hours was counterproductive to national development. It was proposed that it should be pushed to 18:00 hours and closing time should be midnight during the week and from 18:00 hours till late on weekends. Your Committee was informed that the concern should be about the long term effects of a sober community rather than the short term economic benefits to a few liquor traders.

x) **COURTESY CALL ON THE DISTRICT COMMISSIONER FOR LUFWANYAMA**

Your Committee was welcomed to Lufwanyama by the District Commissioner who informed your Committee that the District only had one place of entertainment where liquor was sold. Your Committee was informed that, generally, there was adherence to the statutory instrument with exception to weekends when the closing hours would be extended.

xi) **MEETING WITH THE COUNCIL SECRETARY – LUFWANYAMA**

The Council Secretary also submitted that there was only one main place of entertainment in Lufwanyama called 'Katembula', where liquor was sold by various outlets under licence. The Council usually used the period during licence renewal to impress upon liquor traders on the

need to operate within the requirements of the law, because there were no inspectors to carry-out site inspections.

xii) **MEETING WITH THE PERMANENT SECRETARY – MINISTRY OF LABOUR AND SOCIAL SECURITY**

Prior to visiting Shoprite Headquarters in Lusaka, your Committee called for a meeting with the Ministry of Labour and Social Security. This was in view of the issuance of Statutory Instrument No. 47 of 2012, on the Minimum Wage for Shop Workers.

The Permanent Secretary informed your Committee that the Minimum Wage was part of the Government's general responsibility to ensure that socially-acceptable employment standards were prescribed and enforced. The mandate of prescribing the minimum wage was provided in the Minimum Wage and Conditions of Employment Act Cap 276 of the Laws of Zambia. The Act provides safeguards against erosion of decent working conditions mainly targeted at vulnerable workers. Under section 3, the Act empowers the Minister of Labour and Social Security to issue an order stipulating the minimum wage and conditions of service for targeted employees. The vulnerable workers covered under the Act included the following:

- i) non-unionised workers;
- ii) workers without contracts of employment attested by a Labour Officer; and
- iii) workers not in management positions.

In an effort to ensure that the workers referred to above got economical wages, the Minister of Labour and Social Security, in August 2012, was prompted to issue Statutory Instrument No's 45, 46 and 47 to revise the minimum wages and conditions of employment.

With regard to Statutory Instrument No. 47 (Shop Workers) of 2012, your Committee learnt that the statutory instrument covered minimum wages for the eight categories of workers as indicated below.

Grade	Basic Salary (Minimum Wage)		Housing	Transport	Lunch	Total
GRADE I (For workers engaged in bailing or wrapping of articles and goods or opening, closing and repairing packages; delivery vehicle assistant or general worker, not elsewhere specified; handy person; office; or watch person)	2011	K419,000	K125,700	K102,400	K120,000	K767,100
	2012	K700,000	K210,000	K102,400	K120,000	K1,132,400

Grade II (For workers operating mechanically operated passenger or Goods lift; drivers of motor cycle, motor scooter or motorised three wheel vehicles; sales assistants or packers)	2011	K510,000	K153,000	K102,400	K120,000	K885,000
	2012	K852,028	K255,608	K102,400	K120,000	K1,329,636
Grade III (For persons working as bicycle assemblers, assistant dispatch clerks, drivers of motor vehicles requiring ordinary driving licenses; shelf packers; shoe repairer; tailors' assistants; or dressers assistants)	2011	K600,000	K180,195	K102,400	K120,000	K1,002,195
	2012	K1,002,386	K300,716	K102,400	K120,000	K1,525,502
Grade IV (For persons working as check-out operators; drivers of motor vehicles requiring a heavy duty or public service vehicle driving licenses; telephone operators; typists or picture framers)	2011	K650,000	K195,000	K102,400	K120,000	K1,067,400
	2012	K1,085,919	K325,776	K102,400	K120,000	K1,634,095

Grade V (For persons working as dispatch clerks; ledger clerks; costing clerks; order persons; sales persons; tailors or upholsters)	2011	K810,000	K243,000	K102,400	K120,000	K1,275,400
	2012	K1,353,222	K405,967	K102,400	K120,000	K1,981,589
Grade VI (For persons working as audio visual equipment repairers; machine operators; watch repairers; or punch card machine operator/verifiers)	2011	K865,000	K259,500	K102,400	K120,000	K1,346,900
	2012	K1,445,107	K433,532	K102,400	K120,000	K2,101,039
Grade VII (For persons working as credit controllers; supervisors; window dressers; shorthand typists; or cashiers)	2011	K950,000	K285,000	K102,400	K120,000	K1,457,400
	2012	K1,587,112	K476,134	K102,400	K120,000	K2,285,646
Grade VIII (For persons engaged as book keepers or accountants)	2011	K990,000	K297,000	K102,400	K120,000	K1,509,400
	2012	K1,653,938	K496,181	K102,400	K120,000	K2,372,519

For purposes of compliance with the statutory instrument, the Ministry of Labour and Social Security had been carrying out labour inspections and monitoring the levels of compliance with Statutory Instruments numbers 45, 46 and 47 of 2012 promulgated under the Minimum Wages and Conditions of Employment Act Cap 276. Through the monitoring mechanism, the Ministry had observed the following:

- i) according to the inspections conducted in 2012, the general overview in terms of compliance level was that most small-scale enterprises and rural undertakings had

challenges to pay the minimum wages and to meet the conditions of service as provided for in the statutory instruments; and

- ii) the quarterly inspection report for the period January to March 2013 revealed that there were a total number of 441 inspections undertaken in 292 establishments country-wide. These were conducted in the formal sector. Out of the 441 inspections carried out in the 292 companies, it was observed that only 31 establishments were still paying below the minimum wage.

The implementation of the statutory instrument had presented a number of challenges to the Ministry of Labour and Social Security that included the following:

- i) budgetary constraints leading to the inadequate human resource (labour officers) and inadequate transport to carry out labour inspections as well as the inability by the Ministry to undertake enough awareness activities among the workers and other stakeholders; and
- ii) the legal framework in its current form did not act as a deterrent to employers that abrogated the provisions of the statutory instrument.

Your Committee was informed that the Ministry of Labour and Social Security recognised the need to address the challenges relating to the implementation of the statutory instruments on minimum wage and conditions of service. As a result, a number of measures were being instituted to tackle the challenges which included:

- i) the strengthening of the labour inspections system in order to ensure that there was maximum compliance to all the labour laws;
- ii) the Ministry had embarked on the process of reviewing all the labour laws in order to incorporate all international labour standards and best practices;
- iii) the Ministry had plans to develop a sector-based minimum wage setting that would respond to the concerns of both the workers and employers;
- iv) the Ministry, with the support of the Ministry of Finance and the Public Service Management Division, had embarked on the recruitment of labour officers to meet the required staff establishment; and
- v) the Ministry was engaging the Ministry of Finance to consider another upward increase to the Ministry's budgetary allocation.

xiii) **MEETING AT SHOPRITE HEADQUARTERS – MANDA HILL, LUSAKA**

Your Committee was accompanied to Shoprite Headquarters by the Permanent Secretary, Ministry of Labour and Social Security, Labour Commissioner and several officials from the Ministry of Labour and Social Security. Your Committee had a meeting with senior management and union officials at Shoprite Headquarters.

Your Committee learnt from the management team present, that it was Shoprite policy to have a centralised system of operation. Your Committee also learnt that the entire Shoprite workforce in Zambia was about 1,200 permanent workers and 1,200 part-time workers. Those on permanent basis had their conditions of service negotiated through collective bargaining by their union representatives. The part time workers were on fixed-term contracts, and were remunerated on an hourly basis. Management stated that none of their employees were below the minimum wage, but after much interrogations by your Committee they confessed that a number of the workers were paid below the minimum wage. They pointed out however, that the contracts for part time workers were attested by the Ministry of Labour and Social Security.

Union officials informed your Committee that although none of their members at Manda hill store was paid below the minimum wage, a lot of employees in other stores received pay that was below the minimum wage. They also pointed out that the general conditions of service were very poor. With regard to negotiations during the collective bargaining process, your Committee learnt that Shoprite normally sent a Finance Manager from South Africa, with a pre-determined figure of the salary increment. Any counter proposals needed to be referred to South Africa and the union would have to wait up to three months before getting any feedback. This state of affairs usually forced the union representatives to accept whatever proposed increment they were given, for fear of losing out completely. Your Committee also learnt that part-time workers were not entitled to be paid maternity or sick leave.

Following the findings from the tour of Shoprite Chain Stores on the Copperbelt and Lusaka Provinces with regard to the conditions of service for the workers, your Committee resolved to invite the General Manager to appear before it and clarify the concerns regarding the delay by management to implement Statutory Instrument No. 47 of 2012 the Minimum Wages and Conditions of Employment (Shop Workers) Amendment Order, 2012.

xiv) **SUBMISSION BY SHOPRITE GENERAL MANAGER**

In his submission to your Committee, the General Manager stated that Shoprite Chain Stores Management has an operational collective Agreement that was signed in June 2012 and was still in effect until July 2013. Your Committee was informed that following the High Court ruling of November 2012 in which the Court presided that the implementation of the statutory instrument would only be effected after the respective period for the collective agreement had been fulfilled, management at Shoprite decided to respect the High Court judgement. He further informed your Committee that by the end of July 2013, the new conditions of service will be implemented after the collective agreement was concluded.

With regard to the decision by Shoprite management not to pay salaries to workers who were on maternity leave or were unable to work due to sickness, your Committee was informed that female workers who had completed the two years service from the time of engagement were eligible for maternity leave while those who had worked for less than two years were not eligible. On absence from work due to illness, your Committee was informed that, management complied with statutory Instrument No. 1 of 2011 on the matter and was part of the contract between the employer and employee.

Asked to state were the negotiations for conditions of service for workers were done, your Committee learnt that all negotiations for conditions of service were done in Zambia.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS ON STATUTORY INSTRUMENT NO. 47 OF 2012 – THE MINIMUM WAGES AND CONDITIONS OF EMPLOYMENT (SHOP WORKERS) AMENDMENT ORDER, 2012

11. Your Committee notes that Statutory Instrument No. 47 of 2012 is well intended, although there has been some resistance from some employers to implement it. Your Committee observes that the Government is failing to ensure that the statutory instrument is enforced due to the lack of labour inspectors and labour officers in the Ministry of Labour and Social Security.

Your Committee, therefore, recommends that the Government should, as a matter of urgency, undertake an evaluation of the vacancies in the Ministry of the relevant positions, with a view to filling the vacancies. This is the only way the Government will ensure compliance by employers with the statutory Instrument.

With regard to your Committee's findings during its local tour, it observes with great disappointment that Shoprite Chain Stores, is generally paying slave wages to its workers despite having been given favourable tax holidays when it first came to Zambia. Your Committee found that a lot of Shoprite workers are earning salaries below the minimum wage. Workers are also employed on casual-basis, while others are not entitled to be paid maternity or sick leave.

Your Committee also observes that the collective bargaining process for Shoprite workers is a mockery, as workers were forced to accept a pre-determined salary increment from South Africa.

Your Committee further observes that due to the highly centralised system that Shoprite operates, workers from outside Lusaka do not have human resources personnel to whom they can make representations on a number of issues that affects them. Workers have also been denied payments of their pension contributions from a previous pension scheme which has since been terminated.

Your Committee, therefore, recommends that the Government, through the Ministry of Labour and Social Security should engage Shoprite management to ensure that all the shortcomings made above are ironed out. Most importantly, the Government should ensure that there is compliance with the minimum wage as promulgated in Statutory Instrument No. 47 of 2012.

Your Committee sadly observes that Shoprite contracts in contention were attested by the Ministry of Labour and Social Security. This means that the Ministry is perpetuating an illegality despite the issuance of the statutory instrument.

Your Committee recommends that the Ministry of Labour and Social Security should revisit these contracts and correct the anomaly so that all workers are paid according to the prescribed minimum wage.

COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS ON STATUTORY INSTRUMENT NO. 64 OF 2012 – THE LIQUOR LICENSING (PERMITTED HOURS) REGULATION, 2012

12. Your Committee observes that there is a general failure to enforce this statutory instrument by the local authorities as most night clubs and bars are open 24 hours a day. Bottle stores that are only mandated to sell alcohol, have also become places where consumption of alcohol takes place despite not having proper sanitation facilities.

Your Committee also observes that there are a lot of unauthorised 'bars' especially in markets and compounds that open as early as 07:00 hours in the morning and close whenever the last patron leaves.

Your Committee further observes that in addition to a general laxity by the local authorities to police the situation, they lack the required human resource to adequately enforce the statutory instrument. This is compounded by the authorised opening time of 10:00 hours, which is relatively early.

In view of the above, your Committee recommends that the Government should employ more council police who can work in conjunction with the State Police to enforce the statutory instrument in terms of the opening and closing hours of liquor outlets as well as rooting out the illegal 'bars' in the markets and compounds.

Your Committee observes that road traffic accidents, gender based violence and other such vices, are on the increase due to the illicit consumption of alcohol, some of which is perpetrated by early opening hours of bars and night clubs.

Your Committee recommends that the Statutory Instrument should be amended to revise the opening hours to a later time other than the morning. Your Committee observes that the current opening time of 10:00 hours is counter-productive. Your Committee is concerned with the high rate of unproductivity in the country which is attributed to the consumption of alcohol especially by the youths.

Your Committee recommends that as a Christian nation, Zambia should be seen to be enforcing that declaration and not merely proclaiming it.

PART III

13. FOREIGN TOUR REPORT

Your Committee undertook a study tour to Ghana in an effort of learning how other jurisdictions handle the delegated legislation portfolio and share common practices in so far as delegated legislation is concerned.

i) TOUR OF THE GHANAIAN PARLIAMENT

Your Committee commenced its business by touring the Chamber of the Parliament of Ghana. A tour of the chamber revealed that Ghana has a unicameral chamber with a sitting capacity of 275 members. Your Committee learnt that Ghana has a hybrid system of governance which is a combination of both the presidential and the parliamentary systems. Your Committee was informed that the Ghanaian Executive consist of both ministers appointed from outside Parliament who have no voting rights in the House and ministers appointed from the House. The Ghanaian Parliament has 29 female Members of Parliament out of the 275 Members of Parliament. With regard to how many ministers are appointed from within Parliament, your Committee was informed that Ministers from within Parliament are not more than 51% while the remaining are appointed from outside Parliament. Your Committee also learnt that the number of deputy ministers was not defined but was the prerogative of the President of Ghana. Your Committee was also informed that article 76 (1) of the Ghanaian Constitution defines the number of ministers who should be appointed of not being less than 10 and not more than 19.

The Parliament of Ghana is headed by the Speaker who is deputised by two Deputy Speakers, the 1st Deputy Speaker and the 2nd Deputy Speaker. The two Deputy Speakers are drawn from the two major political parties in the House. Your Committee learnt that the current Parliament building in Ghana was constructed in 1965 to host the Organisation of African Unity (OAU) meeting Speakers by President Dr Kwame Nkrumah. It was, however, later transformed into the House of Parliament. Approximately 95% of Government Ministries and Departments are within the vicinity of the Ghanaian Parliament.

ii) COURTESY CALL ON THE HONOURABLE MR SPEAKER

Your Committee paid a courtesy call on the Honourable Mr Speaker who was represented by the 1st Deputy Speaker Hon. Ebo Barton – Odro. The Deputy Speaker was accompanied by the Ghanaian Committee on Subsidiary legislation Chairperson, Mr O B Amoah, MP and the Committee on Subsidiary legislation Ranking Member (leader of the majority in the Committee) Mr Yileh Chireh, MP. In welcoming your Committee, the Chairperson of the Parliamentary Committee on Subsidiary Legislation stated that by practice, the chairperson of the Committee was expected to be a member of the major opposition party. He added that the Committee was ready to learn from other Commonwealth countries on the best practices on matters of

subsidiary legislation, as the Committee was the gate keeper of all the laws that were made outside Parliament. He added that the Committee was established under Standing Order (166) of the Ghanaian Standing Orders of 2000.

The Chairperson of the Ghanaian on Subsidiary Legislation also informed your Committee that some statutory instruments that were issued had ended up in the Supreme Court due to various interests advanced by stakeholders. He stated that Ghana had undergone constitutional reforms which had just been concluded and a national referendum was expected to be held soon. The Constitutional reforms included changes in the dispensing of the delegated legislation portfolio. He concluded by stating that Africa needs to learn from itself in so far as best practices are concerned as opposed to always learning from other countries like Canada, United Kingdom, etc.

In his welcoming remarks, the Ranking member of the Committee on Subsidiary Legislation commended the Zambian legislation for appropriately naming its committee as the Committee on Delegated Legislation. He added that the Ghanaian Committee on Subsidiary Legislations could do more in terms of implementing its terms of reference as outlined in the Parliamentary Standing Orders by following up all legislation passed, although the tendency was usually just following up statutory instruments from councils and ministers.

In welcoming your Committee, the 1st Deputy Speaker stated that the Honourable Mr Speaker was pleased to host the delegation from Zambia. He informed your Committee that the immediate past Speaker of the Ghanaian Parliament was female, and was the first female Speaker in Ghana. He stated that since Africa was now 50 years old, African countries needed to share experiences for the next 50 years. He urged members to explore the country as they possibly could and urged your Committee to visit the Volta River Authority Dam site in Akosombo, which was the second largest Dam in the world and generated about 60% of Ghana's electricity.

The leader of the Zambian delegation expressed gratitude on behalf of your Committee to the Speaker for accepting the request to host your Committee.

iii) **MEETING WITH THE FORMER CLERK OF GHANAIAN PARLIAMENT – MR K E K TACHIE**

Your Committee held a meeting with the former Clerk of the Ghanaian Parliament who had served as Clerk of the Ghanaian Parliament from 1969 until his retirement in 2009. The meeting was held to discuss the practices and procedures of Parliament using the Parliament of Ghana as a case study. The former Clerk began by paying tribute to Members of Parliament for the role they play in the governance system of any country. He added that Parliament was an indispensable structure of the governance system and has mandate, just like the Executive, to preside over the people. The former Clerk informed your Committee that Ghana had been through different forms of governance in the four republics which included a one party state, multi party democracy, Westminster system and presidential systems of governance. Currently, Ghana has a hybrid system which is a combination of both the parliamentary and presidential systems. Your Committee learnt that the Ghanaian Parliamentary Standing Orders established the various committees of Parliament. Voting in the Ghanaian Parliament was conducted by raising hands or head count. The mode to be used was for the discretion of the Honourable Mr Speaker. The former Clerk added that rules are important to moderate the conduct of the Honourable Members of Parliament on the floor of the House. He reminded your Committee that although African parliaments have never experienced physical fights on the floor of the House, other Parliaments usually experienced fights time and again. Thus, rules are made in order to protect the minority from being abused by the majority.

The former Clerk also informed your Committee that the process of passing legislation in the Ghanaian Parliament was similar to that which exists in all Commonwealth countries. This process was through bills which came to Parliament and accented by the president to become law. He added that statutory instruments were laid before Parliament for consideration by the Committee on Subsidiary Legislation. Your Committee was informed that some bills could be passed through a certificate of urgency in a day, depending on the nature of the bill. It was also stated that bills were gazetted for 14 days to allow for the input of citizens before the first reading in the House. The former Clerk also stated that the system of governance in Africa had been characterised by party politics and Ghana was no exception. He added that this had the capacity to compromise the effectiveness of the institutions such as parliament in actualizing its mandate.

iv) **MEETING WITH THE COMMITTEE ON SUBSIDIARY LEGISLATION**

The meeting with the parliamentary Committee on the Subsidiary Legislation was held for the two Committees to share common practices on delegated legislation portfolio and also share some challenges being faced by the Committees.

The Chairperson of the Ghanaian Committee on Subsidiary Legislation stated that his Committee was one of the most important Committees of Parliament as it was the gate keeper of the mandate of Parliament, which is to make laws, and ensuring that institutions and authorities granted the power to issue statutory instruments did that role within the ambit of the laid down powers in the Constitution and Acts of Parliament. He added that once a statutory instrument was issued and tabled in Parliament, the Committee was allocated 21 days to scrutinise it.

Your Committee was informed that the Committee on Subsidiary Legislation and Parliament had no power to amend a statutory instrument but could either accept it in whole or reject it. This, however, was not the case in other jurisdictions such as Hong Kong and the UK where Parliament had the power to amend a statutory instrument if it did not conform to the Constitution or an Act of Parliament.

In these jurisdictions, your Committee learnt that parliament could amend the statutory instruments in part or in whole.

Your Committee learnt that there were three types of statutory instruments in the Ghanaian system, the Constitutional Instruments (CI), Legislation Instruments (LI) and the Executive Instruments (EI). Constitutional Instruments (CI) are instruments issued by Constitutional bodies such as the Electoral Commission of Ghana. These Instruments do not require an explanatory memorandum to Parliament on the rationale for such a Statutory Instrument. Legislative Instruments (LI's) are instruments that are issued by an Authority with the requirement of an explanatory memorandum to parliament. Executive Instruments (EI's) are issued by the President and ministers and these do not require the 21 days notice to gazette. Your Committee learnt that the statutory instruments are gazette the same day they are laid on the floor of the House and the 21 days applied in both instances. Your Committee also learnt that most stakeholders were not consulted in the process and this had in most instances caused discomfort amongst the affected stakeholders.

The Chairperson cited a case where the Minister of Trade issued an Executive Instrument to ban the exportation of scrap metal without consultations with stakeholders. Parliament, however, could not intervene because it had no power to amend the statutory instrument. It was also learnt by your Committee that the Supreme Court had ruled in that respect that Parliament had no power to amend statutory instruments. Your Committee was also informed that by laws issued by local authorities, just like Executive Instruments were not scrutinized by the Committee on the Subsidiary Legislation but were instead referred to the Attorney

General. On the challenges being faced with regard to the oversight role of the Committee on the Subsidiary legislation, your Committee learnt that the partisan approach in the Ghanaian Parliament has compromised the role of the Committee as voting was always partisan in nature. The non-submission of the explanatory memorandum to accompany Constitutional Instrument was tantamount to excluding the Committee in the scrutiny of subsidiary legislation. As regards the reporting procedure of the Committee, once its report was tabled in the House, it had to be adopted by a two third majority of the House.

v) **MEETING THE MINISTER OF JUSTICE AND ATTORNEY GENERAL**

The Deputy Minister of Justice, on behalf of the Hon Minister of Justice and Attorney General informed your Committee that the Attorney General is the principle advisor to the Government and sits in Parliament although he is not a Member of Parliament. Your Committee learnt that the Constitution of Ghana of 1993 established a hybrid system of Governance.

Your Committee was informed that only public bills had been presented in Parliament as opposed to private bills because of the Supreme ruling which ruled that only the Executive could take bills to Parliament because of the financial implications that arose from bills, which had to be incurred by the Executive. It was also stated that no bill is sent to Parliament save through the office of the Attorney-General.

With regard to the process of subsidiary legislation and the role of the office of the Attorney General, your Committee learnt that the office of the Attorney-General provided guidance to the Minister or authority in the drafting of the respective statutory instrument.

Your Committee also learnt that informal meetings could be held between the Parliamentary Committee on the Subsidiary Legislation, the Attorney-General's office and stakeholders before the finalisation of statutory instrument. It was also stated that the role of stakeholders in the process of passing a statutory Instrument was not supported by any legislation hence the reason why it was not mandatory to involve stakeholders before statutory instruments were issued. The Hon Minister also informed your Committee that the Constitutional reforms which were currently being undertaken could harmonize all the concerns that negatively affected the issuance of statutory instruments.

vi) **MEETING WITH COMMISSIONER V C R A C CRABBE, STATUTE LAW REVISION COMMISSION**

The Commissioner informed your Committee that Executive Instruments (EI's) and Legislature Instruments (LI's) had been in the existence for a long time. He added that the Constitutional Instruments (CI's) only came into effect in 1969 following the Constitutional reforms at that time. Your Committee was informed that the day a statutory instrument appeared on the order paper in Parliament was the same day the Gazette notice of 21 days took notice.

Your Committee was also informed that Parliament has no power to amend a statutory instrument but could only adopt or reject it. The presenter informed your Committee that in the United Kingdom (UK) for instance, a draft statutory instrument was referred to the Committee on Subsidiary legislation for scrutiny before it reverted to the minister for final approval. This gave power to the Committee to make amendments before the statutory Instrument was laid in parliament.

Your Committee also learnt that Executive Instruments (EI's) that were administrative in nature did not go to the Ghanaian Parliament for scrutiny and final consideration while all Executive Instruments that were legislative in nature had to be considered by the Committee on Subsidiary Legislation before their enforcement.

14. COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

- i) Your Committee observes that the lack of detail in the Zambian constitution on the process of administering statutory Instruments has contributed to the non-effectiveness of the delegated legislation portfolio in the Zambian Parliament.

Your Committee recommends that the Government should ensure that adequate provisions on the process of issuance of delegated legislation are clearly outlined and stated in the Constitution. This is in view of the Constitutional reform currently in process in the country.

- ii) Your Committee observes that the issuance of delegated legislation by various authorities is without the involvement of your Committee in the initial process and has made your Committees a mere spectator, unlike our colleagues in the Ghana Parliament, and further notes that the delegated legislation which is issued by the Executive, whether legislative or administrative, takes effect without input from your Committee. This is a discomfoting state of affairs.

Your Committee recommends that the Government, through the Ministry of Justice, initiates enactment of a legal framework to provide:

- (a) for your Committee to be involved in the initial stages of preparing delegated legislation so as to enable your Committee have an input before the delegated legislation is enforced; and
 - (b) that all delegated legislation issued by the Executive which is legislative in nature must be scrutinised by your Committee before enforcement.
- iii) Your Committee observes that the role of stakeholders in the delegated legislation portfolio cannot be over emphasized. The issuance of delegated legislation by various authorities without due consideration to interested parties can be a source of conflict and misunderstanding if not properly handled.

Your Committee recommends that the Government and other authorities with the power to issue delegated legislation must involve relevant stakeholders before the issuance of any delegated legislation in order to take stock of their concerns.

- iv) Your Committee observes that the delay to submit explanatory memorandum by most ministries and other authorities to parliament is a source of concern. In some instances, your Committee has considered Statutory Instruments six months after their enforcement due to the late submission of explanatory memoranda.

Your Committee, therefore, recommends as a matter of urgency that the Government must ensure that explanatory memoranda are submitted as and when the statutory instruments are gazetted. This also will allow your Committee to consider the statutory instruments on time.

- v) Your Committee observes that the current modus operandi of your Committee as regards its sittings to consider delegated legislation is compromising the full utilization of your Committees mandate as outlined in the Standing orders.

Your Committee recommends that sittings of your Committee be structured in such a way that they are in sync with the issuance of delegated legislation.

15. **CONCLUSION**

Your Committee, would like to express its appreciation to you Mr Speaker, for the wise counsel and direction given to it during the Second 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, 2013
LUSAKA

APPENDIX I

List of Officials

Mr S M Kateule, Principal Clerk of Committees
Mr S C Kawimbe, Deputy Principal Clerk of Committees
Ms M K Sampa, Committee Clerk (SC)
Mr G Zulu, Assistant Committee Clerk
Mr S Samuwika, Assistant Committee Clerk
Ms Salima Mwale, Acting Personal Secretary II
Ms R Tembo, Typist
Mr R Mumba, Committee Assistant
Mr C Bulaya, Committee Assistant