

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON 25TH SEPTEMBER, 2013

Consisting of:

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

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

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

FUNCTIONS OF THE COMMITTEE

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

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

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

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

MEETINGS OF THE COMMITTEE

3. Your Committee held a total of twenty one (21) meetings during the period under review and considered a total of 114 Statutory Instruments. Your Committee also undertook a local tour of various Government and other facilities in Lusaka,

Kabwe, Ndola, Kitwe, Mufulira and Solwezi Districts. These tours were in relation to various Statutory Instruments issued in 2012 and 2013.

ARRANGEMENT OF THE COMMITTEE'S REPORT

4. Your Committee's Report is arranged in three parts: Part I deals with your Committee's consideration of various Statutory Instruments issued in 2013; Part II deals with the findings and recommendations of your Committee arising from its local tour; and Part III deals with your Committee's consideration of the Action Taken Report on the Report of the previous Committee for the Second Session of the Eleventh National Assembly.

PART I: CONSIDERATION OF STATUTORY INSTRUMENTS

The deliberations of your Committee during consideration of various Statutory Instruments are summarised below.

MINISTRY OF EDUCATION, SCIENCE, VOCATIONAL TRAINING AND EARLY EDUCATION

STATUTORY INSTRUMENT NO 12 OF 2013: THE EDUCATION (DISTRICT EDUCATION OFFICES) (ESTABLISHMENT) ORDER

5. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 7 of the Education Act, 2011*. The Order established two district education offices in Eastern Province, four in Luapula Province, four in Lusaka Province, one in Northern Province, three in Southern Province and one in Western Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 7 of the Education Act, 2011*.

STATUTORY INSTRUMENT NO 58 OF 2013: THE EDUCATION (DISTRICT EDUCATION OFFICES) (ESTABLISHMENT) ORDER

6. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 7 of the Education Act, 2011*. The Order was issued to provide for the establishment of five district education offices in Central Province, one in Northern Province, one in North Western Province and eight in Western Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in line with the provisions of *Section 7 of the Education Act, 2011*.

STATUTORY INSTRUMENT NO 72 OF 2013: THE HIGHER EDUCATION (COMMENCEMENT) ORDER

7. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 1 of the Higher Education Act, 2013*. This Order was issued in order to provide for the effective date of the Higher Education Act, 2013.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 1 of the Higher Education Act, 2013*.

STATUTORY INSTRUMENT NO 106 OF 2013: THE KWAME NKRUMAH UNIVERSITY (DECLARATION) ORDER, 2013

8. The Permanent Secretary submitted that in 2010, the country had about 885 teachers with degree qualifications in social sciences out of the required 6,508 degree-holding teachers of social sciences, creating a shortfall of 5,623. This Statutory Instrument declared the former Kwame Nkrumah College a university. The new University was expected to focus on training of teachers of social sciences for secondary schools and would relinquish training of mathematics and natural sciences teachers to Mukuba University. It was anticipated that this measure would enable Kwame Nkrumah University to substantially increase capacity for production of teachers of social sciences at secondary school level in the country. It was expected that once fully operational, the University would produce 12,400 teachers in four years.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument as it has been issued in accordance with the provisions of the *Section 14 of the Higher Education Act, 2013*.

STATUTORY INSTRUMENT NO 107 OF 2013: THE EDUCATION (KWAME NKRUMAH TEACHERS' COLLEGE BOARD) (DISSOLUTION) REGULATIONS, 2013

9. The Permanent Secretary submitted that following the declaration of the Kwame Nkrumah University, the purpose of this Statutory Instrument was to dissolve Kwame Nkrumah Teachers' College Board.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument as it has been issued in accordance with the provisions of the *Section 132 of the Education Act, 2011*.

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

10. The Permanent Secretary submitted that the need for mathematics and science teachers at secondary school level was enormous and required urgent intervention. This challenge was more pronounced at senior secondary school level where there was a critical shortage of teachers of mathematics and science with degree qualifications. Currently, only about 12% of teachers at senior secondary school level possessed degree qualifications. Thus, the purpose of this Statutory Instrument was to declare the Copperbelt Secondary Teachers' College (COSETCO) a university to be called Mukuba University in order to facilitate the training of teachers of mathematics and science to meet the country's requirements.

Your Committee expressed concern that the use of the name Mukuba University, which was already in use by a private institution registered under the Companies Act, Chapter 388 of the Laws of Zambia in February, 2011, might create confusion in the minds of members of the public. On this matter, the Secretary to the Cabinet informed your Committee that the use of names was governed by various principles provided in the Companies Act and other applicable pieces of legislation. He stated that Section 37(3) of the Companies Act provided that the Registrar shall not register as the name of a company a name which in his opinion is likely to cause confusion with the name of another company or is otherwise undesirable. According to the Secretary to the Cabinet's submission, in this instance, there was no likelihood of confusion of the institutions. Further, the name Mukuba was not reserved for exclusive use in terms of Section 38 of the Companies Act. In this light, there were other lawfully registered entities using the name Mukuba.

Committee's Observations and Recommendations

Your Committee notes that the private entity was registered long before the promulgation of Statutory Instrument No 108 of 2013. Additionally, your Committee is doubtful whether the provisions of the Companies Act, Chapter 388 of the Laws of Zambia, which have been quoted by the Secretary to the Cabinet in his response are relevant in this case since the declaration of Mukuba University was done by Statutory Instrument, which did not require prior clearance of the name by the Registrar. Your Committee, in this regard, further reiterates that, contrary to the position taken by the Secretary to the Cabinet, it is of the considered opinion that the possibility of confusion arising out of the use of the same name by the two institutions in the same line of business is very high. In fact, your Committee takes the strong view that the existence of two institutions by the name of Mukuba University is not desirable, particularly in light of the fact that a university is an organisation which has international character and may even enjoy accreditation at international level. Therefore, there should be no doubt as to the identity, credibility or standing of the institution from which a graduate obtains his or her qualification, hence the need for clearly distinct names of such institutions. In light of the foregoing, your Committee implores the Government to urgently revisit the issue of the use of the name Mukuba University by the two institutions with a view to resolving this matter amicably. Your Committee will await a progress report on the matter.

STATUTORY INSTRUMENT NO 109 OF 2013: THE EDUCATION (COPPERBELT SECONDARY TEACHERS' COLLEGE BOARD) (DISSOLUTION) REGULATIONS, 2013

11. The Permanent Secretary submitted that following the declaration of COSETCO as a University, the purpose of this Statutory Instrument was to dissolve the Copperbelt Secondary Teachers' College Board.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument as it has been issued in accordance with the provisions of *Section 132 of the Education Act, 2011*.

STATUTORY INSTRUMENT NO 110: THE CHALIMBANA UNIVERSITY (DECLARATION) ORDER, 2013

12. The Permanent Secretary submitted that the Government was concerned that the performance of pupils at primary school level in areas such as reading, science and mathematics had been consistently poor over the years, and this reflected itself in the pupils' failure to cope with the rigors of study at secondary school level. The main cause of this unfortunate situation had been the predominance of teachers with certificate and diploma qualifications at primary school level and the poor reward system that corresponded to the qualifications that primary school teachers held. Chalimbana University was intended to upgrade the academic qualifications and raise both the economic and professional status of new and serving teachers as well as inculcate advanced professional skills in the teaching profession at primary school level. This move would have a positive impact on the performance of pupils at primary school level, especially in light of the institution's long history and experience in teacher education at primary school level and provision of teacher education through open and distance learning as well as in-service programmes, supported by the existing infrastructure and the existing complement of staff. In light of the foregoing, the purpose of this Statutory Instrument was to declare the institution a university.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument as it has been done in accordance with the provisions of *Section 14 of the Higher Education Act, 2013*.

STATUTORY INSTRUMENT NO 111 OF 2013: THE EDUCATION (NATIONAL IN-SERVICE TEACHERS' COLLEGE BOARD) (DISSOLUTION) REGULATIONS, 2013

13. The Permanent Secretary submitted that following the declaration of Chalimbana University, the purpose of this Statutory Instrument was to dissolve the National In-Service Teachers' College Board.

Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument as it has been done in accordance with the provisions of *Section 132 of the Education Act, 2011*.

ELECTORAL COMMISSION OF ZAMBIA

STATUTORY INSTRUMENT NO 1 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (MPONGWE CONSTITUENCY NO 032) (ELECTION DATES AND TIMES OF POLL) ORDER

14. The Director submitted that the objective of this Order was to stipulate the election date and time of polls in respect of Mpongwe Constituency by reason of the resignation of the Member of Parliament for that Constituency. This Order was made pursuant to the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

STATUTORY INSTRUMENT NO 2 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) ORDER

15. The Director submitted that the objective of this Order was to stipulate the election dates and times of polls in respect of the wards contained in the Schedule to the Statutory Instrument. The Order was issued pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.*

STATUTORY INSTRUMENT NO 6 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (LIVINGSTONE CENTRAL CONSTITUENCY NO 123) (ELECTION DATES AND TIME OF POLL) ORDER

16. The Director submitted that the objective of this Order was to stipulate the election date and time of polls in respect of Livingstone Central Constituency by reason of the resignation of the Member of Parliament for that Constituency. This Order was made pursuant to the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

STATUTORY INSTRUMENT NO 10 OF 2013: THE LOCAL GOVERNMENT BY-ELECTION (ELECTION DATES AND TIMES OF POLLS) (AMENDMENT) ORDER

17. The Director submitted that the objective of this Order was to amend Statutory Instrument No 2 of 2013. The Order was issued pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 11 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) ORDER

18. The Director submitted that the objective of this Order was to stipulate the election dates and times of polls in respect of the wards contained in the Schedule to the Statutory Instrument. The Order was issued pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 20 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (LUKULU WEST CONSTITUENCY NO 141 AND KAPIRI MPOSHI CONSTITUENCY NO 06) (ELECTION DATES AND TIMES OF POLL) ORDER, 2013

19. The Director submitted that this Statutory Instrument was issued to legally back the nominations, campaign period, poll date and times for the National Assembly by-elections for Lukulu West Constituency Number 141 and Kapiri Mposhi, Constituency Number 06. The Statutory Instrument was also issued to stipulate the campaign periods for the aforementioned by-elections. The Statutory Instrument further provided for the poll day.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO 21 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) (NO 3) ORDER, 2013

20. The Director submitted that this Statutory Instrument was issued to legally back the nominations, campaign period, poll day and times for the Local Government by-elections contained in the Schedule of the Statutory Instrument. The Statutory Instrument also stipulated the campaign period and poll day for the wards contained in the Schedule of the Statutory Instrument.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 27 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (LIVINGSTONE CENTRAL CONSTITUENCY NO 123) (POSTPONEMENT OF ELECTION DATES AND TIMES OF POLL) ORDER

21. The Director submitted that the objective of this Order was to provide for the postponement of the election date and time of polls in respect of Livingstone Central Constituency. The Order was made pursuant to the powers conferred on the Commission under *Section 26 of the Electoral Act, No 12 of 2006*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under Section 26 of the Electoral Act, No 12 of 2006.

STATUTORY INSTRUMENT NO 29 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) (NO 4) ORDER

22. The Director submitted that the objective of this Order was to stipulate the election dates and times of polls in respect of the wards contained in the Schedule to the Statutory Instrument. The Order was issued pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 31 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (FEIRA CONSTITUENCY NO 071) (ELECTION DATES AND TIMES OF POLL) ORDER

23. The Director submitted that the objective of this Order was to stipulate the election date and time of polls in respect of Feira Constituency by reason of the resignation of the Member of Parliament for that Constituency. This Order was made pursuant to the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 108 of the Electoral Act, No 12 of 2006 and Regulation 8 of the Electoral (General) Regulations, 2006.*

STATUTORY INSTRUMENT NO 40 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) ORDER

24. The Director submitted that the objective of this Order was to stipulate the election dates and times of polls in respect of the wards contained in the Schedule to the Statutory Instrument. The Order was issued pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.*

STATUTORY INSTRUMENT NO 41 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (MKUSHI NORTH CONSTITUENCY NO 07, KAFULAFUTA CONSTITUENCY NO 029, SOLWEZI EAST CONSTITUENCY NO 111 AND CHIPATA CENTRAL CONSTITUENCY NO 042) (ELECTIONS DATES AND TIMES OF POLL) ORDER

25. The Director submitted that the objective of these regulations was to stipulate the election dates and times of polls in respect of Mkushi North Constituency No 7, by reason of the resignation of the Member of Parliament for that constituency; in respect of the Kafulafuta Constituency No 029 by reason of the resignation of the Member of Parliament for that constituency; in respect of the Solwezi East Constituency No 111 by reason of the resignation of the Member of Parliament for that Constituency; and in respect of the Chipata Central Constituency No 042 by reason the nullification of the Chipata Central Constituency National Assembly Elections by the Supreme Court. The regulations were issued pursuant to *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO 50 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) (NO 6) ORDER

26. The Director submitted that the objective of these regulations was to stipulate the election dates and times of polls in respect of the wards contained in the schedule of the Statutory Instrument. The regulations were issued pursuant to *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued pursuant to *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 60 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTION (MALAMBO CONSTITUENCY NO 051 AND MULOBEZI CONSTITUENCY NO 148) (ELECTION DATES AND TIMES OF POLL) ORDER

27. The Director submitted that the objective of these regulations was to stipulate the election dates and times of polls in respect of Malambo Constituency No 051 and Mulobezi Constituency No 148 by reason of the nullification of the Malambo and Mulobezi Constituency National Assembly Elections by the Supreme Court. The regulations were made pursuant to *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006*.

STATUTORY INSTRUMENT NO 68 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATE AND TIMES OF POLL) ORDER

28. The Director submitted that the objective of these regulations was to stipulate the election dates and times of polls in respect of the wards contained in the Schedule of the Statutory Instrument pursuant to the powers conferred on the Commission under *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued pursuant to *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.*

STATUTORY INSTRUMENT NO 74 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (PETAUKE CENTRAL CONSTITUENCY NO 055) (ELECTION DATES AND TIMES OF POLL) (AMENDMENT) ORDER

29. The Director submitted that the objective of these regulations was to amend Statutory Instrument No 69 of 2013: The National Assembly By- Elections (Petauke Central Constituency No 55) (Election Dates and Times of Poll) (No 9) Order, 2013. The regulations were made pursuant to *Section 108 of the Electoral Act No. 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 7 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006.*

STATUTORY INSTRUMENT NO 75 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (MALAMBO CONSTITUENCY NO 051 AND MULOBEZI CONSTITUENCY NO 148 (ELECTIONS DATES AND TIMES OF POLL) (AMENDMENT) ORDER

30. The Director submitted that the objective of these regulations was to amend Statutory Instrument No 60 of 2013, National Assembly By-Elections (Malambo Constituency No 51 and Mulobezi Constituency No 148) (Election Dates and Times of Poll) Order, 2013. The regulations were issued pursuant to Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006.*

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006.*

STATUTORY INSTRUMENT NO 88 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTION (MANSA CENTRAL CONSTITUENCY NO 061) (ELECTION DATES AND TIMES OF POLL) ORDER

31. The Director submitted that the objective of these regulations was to stipulate the election date and time of polls in respect of Mansa Central Constituency by reason of the death of the Member of Parliament for that constituency. The regulations were made pursuant to *Section 108 of the Electoral*

Act No. 12 of 2006 of the Laws of Zambia and to the powers contained in Regulation 8 of the Electoral (General) Regulations, 2006.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia and the powers contained in Regulation 8 of the Electoral (General) Regulations, 2006.

STATUTORY INSTRUMENT NO 90 of 2013 – THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL) (NO 8) ORDER

32. The Permanent Secretary submitted that this Statutory Instrument was issued in order to provide for the dates and times of polls for a by-election in accordance with the powers conferred in Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued pursuant to Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia.

STATUTORY INSTRUMENT NO 98 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (VUBWI CONSTITUENCY NO 038 AND ZAMBEZI WEST, CONSTITUENCY NO 114) (ELECTION DATES AND TIMES OF POLLS) ORDER

33. The Director submitted that the objective of these regulations was to stipulate the election dates and times of polls in respect of Vubwi Constituency No 38 and Zambezi West Constituency No 114 by reason of the nullification of Vubwi and Zambezi West Constituency National Assembly Elections by the Supreme Court. The regulations were made pursuant to Section 108 of the Electoral Act No 12 of 2006 of the Laws of Zambia and the powers contained in Regulation 8 of the Electoral (General) Regulations, 2006.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia and the powers contained in Regulation 8 of the Electoral (General) Regulations, 2006.

STATUTORY INSTRUMENT NO 117 OF 2013: THE NATIONAL ASSEMBLY BY-ELECTIONS (VUBWI CONSTITUENCY NO 038 AND ZAMBEZI WEST CONSTITUENCY NO 114) (ELECTION DATES AND TIMES OF POLLS) (REVOCATION) ORDER

34. The Director submitted that the objective of these regulations was to revoke Statutory Instrument No 98, the National Assembly By-Elections (Vubwi

Constituency No 38 and Zambezi West Constituency No 114) (Election Dates and Times of Poll) Order, 2013. The regulations were made pursuant to *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 108 of the Electoral Act, No 12 of 2006 of the Laws of Zambia* and the powers contained in *Regulation 8 of the Electoral (General) Regulations, 2006*.

MINISTRY OF CHIEFS AND TRADITIONAL AFFAIRS

STATUTORY INSTRUMENT NO 19 OF 2013: THE CHIEFS (RECOGNITION) ORDER

35. The Permanent Secretary submitted that the purpose of this Order was to recognise Ms. Victoria Kalondwe as new Chieftainess Mukanda of the Chewa People of Chipata District in the Eastern Province. This was after she was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 22 OF 2013: THE CHIEFS (RECOGNITION) (NO 2) ORDER

36. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law. The purpose of this Order was to recognise Dr. Mathias Musonda Mpande as new Chief Mpande of the Mambwe people of Mbala District in the Northern Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 23 OF 2013: THE CHIEFS (RECOGNITION) (NO 3) ORDER

37. The Permanent Secretary submitted that this Statutory Instrument was made pursuant to the powers contained in Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Christopher Chakolwa as new Senior Chief Kalimankonde of the Unga People of Lunga District in the Luapula Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 24 OF 2013: THE CHIEFS (RECOGNITION) (NO 4) ORDER

38. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr. Grimston Mwila as new Chief Chimbuka of the Bemba People of Chinsali District in the Muchinga Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 25 OF 2013: THE CHIEFS (WITHDRAWAL OF RECOGNITION) ORDER, 2013

39. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 4 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to withdraw and suspend the recognition accorded to a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to withdraw the recognition of Mr Pineas Chilimbwa as Chief Sikongo of the Tonga People of Siavonga District in the Southern Province.

The Permanent Secretary added that Mr Pineas Chilimbwa was recognised as Chief Sikongo on 29th October, 1999. The recognition of appointment as Chief Sikongo was withdrawn because he was not entitled to hold the office of Chief as his recognition was obtained through fraudulent means. Further, Mr Chilimbwa was not a Zambian and was merely a brother in-law to the late Chief. Administrative and police reports were available to this effect. In other words, the succession process to the throne of Chief Sikongo was not properly conducted. He informed your Committee that prior to the withdrawal of recognition, stakeholders were widely consulted.

Committee's Observations and Recommendations

Your Committee is concerned over the fact that it took the Government more than fifteen years to discover this fraud and take corrective action. Your Committee calls upon the Ministry of Chiefs and Traditional Affairs to follow up the prosecution of the perpetrators of this crime to its logical conclusion as well as pursue the recovery of all allowances paid to the impersonators during the period Mr Chilimbwa wrongfully occupied the office of Chief. Your Committee will await a progress report on the matter.

STATUTORY INSTRUMENT NO 34 OF 2013: THE CHIEFS (WITHDRAWAL OF RECOGNITION) (NO 2) ORDER, 2013

40. The Permanent Secretary submitted that Mr. Henry Kanyanta Sosala was recognised as Senior Chief Mwamba on Friday, 26th September, 2008. The withdrawal of the recognition of Mr. Sosala was based on the fact that the appointment was signed by the Vice President, contrary to the provisions of Section 3 of the Chiefs Act. This was before the creation of a dedicated Ministry for Chiefs and Traditional Affairs, so the matter was handled by the Ministry of Local Government and Housing.

The Permanent Secretary further stated that there was no consultation undertaken prior to the withdrawal of recognition and the Ministry of Chiefs and Traditional Affairs was not aware of any disquiet as regards the withdrawal of recognition. He added that it was up to the Bemba Traditional Leadership (the Balubembas) to follow up the matter if they were aggrieved, but that so far the Ministry had not received any complaint from them or from any other person in this regard. He explained that even the House of Chiefs could not come into the issue unless a complaint was tabled before them. He reiterated that the traditional selection process by the electoral college of the Bemba Traditional Leadership was properly done and Mr Sosala was properly selected to ascend to the throne as Senior Chief Mwamba.

Asked to comment on whether the Ministry would now initiate the correct procedure for recognition of Mr Henry Kanyanta Sosala as Senior Chief Mwamba, the Permanent Secretary submitted that Section 3 of the Chiefs Act provided that the President may recognise a person as Chief, hence this was left to the discretion of the President. The Ministry could, therefore, not speak on behalf of the President in this matter, but he added that the Ministry had written to the Permanent Secretary

for Northern Province to meet the Bemba Traditional Leadership with a view of normalising the situation.

Committee's Observations and Recommendations

Your Committee notes the submission and implores all public officials to ensure strict adherence to the provisions of the law in such matters by ensuring that only the office which is by law vested with the power to recognise Chiefs is the one that issues such Statutory Instruments in order to avoid such errors, which have the potential to create serious misunderstandings. In the case at hand, the Statutory Instrument should have been issued by the President and not the Vice President as was the case. Further, your Committee implores the Ministry to follow up this matter and ensure that a correct Statutory Instrument is issued without undue delay to avoid a vacuum in the Bemba traditional hierarchy. Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 4 of the Chiefs Act, Chapter 287 of the Laws of Zambia* and awaits a progress report on the matter.

STATUTORY INSTRUMENT NO 36 OF 2013: THE CHIEFS (RECOGNITION) (NO 5) ORDER, 2013

41. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Morgan Kumwenda as the new Chief Chamuka of the Lenje People of Chibombo District in the Central Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 43 OF 2013: CHIEFS (RECOGNITION) ORDER

42. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia* which conferred on the President the power to recognise a person as Chief if that person was entitled to hold the office under African customary law. The purpose of this Order was to recognise Mr Wesley Shabongwe Mukobela as Chief Mukobela of the Ila people of Namwala District in the Southern Province. Asked to clarify the status of the court case regarding this chieftaincy, the Permanent Secretary stated that the matter had since been resolved.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 45 OF 2013: THE CHIEFS (RECOGNITION) (NO 7) ORDER, 2013

43. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Kelvin Mwaba Mulunda as new Senior Chief Sailung'a of the Lunda People of Mwinilunga District in the North Western Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 46 OF 2013: THE CHIEFS (RECOGNITION) (NO 8) ORDER, 2013

44. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Emmanuel Banda as new Chief Zingalume of the Chewa people of Chadiza District in the Eastern Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 47 OF 2013: THE CHIEFS (RECOGNITION) (NO 9) ORDER, 2013

45. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if

that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Howard Chipinda as new Chief Shimbizhi of the Ila People of Itezhi-Tezhi District in Central Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 48 OF 2013: THE CHIEFS (RECOGNITION) (NO 10) ORDER, 2013

46. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Christopher Chibuye Mumbo as new Chief Chisomo of the Lala People of Serenje District in the Central Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 65 OF 2013: THE DEPUTY CHIEF (WITHDRAWAL OF APPOINTMENT) ORDER, 2013

47. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 4 (b) (1) of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to withdraw appointment of a person as Deputy Chief if that person ceased to be entitled under African customary law to hold the office of Chief.

The purpose of this Order was to withdraw the appointment of Mr Philip Lwizi Sekute as Deputy Chief Sekute of the Toka Leya people of Kazungula District in the Southern Province.

The Permanent Secretary explained that the circumstances leading to this situation were that the person who was entitled to be Chief Sekute fell mentally ill, so a Deputy Chief was appointed to take charge of the affairs of the chiefdom. In due course, however, the mentally ill person was cleared by medical authorities and came back to reclaim the throne, hence it became necessary to revoke the

appointment of the erstwhile Deputy Chief Sekute. Medical reports were available for verification in this regard.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 4 (b) (1) of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 76 OF 2013: THE CHIEFS (WITHDRAWAL OF RECOGNITION) (NO 3) ORDER, 2013

48. The Permanent Secretary submitted that this order was made pursuant to the powers contained in *Section 4 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to withdraw recognition of a person as chief if that person ceased to be entitled to hold the office under African customary law.

The purpose of this Order was to withdraw the recognition of Mr Batholomew Lukaki as Senior Chief Shimumbi of the Bemba People of Luwingu District in the Northern Province. This was after the Bemba Royal Establishment recommended for his revocation.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 4 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 84 OF 2013: THE NATIONAL HERITAGE CONSERVATION COMMISSION (BAROTSE CULTURAL LANDSCAPE) NATIONAL MONUMENT) (DECLARATION) ORDER

49. The Permanent Secretary submitted that the Government had plans of making the Barotse Cultural Landscape a World Heritage Site. He explained that the cultural landscape in question had royal burial sites, a network of canals extending over 7,966 square kilometres, and included the Kuomboka ceremony. These were all unique cultural features which had played different roles in the socio-economic life of the inhabitants of that landscape. According to the procedure for eligibility for nomination as a World Heritage Site, the Site must first be declared a National Heritage Site, hence the promulgation of this Statutory Instrument, pursuant to the powers conferred on the Minister in *Section 27 of the National Heritage Conservation Commission Act, Chapter 173 of the Laws of Zambia*.

Asked to comment on assertions that the declaration of the landscape as a national monument and later a World Heritage Site would mean that there would be no development in the area, the Permanent Secretary submitted that on the contrary, the opposite was expected to be the case as the nomination of this site as a World Heritage Site would enhance preservation of the cultural heritage, enhance the image of the country and foster national identity. He explained that there was a

difference between natural heritage and cultural heritage in that cultural heritage hinged on human interaction with the natural environment. Therefore, normal human activities were expected to continue on the landscape after the declaration. In this regard, the Permanent Secretary explained that some of the valuable cultural heritage of the Barotse plains was not in good condition and was sometimes desecrated by unscrupulous persons. The status of World Heritage Site would, therefore, provide opportunities for restoration of the cultural landscape through external funding and would further promote tourism, education and research. It would also profile not only the Kuomboka ceremony but also many other traditional ceremonies around the country which would result in promotion of Zambia's cultural heritage. He added that the nomination of sites to the World Heritage list was generally a catalyst of recreation through stimulation of tourism and new investments, and the attendant benefits to the local people. He added that the nomination of the site would be a source of pride for Zambia and it would be the first World Heritage Site which would be fully owned by Zambia since the Victoria Falls World Heritage Site was jointly owned with Zimbabwe.

As regards whether the declaration was preceded by a consultative process, the Permanent Secretary submitted that consultation had been and continued to be part of the process. In this regard, he stated that the Barotse Royal Establishment (BRE) had been very instrumental in the identification of the cultural resources and definition of the boundary for the site as well as its buffer. Additionally, from the time the Site was put on the World Heritage tentative list as one of the five sites which Zambia had submitted for nomination in 2009, the National Heritage Conservation Commission had conducted a series of stakeholder sensitisation meetings at both provincial and district levels. Awareness meetings had also been held in Kalabo, Sesheke and Senanga districts, among others. The Commission had also established an office in Mongu through which it had conducted various local community programmes through sensitisation of local stakeholders on the nomination of the landscape as a World Heritage Site.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 27 of the National Heritage Conservation Commission Act, Chapter 173 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 102 OF 2013: THE CHIEFS (RECOGNITION) (NO 12) ORDER

50. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*, which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law.

The purpose of this Order was to recognise Mr Larazous Mulowa as new Senior Chief Luembe of the Nsenga People of Nyimba District in the Eastern Province. This was after he was selected by the electoral college in accordance with the traditions and customs obtaining in the area.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 101 OF 2013: THE CHIEFS (RECOGNITION) ORDER

51. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia* which conferred on the President the power to recognise a person as chief if that person was entitled to hold the office under African customary law. The purpose of this Order was to recognise Mr Emmanuel Bwalya as Chief Kaundula of the Swaka people of Luano District in the Central Province.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 119 OF 2013: THE CHIEFS (WITHDRAWAL OF APPOINTMENT) ORDER

52. The Permanent Secretary submitted that this Order was made pursuant to the powers contained in *Section 43 of the Chiefs Act, Chapter 287 of the Laws of Zambia* which conferred on the President the power to withdraw the appointment of a person as chief if that person ceased to be entitled under African customary law to hold the office of chief. The purpose of this Order was to withdraw the appointment of the recognition of Mr Benson Chikwanda Njalamimba as Chief Mukupa Katandula of the Tabwa people of Kaputa District in the Northern Province following the resignation of the holder of the Office.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with *Section 43 of the Chiefs Act, Chapter 287 of the Laws of Zambia*.

MINISTRY OF LOCAL GOVERNMENT AND HOUSING

STATUTORY INSTRUMENT NO 26 OF 2013: THE LOCAL GOVERNMENT (ESTABLISHMENT OF COUNCILS) (AMENDMENT) ORDER

53. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the amendment on the name of the district from Mwembezi and substitution therefor of the word "Shibuyunji". This was in compliance with *Section 3 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Local Government Act, Cap 281 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 28 OF 2013: THE PROVINCIAL AND DISTRICT BOUNDARIES (DIVISION) (AMENDMENT) ORDER

54. The Permanent Secretary submitted that the Statutory Instrument was issued in respect of the creation of Mwanabombwe, Rufunsa and Shibuyunji Districts by the President. Further, the Statutory Instrument outlined the Schedule on the boundary narrative description in accordance with the provisions of *Section 2 of the Provincial and District Boundaries Act, Chapter 286 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 2 of the Provincial and District Boundaries Act, Chapter 286 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 30 OF 2013: THE LOCAL GOVERNMENT (APPOINTMENT OF LOCAL GOVERNMENT ADMINISTRATOR) LIVINGSTONE CITY COUNCIL ORDER

55. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the re-appointment of Local Government Administrator Mr Alex Bwalya in compliance with *Section 89 of the Local Government Act, Cap 281 of the Laws of Zambia* following the extension of suspension of Livingstone City Council.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 89 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 104 OF 2013: THE TOWN AND COUNTRY PLANNING (APPLICATION) ORDER

56. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the boundary narrative description of Mpulungu and Nsama Districts by the President. This was in compliance with *Section 3 of the Town and Country Planning Act, Chapter 283 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Town and Country Planning Act, Chapter 283 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 115 OF 2013: THE LOCAL GOVERNMENT (ESTABLISHMENT OF COUNCILS) (NO. 3) ORDER

57. The Statutory Instrument was issued in respect of establishment of Mwandi, Sioma, Sikongo, Manyinga, Nalolo and Limulunga District Councils in accordance with *Section 3 of the Local Government Act, Cap 281 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 120 OF 2013 - THE LOCAL GOVERNMENT (COUNCILLORS' ALLOWANCES) ORDER, 2013

58. The Permanent Secretary submitted that this Statutory Instrument has been issued in respect of the revision of Councillors' allowances in accordance with the *Local Government Act, Chapter 281 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 71 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 105 OF 2013: THE LOCAL GOVERNMENT (AMENDMENT) (NO. 3) ORDER, 2013

59. The Permanent Secretary submitted that the Statutory Instrument was issued in respect of the creation of Manyinga, Limulunga, Mwandi, Nalolo, Sikongo, and Sioma Districts by the President. Further, the Statutory Instrument outlined the Schedule on the boundary narrative description in accordance with the provisions of *Section 2 of the Provincial and District Boundaries Act, Chapter 286 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with the provisions of *Section 2 of the Provincial and District Boundaries Act, Chapter 286 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 90 OF 2013: THE LOCAL GOVERNMENT BY-ELECTIONS (ELECTION DATES AND TIMES OF POLL (NO. 8) ORDER, 2013

60. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the Local Government by-election in the wards listed in the Schedule to the Statutory Instrument. It stated the dates and times of the poll in accordance with *Section 12 of the Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

Committee's Observations and Recommendations

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

STATUTORY INSTRUMENT NO 64 OF 2013: LOCAL GOVERNMENT (ESTABLISHMENT OF COUNCILS) (NO 2) ORDER, 2013

61. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the establishment of Chisamba, Chitambo, Shiwang'andu, Luano, Chembe, Luampa, Mitete and Nkeyema District Councils in accordance with *Section 3 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 3 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 49 OF 2013: THE PROVINCIAL AND DISTRICT BOUNDARIES (DIVISION) (AMENDMENT) ORDER, 2013

62. The Permanent Secretary submitted that the Statutory Instrument was issued in respect of the creation of Chisamba, Chitambo, Luano, Shiwang'andu, Chembe, Luampa, Mitete and Nkeyema Districts by the President. Further, the Statutory Instrument outlined the Schedule on the boundary narrative description in accordance with the provision of the *Provincial and District Boundaries Act, Cap 286 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 2 of the Provincial and District Boundaries Act, Cap 286 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 61 OF 2013: THE TOWN AND COUNTRY PLANNING (APPLICATION) ORDER, 2013

63. The Permanent Secretary submitted that this Statutory Instrument was issued in respect of the boundary narrative description of Chipata and Mansa Districts in compliance with *Section 4 of the Town and Country Planning Act, Chapter 286 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 4 of the Town and Country Planning Act, Chapter 286 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 5 OF 2013: THE LOCAL GOVERNMENT (APPOINTMENT OF LOCAL GOVERNMENT ADMINISTRATOR) (LIVINGSTONE CITY COUNCIL) ORDER, 2013

64. The Permanent Secretary submitted that the Statutory Instrument was issued in respect of the appointment of Local Government Administrator Mr Alex Bwalya in compliance with *Section 89 of the Local Government Act, Chapter 281 of the Laws of Zambia* following the suspension of Livingstone City Council.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 89 of the Local Government Act, Chapter 281 of the Laws of Zambia*.

MINISTRY OF LABOUR AND SOCIAL SECURITY

STATUTORY INSTRUMENT NO 3 OF 2013: THE NATIONAL PENSION SCHEME (PENSIONABLE EARNINGS) (AMENDMENT) REGULATIONS, 2013

65. The Permanent Secretary submitted that one of the salient features of the National Pension Scheme was the annual adjustment of pensions in line with changes in wage inflation to ensure that pension payments remained reasonable and relevant. The issuance of the Statutory Instrument was in line with the Government policy to index pension benefits against inflation.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with *Sections 14 and 19 of the National Pension Scheme Act, Chapter 256 of the Laws of Zambia*, which empowers the Minister to annually adjust, through Statutory Instruments, the levels of pensionable earnings by an index based on national average earnings.

STATUTORY INSTRUMENT NO 13 OF 2013: THE INDUSTRIAL AND LABOUR RELATIONS (DEDUCTIONS AND REMITTANCE OF SUBSCRIPTION) (AMENDMENT) REGULATIONS

66. The Permanent Secretary submitted that the amendments in this Statutory Instrument were necessary in order to remove the restriction in the existing legal framework of only referring to a "congress" when the reality was also in existence a "federation" of trade unions. This necessitated the inclusion of "federation". This was also justified by the fact that the Federation of Free Trade Unions in Zambia (FFTUZ) was brought on board as a National Centre and was at par with the Zambia Congress of Trade Unions (ZCTU) in terms of recognition. Further, the constitutions of the Congress and the Federation currently mandated affiliates to remit subscriptions to the two mother bodies. However, experience had shown that some national unions did not remit the compulsory subscriptions as per respective constitutions. This situation threatened the financial base of the Congress and the Federation. This amendment therefore diminished the monopoly of the Congress

and enabled FFTUZ to be receiving subscriptions from its affiliates legally. The Statutory Instrument was made in exercise of the powers conferred on the Minister under *Section 112 of the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia* following a resolution passed at the Tripartite Consultative Labour Council in August, 2011.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 112 of the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 87 OF 2013: THE WORKERS' COMPENSATION (PNEUMOCONIOSIS) (CHARGES AND FEES) (AMENDMENT) REGULATIONS, 2013

67. The Permanent Secretary submitted that this Statutory Instrument was issued pursuant to the powers conferred on the Minister responsible for labour in *Section 152 of the Workers' Compensation Act, No 10 of 1999*. The Statutory Instrument was aimed at revising upwards the charges payable for initial (pre-employment) examinations; periodic in employment) examinations; village benefit (post employment) examinations; and post mortem examinations. These adjustments were necessary in order to respond to increasing general administrative and operational costs including medical equipment and requisites, reagents and stationery, among others.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 152 of the Workers' Compensation Act, No 10 of 1999*.

STATUTORY INSTRUMENT NO 118 OF 2013: THE NATIONAL PENSION SCHEME (PENSIONABLE EARNINGS) (AMENDMENT) REGULATIONS, 2013

68. The Permanent Secretary submitted that these regulations were made pursuant to the powers contained in *Sections 14 and 19 of the National Pension Scheme Act, Chapter 256 of the Laws of Zambia*. He explained that the Act required an employer to pay a contribution consisting of the employer's contribution and the employee's contribution at a prescribed percentage to the National Pension Scheme. Further, the Minister was empowered by the Act to prescribe pensionable earnings which were based on actuarial valuation. As a result, the Minister issued a Statutory Instrument on pensionable earnings every year to take into account the actuarial valuation, hence the issuance of this Statutory Instrument.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Sections 14 and 19 of the National Pension Scheme Act, Chapter 256 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 121 OF 2013: THE PROHIBITION OF EMPLOYMENT OF YOUNG PERSONS AND CHILDREN (HAZARDOUS LABOUR) ORDER

69. The Permanent Secretary submitted that these regulations were made pursuant to *Section 20 of the Employment of Young Persons and Children Act, Chapter 274 of the Laws of Zambia*. The Act, as amended by Act No. 10 of 2004, incorporated International Labour Organisation Convention No 182 on the Worst Forms of Child Labour. Article 4 of the Convention mandated state parties to determine by national laws or regulations, the type of work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety or morals of children. Such work should be prescribed periodically, re-examined and revised as necessary. Zambia had not prescribed this category of work, which in labour parlance was termed "hazardous labour" and hence the issuance of this Statutory Instrument pursuant to the aforementioned enabling provision.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 20 of the Employment of Young Persons and Children Act, Chapter 274 of the Laws of Zambia*.

MINISTRY OF DEFENCE

STATUTORY INSTRUMENT NO 18 OF 2013: THE ZAMBIA NATIONAL SERVICE (COMBAT UNIFORM) REGULATIONS, 2013

70. The Permanent Secretary submitted that it was necessary to change the uniform colour shade for the Zambia National Service (ZNS) for security purposes. She explained that the Zambia National Service green combat uniform had been commonly abused by many private security companies whose personnel were seen wearing it. In other instances, the same green combat uniform had been spotted in some scenes of crime which prompted the Zambia National Service to propose a uniform that would look different from the current one.

In light of the foregoing, these regulations effectively changed the Zambia National Service combat uniform, making the new uniform the official and exclusive combat uniform for members of the Service. Thus, it was henceforth proscribed for any non-member of the Service to wear or use the new combat uniform. The Permanent Secretary added that the Ministry was confident that the introduction of the new combat uniform would deter abusers of the old uniform as the regulations also provided for the prosecution of abusers of the new combat uniform. Further, she informed your Committee that all ZNS officers had since been issued with the uniforms and that the old uniforms were no longer in use.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in line with the provisions of *Section 50 Zambia National Service Act, Chapter 121 of the Laws of Zambia*. Your Committee, however, notes that the old combat uniform is still in use

and strongly recommends that the Minister of Defence ensures that the Statutory Instrument is implemented in full and the old uniform is completely withdrawn.

MINISTRY OF LANDS, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

STATUTORY INSTRUMENT NO 7 OF 2013: THE LANDS TRIBUNAL (FEES) REGULATIONS, 2013

71. The Permanent Secretary submitted that the Statutory Instrument prescribed the fees payable for services provided by the Lands Tribunal in line with *Section 21 of the Lands Tribunal Act of 2010*. The enactment of the *Lands Tribunal Act, No 39 of 2010* widened the jurisdiction of the Tribunal to adjudicate on all land related cases. This widening of the scope of work of the tribunal had come with certain implications, among them the need for more funding to meet the increase in the scope of work for the Tribunal. Therefore, in order to ensure that the day-to-day administration and the general operations of the Tribunal were not negatively affected by low funding, the Ministry decided to introduce eight categories of fees to be paid by complainants lodging various land related cases. These fees had been set at a very minimal level to ensure that no class of society was disadvantaged. This additional source of funds would enable the Tribunal to handle complaints or cases in the shortest possible time.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 21 of the Lands Tribunal Act of 2010*.

STATUTORY INSTRUMENT NO 9 OF 2013: THE LAND SURVEY (AMENDMENT) REGULATIONS

72. The Permanent Secretary submitted that the Statutory Instrument prescribed the new fees payable for various survey services provided by the Ministry in line with the provisions of the *Land Survey Act, Chapter 188 of the Laws of Zambia*. In this regard, this Statutory Instrument amended the Third Schedule of Statutory Instrument No 19 of 2004 and subsequently revised upwards the fees payable for various survey services provided for by the Ministry, which had remained unrevised since 2004. He added that the revision was necessary in order to reflect the minimum cost of the provision of these services, and so that the Ministry could effectively provide the said services. As such, these new fees would not have an adverse impact on the public but would not only ensure that the Ministry was able to offer improved survey services as some of these revenues would be retained by the Ministry and utilised as appropriation in aid, but would also contribute towards the total Government revenue needed to meet the public expenditure.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 40 of the Land Survey Act, Chapter 188 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 54 OF 2013: THE LAND SURVEY (AMENDMENT) REGULATIONS

73. The Permanent Secretary submitted that this Statutory Instrument prescribed the new fees payable for various survey services provided by the Ministry in line with the *Land Survey Act, Chapter 188 of the laws of Zambia*. He explained that the Statutory Instrument was intended to amend the Third Schedule of Statutory Instrument No 9 of 2013 in order to correct errors in that Statutory Instrument which had resulted in clients being charged twice for the same land survey services rendered to them by the Government. This Statutory Instrument, therefore, amended the Third Schedule of Statutory Instrument No 9 of 2013 by the deletion of the following fees:

- lodgement fee of a stand, lot or farm in an urban area; and
- lodgement fee of a lot or farm outside an urban area

The deleted fees were the same as the examination fees outlined in the Third Schedule of Statutory Instrument No 9 of 2013. In this way, the Government, through the relevant ministry would only charge clients the correct fees for the various survey services to them.

Committee's Observations and Recommendations

Your Committee notes that the Statutory Instrument has been issued in line with the provisions of *Section 40 of the Land Survey Act, Chapter 188 of the laws of Zambia*.

STATUTORY INSTRUMENT NO 112 OF 2013: THE ENVIRONMENTAL MANAGEMENT (LICENSING) REGULATIONS

74. The Permanent Secretary submitted that these regulations were issued following the repeal of *the Environmental Protection and Pollution Control Act, Chapter 204 of the laws of Zambia* and the enactment of *the Environmental Management Act, No 12 of 2011*. The new Act not only renamed the Environmental Council of Zambia as the Zambia Environmental Management Agency, but also significantly broadened its mandate. As a consequence, these regulations were meant to address the provisions of the new Act as the licensing regime under the repealed Act was in many respects in conflict with the new Act. These regulations, therefore, prescribed the new fees payable for various licences and prescribed prohibitions, procedures and responsibilities of operators of facilities discharging contaminants or pollutants into the environment as required by the new Act.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Sections 43 and 134 of the Environmental Management Act, No 12 of 2011*.

STATUTORY INSTRUMENT NO 53 OF 2013: THE LANDS AND DEEDS REGISTRY (AMENDMENT) REGULATIONS

75. The Permanent Secretary submitted that this Statutory Instrument was issued following a number of complaints from various members of the public as a result of the issuance of Statutory Instrument Number 8 of 2013 which removed the ceiling on the fees relating to land transactions, which ceiling was introduced under Statutory Instrument Number 24 of 2005. Statutory Instrument No 24 of 2005 stipulated a 1% registration fee on various documents, with the maximum fee payable being K2,000. This was meant to promote fairness in the payment of fees across the spectrum of society as well as promote the principles of a good and fair tax system whereby ability to pay was reflected in the amount of fees paid. However, some stakeholders argued that the removal of the ceiling by Statutory Instrument No 8 of 2013 increased the cost of doing business in the country and was affecting the operations of various business entities. In effect, the issuance of Statutory Instrument No 53 meant that a 1% registration fee was payable in respect of transfers, assignments and similar transactions, while a new maximum registration fee of K15,000 had been introduced. Consequently, if 1% of the value of the property was in excess of K15,000, only K15,000 would be payable as registration fee. Additionally, 1% would be payable in respect of registration of documents relating to mortgages, debentures, charges, guarantees, covenants, floating charges and similar documents, with a ceiling of K4,000. The Permanent Secretary explained that these ceilings were arrived at following consultations with various stakeholders. These amendments were meant to create a conducive environment for business while contributing to Government revenue.

Your Committee requested the Permanent Secretary to comment on whether or not the Statutory Instrument abrogated the principle of equity which should ideally underlie such measures and, if it did, what measures the Government had taken to mitigate this negative result of the Statutory Instrument. The Permanent Secretary explained that Statutory Instrument No 8 of 2013 resulted in vendors and purchasers being charged 1 % on all transactions regardless of the value of the transaction. This, subsequently, increased the cost of registration of a property as well as the transaction on a mortgage. In this vein, the Ministry received a number of complaints from individuals and institutions regarding the fact that Statutory Instrument No 8 of 2013 had resulted in increased costs of doing business. As a result, the Ministry recorded a reduction in the registration of secondary transactions. The Ministry feared that if the trend continued, it would have impacted negatively on revenue collection for the Government which would have been contrary to the purpose for its issuance, which was to ensure Government revenue collection was strengthened to meet developmental obligations. Therefore, the issuance of Statutory Instrument No 53 of 2013 was meant to encourage the registration of various documents and subsequently enhance revenue collection while keeping the cost of doing business affordable, thereby encouraging investment, especially in real estate.

She added that the Statutory Instrument was also, to some extent, expected to promote fairness in the payment of registration fees as it increased the maximum fee payable from the K2,000 prescribed under Statutory Instrument No 24 of 2005 to K15,000. This meant that, for one to pay less than 1 % in registration fees on

property, the property must be sold for more than K1.5 million which was a very high figure. It was also important to note that a registration fee was not a tax but a charge to enable the Government to meet the costs of registration of that particular transaction, hence it should not be viewed strictly from a tax perspective. A person transacting was, in any case, expected to pay property transfer tax, which had no ceiling.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with *Section 92 of the Lands and Deeds Registry Act, Chapter 185 of the Laws of Zambia*.

MINISTRY OF FINANCE

STATUTORY INSTRUMENT NO 32 OF 2013: THE BANK OF ZAMBIA (MONITORING BALANCE OF PAYMENTS) REGULATIONS, 2013

76. The Permanent Secretary (Budget and Economic Affairs) submitted that this Statutory Instrument sought to give powers to the Bank of Zambia to better monitor balance of payment transactions to enhance economic management in line with the responsibility of the *Bank of Zambia under the Bank of Zambia Act of 1996*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 57 of the Bank of Zambia Act of 1996*.

STATUTORY INSTRUMENT NO 35 OF 2013: THE BANK OF ZAMBIA (MONITORING BALANCE OF PAYMENTS) (AMENDMENT) REGULATIONS, 2013

77. The Permanent Secretary (Budget and Economic Affairs) submitted that following several concerns raised by stakeholders, including members of the public, banks and the business community, on some provisions of Statutory Instrument No 32, the Government decided to postpone the date of the effectiveness of the Instrument. This was meant to allow for thorough consultations. Its implementation date was, therefore, rescheduled through the issuance of this Statutory Instrument. The effective implementation date was therefore moved from Thursday, 16th May, 2013 to Monday, 1st July, 2013.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 57 of the Bank of Zambia Act of 1996*.

STATUTORY INSTRUMENT NO 55 OF 2013: THE BANK OF ZAMBIA (MONITORING BALANCE OF PAYMENTS) REGULATIONS, 2013

78. The Permanent Secretary (Budget and Economic Affairs) submitted that after a robust consultative process with stakeholders regarding the provisions of

Statutory Instrument No 32, it was decided that the Instrument be repealed through the gazetting of the Bank of Zambia (Monitoring of Balance of Payments) Regulations, Statutory Instrument No. 55 of 2013. Just as was the case for Statutory Instrument No 32 of 2013, the rationale behind issuance of Statutory Instrument No 55 was to ensure better and more credible statistics on balance of payments that would better inform policy interventions.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 57 of the Bank of Zambia Act of 1996*.

STATUTORY INSTRUMENT NO 82 OF 2013: THE SECURITIES (LICENSING, FEES AND LEVIES) (AMENDMENT) RULES, 2013

79. The Permanent Secretary (Budget and Economic Affairs) submitted that this Statutory Instrument amended and replaced the licensing fees and levies that subsisted under the *Securities Act, Cap 354 of the Laws of Zambia* and introduced some provisions that were previously non-existent in order to strengthen supervision of the licensees. Since the existing fee structure was last reviewed in 2005, the issuance of this Statutory Instrument brought a leveling effect on Zambia's capital market transactions. It also allowed harmonisation of Zambia's securities, laws and regulations with other players regionally and internationally since the Zambian Securities and Exchange Commission was a member of the SADC Committee of Insurance Securities and Non-Banking Financial Authorities (CISNA) and the International Organisation of Securities Commissions (IOSCO). Further, the promulgation of this Statutory Instrument was expected to help uplift Zambia's reputation as a pro-business international financial centre. The Zambian capital markets would have a chance to attract more players and thereby compete favourably at the international level.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the powers given in *Sections 4 and 78 of the Securities Act, Cap 354 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 66 OF 2013: THE CUSTOMS AND EXCISE (TOURISM ENTERPRISE) (SUSPENSION) (AMENDMENT) REGULATIONS

80. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of Statutory Instrument No 66 was to provide a comprehensive list of goods for which applicable customs duties were suspended to free from October, 2012 to December, 2013 when imported by tourism enterprises licensed under the Tourism and Hospitality Act, 2007. The said duty suspension was initially provided for under Statutory Instrument No 69 of 2012 but some of the eligible goods were omitted from the Statutory Instrument. The objective of this Statutory Instrument was, therefore, to include omitted items for the tourism sector, to broaden the items in order to benefit many enterprises involved in tourism and to include all motor vehicles which use both petrol and diesel.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 89 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 78 OF 2013: THE CUSTOMS AND EXCISE (SUSPENSION) (FUEL) REGULATIONS

81. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to suspend duty on petrol and diesel when imported by the Ministry of Mines, Energy and Water Development in order to mitigate the high fuel prices. The suspension of duty on petrol and diesel would make the importation of these commodities cheaper.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 89 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*. However, your Committee is of the view that the objective of the Statutory Instrument has not been achieved as Zambia still has the highest prices of fuel in the region. Your Committee calls upon the Government to inquire into the reasons behind this and rectify the situation.

STATUTORY INSTRUMENT NO 80 OF 2013: THE CUSTOMS AND EXCISE (SUSPENSION) (FUEL) (AMENDMENT) REGULATIONS

82. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to correct a drafting error in Statutory Instrument No 78 of 2013. Statutory Instrument No 78 suspended duty to 0 percent instead of 10 percent contrary to Government policy on this item.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 89 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 81 OF 2013: THE VALUE ADDED TAX (EXEMPTIONS) (AMENDMENT) ORDER

83. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to correct a drafting omission in the Value Added Tax law. The omission entailed that the sale of commercial property was exempt from VAT when in fact such transactions ought to attract VAT in accordance with Government's policy on the VAT treatment of commercial property since 2010.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 15 of the Value Added Tax Act, Chapter 331 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 33 OF 2013: THE CUSTOMS AND EXCISE (SUSPENSION) (CRUDE OIL) REGULATIONS

84. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to suspend the 5 percent customs duty on crude oil to free, when imported by the Ministry responsible for energy. The measure was intended to mitigate high fuel prices in the economy and enable citizens to affordably procure petroleum and petroleum products.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 89 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 51 OF 2013: THE CUSTOMS AND EXCISE (EXCISE DUTY) (SUSPENSION) (AMENDMENT) REGULATIONS

85. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to reduce excise duty on clear beer made from cassava from 40 % to 10 %. This was intended to encourage diversification and growth in the agricultural sector and specifically the growing of cassava. It was envisaged that a reduction in excise duty would encourage companies to invest in the manufacture of clear beer from cassava and this in turn would benefit farmers growing cassava.

The above notwithstanding, your Committee's interactions with officials of the Ministry of Agriculture and Livestock and the Ministry of Commerce, Trade and Industry revealed that not much had been done to sensitise and prepare local cassava producers as regards the need to produce more cassava to meet the anticipated rise in demand for the crop once the cassava beer brewery was operational. It came to your Committee's attention that apart from subsistence cassava producers and a few processors, there was a regional NGO that was undertaking some work in the area of the promotion of cassava production and processing, research into cassava seed production and market information dissemination. In addition, your Committee learnt that there were many uses of cassava which had not been explored and which could be very beneficial in the long term.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument but is concerned that it appears to have been made in favour of a specific operator, who is not even ready to commence production and it covers a single product only: clear beer, to the exclusion of all

other operators who use cassava in their production processes. Further, although the Ministry of Agriculture and Livestock has a good strategy to promote increased cassava production, the level of production of cassava in the country is still very low and it is doubtful if the level of supply can satisfy the demand if cassava was put into full industrial use. In fact, it is apparent to your Committee that the Ministry of Agriculture and Livestock was not consulted before the Statutory Instrument was promulgated. In light of this, your Committee is worried that this may lead to household food insecurity in those parts of the country where cassava is the staple food. Your Committee therefore, calls upon the Government to actively implement and coordinate the cassava strategy developed by the Ministry in all regions of the country where cassava is traditionally grown. Your Committee further calls for broadening the scope in terms of product coverage of this Statutory Instrument so that it can be used not only to promote industrialisation but also to achieve enhanced incomes for cassava producers as well as to improve household food security.

STATUTORY INSTRUMENT NO 94 OF 2013: THE CUSTOMS AND EXCISE (GENERAL) (AMENDMENT) REGULATIONS

86. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to restrict the rebate, refund or remission of duty to business enterprises that were in a priority sector and conducting business in a Multi-Facility Economic Zone or Industrial Park from the date the Minister of Finance announced the 2014 budget.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 198 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 77 OF 2013: THE LOANS AND GUARANTEES (AUTHORISATION) (DELEGATION OF FUNCTIONS) ORDER

87. In the Sixth National Development Plan, the Government had planned to increase investments in infrastructure in the education sector. The infrastructure would facilitate the acquisition of necessary skills in the critical subjects of science and mathematics, and those subjects relevant to the study of science and mathematics. The Government planned to finance the project by way of borrowing from the OPEC Fund for International Development (OFID). In light of this, the Minister of Finance delegated the authority to sign the loan agreement between the Government of Zambia and OFID to Ms Mwitwa Mulonda who was serving as Zambia's Charge D'Affaires at the Zambian Embassy in Berlin, Germany as provided for under the Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it is issued in accordance the provisions of *Section 27 of the Loans and Guarantees (Authorisation) Act, Chapter*

366 of the Laws of Zambia.

STATUTORY INSTRUMENT NO 89 OF 2013: THE CUSTOMS AND EXCISE (ORES AND CONCENTRATES) (EXPORT DUTY) (SUSPENSION) REGULATIONS, 2013

88. The Permanent Secretary (Budget) submitted that the objective of this Statutory Instrument was to suspend the 10 % export duty on mineral ores and concentrates to free. This measure was intended to allow mining companies to export mineral ores and concentrates without payment of duty.

Committee's Observations and Recommendations

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

STATUTORY INSTRUMENT NO 93 OF 2013: THE TAXATION (PROVISIONAL CHARGING) ORDER

89. The Permanent Secretary (Budget and Economic Affairs) submitted that as part of the 2014 budget measures, the Minister of Finance proposed that income tax changes relating to businesses operating in the multi-facility economic zones, industrial parks and business entities implementing the Millennium Challenge Account project should become effective from the date he announced the 2014 budget, that is 11th October, 2013. Therefore, this Statutory Instrument was aimed at enabling some provisions of the Income Tax (Amendment) Bill, 2013, to have the force of law before the Bill became law.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with *Section 2 of the Taxation (Provisional Charging) Act, Chapter 364 of the Laws of Zambia.*

STATUTORY INSTRUMENT NUMBER 95 OF 2013: THE INCOME TAX (TURNOVER TAX) (AMENDMENT) REGULATIONS, 2013

90. The Permanent Secretary (Budget and Economic Affairs) submitted that this piece of legislation was meant to remove the requirement that the prescription of a turnover tax return format was to be done under a Statutory Instrument. With this amendment, the turnover tax return would now be prescribed by the Commissioner-General under the Commissioner General's rules which were notified to taxpayers and the public through Gazette Notices instead of Statutory Instruments issued by the Minister of Finance. Therefore, this change would harmonise the mode of prescription of format of tax returns across the various tax types.

Committee's Observations and Recommendations

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

STATUTORY INSTRUMENT NUMBER 96 OF 2013 - THE VALUE ADDED TAX (EXEMPTION) (AMENDMENT) ORDER, 2013

91. The Permanent Secretary (Budget and Economic Affairs) submitted that the objectives of this Statutory Instrument were to amend the VAT Exemption Order in order to provide clarity in the law so as to clearly show that the sale or lease of an interest in land was exempt from Value Added Tax (VAT) while the sale, lease or rental of a commercial property was subject to the charge of VAT. Further, the amendment also clarified that the sale of a dwelling house by a person carrying on the business of constructing dwelling houses for sale was subject to VAT while the sale of a dwelling house by a person who was not carrying on the business of constructing dwelling houses for sale, was not subject to VAT. She added that the VAT policy on property transactions had not changed. The amendment also provided for the exemption of uncirculated new Zambian currency coins following the re-introduction of coins as legal tender. Prior to 2014, only uncirculated new Kwacha currency notes were exempt from VAT. The amendments were also meant to ensure that VAT exemption on importation of goods was applied where the exemptions were provided for under Customs and Excise Regulations, 2000.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with *Section 15 of the Value Added Tax Act, Chapter 331 of the Laws of Zambia*.

STATUTORY INSTRUMENT NUMBER 97 OF 2013 - THE VALUE ADDED TAX (ZERO-RATING) (AMENDMENT) ORDER, 2013

92. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of the Statutory Instrument was to make the supply of ancillary services and the supply of an inclusive tour package by a tour operator or travel agent licensed under the Tourism and Hospitality Act taxable for VAT purposes. Ancillary services were additional services rendered at a port of exit to facilitate the export of goods from Zambia and a pre-booked inclusive tour package had a number of tourism services offered as one bouquet and may include, among others, accommodation, transport, meals and various site seeing or adventure tourism activities. The Statutory Instrument further inserted a new paragraph (i) in Group 1 of the Value Added Tax (Zero-Rating) Order, 2011, in order to provide for the zero rating of pre booked tour packages booked prior to 1st January, 2014. This was aimed at allowing for packages that would have been pre-booked less VAT before this measure was effected, to enjoy the zero rated status at the time of consumption if consumed after 1st January, 2014.

The Permanent Secretary further submitted that the amendment replaced paragraph (d) of Group 2 of the Value Added Tax (Zero-Rating) Order, 2011 with a new paragraph (d), in order to zero rate Government funds in instances where such funds were used in a project co-financed with a donor. Prior to this amendment, only the funds from a donor were zero rated. The objective of this measure was to harmonise the VAT treatment of funds in co-financed projects. Another measure introduced in this amendment was the deletion of Group 9 from the Value Added Tax (Zero-Rating) Order, 2011. The implication of the deletion was that green gel, an ethanol based biofuel, would attract 16% VAT at the point of supply. The above measures formed part of efforts being undertaken to expand the VAT revenue base and entrench equity in the tax treatment of the supply of all goods and services.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with *Section 15 of the Value Added Tax Act, Chapter 331 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 99 OF 2013: THE CUSTOMS AND EXCISE (ORES AND CONCENTRATES) (EXPORT DUTY) (SUSPENSION)(AMENDMENT) REGULATIONS

93. The Permanent Secretary (Budget and Economic Affairs) submitted that the objective of this Statutory Instrument was to amend Statutory Instrument No 89 of 2013 in order for the suspension of export duty on ores and concentrates to cease to have effect on 28th October, 2013 as opposed to 30th September, 2014, pursuant to Statutory instrument No 89 of 2013.

Committee's Observations and Recommendations

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

STATUTORY INSTRUMENT NO 103 OF 2013: THE CUSTOMS AND EXCISE (PUBLIC BENEFIT ORGANISATION) (REFUND OR REMISSION) (AMENDMENT) REGULATIONS

94. Your Committee expressed concern that the implementation of this Statutory Instrument may negatively impact on the operations of some charitable organisations which were providing critical services to the poorest of the poor in the country, to whom the Government was not able to provide those services. In this regard, your Committee in its quest to inquire further into the matter met representatives of the Zambia Episcopal Conference, the Evangelical Fellowship of Zambia, the Council of Churches in Zambia, Action Aid Zambia, the Non-Governmental Organisations Coordinating Committee as well as the Acting Secretary to the Treasury. In particular, your Committee requested these key stakeholders to make submissions on:

- i) the legal ramifications of the Statutory Instrument No 103;
- ii) the possible impact of Statutory Instrument No. 103 on stakeholders in various sections of Zambian society; and
- iii) the rationale behind the promulgation of the statutory instrument.

A synopsis of the submissions by these stakeholders is set out below.

Submissions by the Representatives of the Zambia Episcopal Conference, the Evangelical Fellowship of Zambia, the Council of Churches in Zambia, Action Aid Zambia, the Non-Governmental Organisations Coordinating Committee

(i) *The Legal Ramifications of Statutory Instrument No 103 of 2013*

It was submitted that Statutory Instrument No 103 of 2013 entailed that, with effect from November 8, 2013, a number of goods as listed in that Statutory Instrument, including all motor vehicles and spare parts for motor vehicles, shall no longer qualify for tax exemption when imported by Public Benefit Organisations (PBOs).

The removal of certain important items from these general exemptions, even retrospectively, would have a negative impact on the operations of the PBOs affected. Recently, some PBOs had procured vehicles between November 8, 2013 and December 30, 2013 when the Minister signed the Statutory Instrument. These organisations would now have had to pay duty on these vehicles, which duty was not budgeted for when the procurement was done and for which in some cases their grant may not be sufficient.

(ii) *The Possible Impact of Statutory Instrument No 103 of 2013 on Stakeholders in Various Sections of Zambian Society*

It was submitted that the lifting of these tax exemptions would ultimately negatively affect the ordinary Zambian people because it would make it harder for the PBOs to assist these needy communities. In short, withdrawal of such tax incentives would push up operational costs for the organisations concerned and hence would also push up the cost of programme implementation. The resulting increase in the cost of operations for most PBOs with this Statutory Instrument would definitely disadvantage PBOs and force some of them to either shut down completely or scale down their operations, hence negatively affecting the level of service that these organisations provided to the vulnerable in society. The charitable and humanitarian services provided by some PBOs were critical and, in some cases, life saving such as advocacy to end Gender Based Violence, HIV and AIDS prevention programmes, as well as maternal health service provision. This measure would impede service provision to the grassroots, especially women and children who were often not able to access Government services.

It was also submitted that this Statutory Instrument came at a time when funding for PBOs was already going down, which may negatively affect PBO operations. In some cases, donors did not allow PBOs to pay additional taxes or duty on products that were brought into Zambia to provide relief or development assistance. Therefore, with this measure, some donors might discontinue their support. As a result of the anticipated reduced contribution of PBOs, public service provision in

areas supplemented by PBOs would deteriorate and the Government would have to increase its budgetary allocations to service areas that would ideally be supplemented by the work of PBOs. The impact would further perpetuate the already high poverty levels of the majority of Zambians who relied on the services provided by PBOs.

In addition, due to the resource constraints faced by PBOs, the introduction of this measure may coerce them to reduce their staffing levels and thus reduce their contribution of employment creation to the public.

(iii) ***The Rationale behind the Promulgation of the Statutory Instrument***

As regards justifications advanced by the Government that some non-profit making organisations had abused these incentives, it was contended that the Government should have worked on strengthening the tax management mechanisms in order to prevent the abuses identified. Furthermore, Zambia had in place investigative institutions and systems to detect any abuses and identify and punish the perpetrators of such harmful practices. There was also need for the Government to work on strengthening the capacity of the Zambia Revenue Authority (ZRA) so that they could effectively monitor and curb tax evasion by all players in the economy.

The stakeholders submitted that there was need for further debate on tax matters in a more consultative manner. The concerns advanced by the Government for withdrawing these tax incentives through this Statutory Instrument were not convincing and were in fact suspicious, given that there were no prior consultations before arriving at the decision. It was further submitted that the basis for the promulgation of this piece of legislation as advanced by the Government did not hold and was a clear attempt to further entrench the infamous NGO Act of 2009 whose motive was to constrain the operating environment for NGOs. Therefore, this Statutory Instrument was seen as a consolidation of the Government intolerance and assertion of power within the structure of the NGO Act.

In addition, the Government needed to review the application process for tax exemptions to ensure that all credible and well meaning Public Benefit Organisations (PBOs) continued passing on this benefit to the majority citizens whom they served. Therefore, the blanket punitive measure that had been taken would obviously have an adverse impact on many genuine humanitarian service and advocacy organisations that were providing various programmes to the vulnerable, especially women and children. Stakeholders further expressed concern that there was also no clear cost benefit analysis of this Instrument in that it was not clear how much tax was going to be raised through this instrument and its impact on service delivery and general contributions of PBOs.

It was further submitted that any attempt to review the nation's tax system required a holistic approach. The creation of a broader tax base should be the ultimate goal and this should be focused on all sectors. Stakeholders had made various submissions to the Government on budget revenues and expenditure and proposed progressive tax changes. For example, submissions had been made on the need to review the principle of providing longer tax holidays to multinational corporations,

especially those operating in the mining sector. Other submissions had addressed the need for the Government to re-introduce the windfall tax in addition to also focusing on structural adjustments to capture the informal sector in the tax net as opposed to focusing on taxing the few sources which would not create much revenue. The stakeholders submitted that it was unreasonable for the Government to effect this measure while allowing multinational companies to enjoy substantial incentives that facilitated abnormal profits which they repatriated to their countries of origin. Notably, the operations of these multinationals were not even directly for public benefit. If the Zambian Government could implement a fair and transparent taxation system, millions of extra dollars could go towards funding infrastructure, quality health care and education systems, which its people so desperately needed. Therefore, the Government should instead remove exemptions and incentives enjoyed by multinational companies.

Submission by the Acting Secretary to the Treasury, Ministry of Finance

The Acting Secretary to the Treasury informed your Committee that the legal ramifications of this measure were as set out below.

- a) There would be a legal basis for the Commissioner General of the Zambia Revenue Authority to demand taxes for goods that had been entered under the PBO scheme fraudulently.
- b) There would be no legal basis for the Zambia Revenue Authority to allow the entry of any motor vehicle under the PBO scheme.

The Acting Secretary to the Treasury was asked to comment on whether this measure would not unnecessarily make it more difficult for genuine PBOs to provide various services to the members of the public who did not have access to such services from the state and why the Government could not increase its tax revenue yield by revoking tax incentives being enjoyed by large multinational commercial entities. In response, the Acting Secretary to the Treasury submitted that prior to the promulgation of this Statutory Instrument, the Government had been losing significant amounts of revenue without a commensurate benefit in terms of services to the poor by the PBOs. He added that the Government was currently reviewing all tax incentives and those that were expiring were not being renewed in a bid to increase the domestic revenue yield. The taxes collected from these efforts would not only contribute to sustainable economic growth but part of these would be channelled towards the social protection budget which had so far been increased considerably in order to improve direct service provision by the Government. He stated that the Government was specifically reviewing mining sector taxation in order to make some necessary improvements to the fiscal landscape in that regard.

The Acting Secretary to the Treasury submitted that the Government appreciated the work being done by various PBOs throughout the country. He added that genuine PBOs could still access remissions and rebates on customs duty under the provisions of Regulations 88 and 89 of Statutory Instrument No 54 of 2000. However, these regulations required that such a PBO must enter into an agreement with the Minister of Finance, in which agreement the PBO would disclose the nature of its operations, the services it offered to the public and the geographical spread of

its operations. The agreement would also enable the Minister to monitor the operations of the PBO in order to ensure that all PBOs who enjoyed the remission and rebates actually provided the services that they claimed to be providing in the agreement. He added that the Government favoured this arrangement because it allowed the Government to know which areas required Government services more than others and which areas were being serviced by the PBOs. This arrangement also facilitated planning and resource mobilisation by the Government. He called upon all genuine and well-meaning PBOs to take advantage of the tax relief provided under Statutory Instrument No 54 of 2000 in order to continue providing the much-needed services to the poorest of the poor.

Committee's Observations and Recommendations

Your Committee notes the submission and is satisfied that it is a fair measure in light of the challenges faced by the Government in the implementation of the PBO tax relief scheme. Your Committee further notes that genuine PBOs can still enjoy tax relief under the provisions of Statutory Instrument No 54 of 2000 and should be encouraged to take advantage of those provisions in order to continue providing much needed services to the public in a cost effective manner. Your Committee, therefore, notes the Statutory Instrument, which has been issued in accordance with *Section 89 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 116 OF 2013: THE LOANS AND GUARANTEES (AUTHORISATION) (MAXIMUM AMOUNTS) ORDER

95. The Permanent Secretary (Budget and Economic Affairs) submitted that the Loans and Guarantees (Maximum Amounts) (Amendment) Order, 1998 prescribed K20,000,000,000 as the maximum amount of loans with maturity of more than one year that the Minister of Finance could raise outside the country. The maximum amount provided under the Order had to be increased further if the Minister of Finance had to raise loans under the Act and be able to finance the budget in 2014 and the 2014-2016 Medium Term Expenditure Framework. The National Assembly, by resolution, authorised the Minister to increase the maximum amount of loans that could be raised from outside the country under the Act to K35,000,000,000 in line with the provisions of the *Loans and Guarantees (Authorisation) Act of the Laws of Zambia*. This Statutory Instrument was issued and published on 29th November, 2013 to effect the resolution of the National Assembly to increase the maximum amount to K35,000,000,000 to enable the Government to raise external loans to finance the budget.

Committee's Observations and Recommendations

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

MINISTRY OF MINES, ENERGY AND WATER DEVELOPMENT

STATUTORY INSTRUMENT NO 37 OF 2013: THE RURAL ELECTRIFICATION (RURAL AREA) (DECLARATION) ORDER, 2013

96. The Permanent Secretary submitted that under the GRZ/UNIDO/GEF Project, the Copperbelt Energy Corporation (CEC) was developing a 1MW biomass gasification power plant to be based in Kitwe. The plant was estimated to cost US\$3.8m to construct and begin operations. Part of the funding for the project would be obtained from the Global Environment Fund (GEF), through a UNIDO facility managed by the Development Bank of Zambia. The rest of the funding was expected to be raised through a combination of debt and equity. In order for CEC to qualify for a subsidy from the Rural Electrification Authority (REA) for the purpose of implementing the project, the site where the plant would be located had to be declared a rural area. The Rural Electrification Act, No 20 of 2003, Section 2 (1) (b) empowered the Minister responsible for Energy, in consultation with the Minister responsible for Local Government and Housing, to declare an area a rural area. Therefore, this Order was issued in accordance with this provision.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with *Section 2 (1) (b) of the Rural Electrification Act No 20 of 2003*.

STATUTORY INSTRUMENT NO 79 OF 2013: THE ELECTRICITY (GRID CODE) REGULATIONS

97. The Permanent Secretary submitted that in order to ensure that the goals of the liberalisation policy, primarily enhanced efficiency and increased access, were achieved in the electricity industry, various institutional and operational frameworks, outlining how the various electricity industry participants were expected to interact had to be developed. The Zambian Grid Code (ZAGC) was one such framework and the issuance of the Electricity Grid Code Regulations followed the development of the Zambian Grid Code which commenced in 2003 and was concluded in 2011. The Regulations were issued in accordance with the powers conferred on the Minister in *Section 30 of the Electricity Act, Chapter 433 of the Laws of Zambia*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with *Section 30 of the Electricity Act, Chapter 433 of the Laws of Zambia*.

MINISTRY OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATIONS

STATUTORY INSTRUMENT NO 15 OF 2013: THE INFORMATION AND COMMUNICATION TECHNOLOGIES (GENERAL) REGULATIONS, 2012

98. The Permanent Secretary submitted that *Section 70(4) of the Information and Communication Technologies (ICT) Act of 2009*, mandated the Minister of Transport,

Works, Supply and Communications to make regulations on universal access or service. The Information and Communication Technologies (General) Regulations, 2012 were issued to provide for amendments to the Authority's financial provisions so that they could be aligned with the 2013 Government financial policy direction as regards mandatory requirements for revenue collecting statutory bodies to deposit all their collections from various fees and fines into the Treasury. This measure would raise Government revenue for development projects and instill accountability in all statutory bodies.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with *Section 70(4) of the Information and Communication Technologies Act of 2009*.

STATUTORY INSTRUMENT NO 16 OF 2013: THE INFORMATION AND COMMUNICATION TECHNOLOGIES (UNIVERSAL ACCESS) (AMENDMENT) REGULATIONS, 2012

99. According to the submission by the Permanent Secretary, Part VIII of the *ICT Act, No 15 of 2009*, established the Universal Access and Service Fund which would be used for the financing of universal access and service. The Zambia Information and Communications Technology Authority (ZICTA) was required to facilitate universal access by encouraging the installation of electronic communications networks and the provision of electronic communications services in un-served or under-served areas and communities. In line with the provisions of *Section 70(4) of the ICT Act of 2009*, the Minister issued the Information and Communication Technologies (Universal Access) (Amendment) Regulations, 2012 to facilitate administration of universal access and service, provide clarity on Regulation 10(4) in terms of the Authority not being liable to refund a universal service provider whose designation was revoked and amend the marginal note in Regulation 20 of the Principal Regulations to read "Contributions and rates payable by licensee".

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the *Section 70(4) of the Information Communication Technology Act, No 15 of 2009*.

STATUTORY INSTRUMENT NO 39 OF 2013: THE ROAD TRAFFIC (PUBLIC SERVICE VEHICLES) REGULATIONS, 2013

100. The Permanent Secretary submitted that it had become necessary to develop a national form of identification for public service vehicles (PSVs) which would cater for all road transport operators in the industry at an affordable cost. The new Regulations would not remove the need to have an identity for PSVs but would enhance the current requirements while at the same time giving room to innovation and creativity among operators. The regulation would also provide stiffer penalties against operators and individuals not complying with the provisions of the Road Traffic Act, No. 11 of 2002 in relation to the use of vehicles for carriage of

passengers for hire and reward. Therefore, this Statutory Instrument was issued to effect the following amendments in Regulation 15:

- a) a motor omnibus or taxicab shall be identified by the use of a reflective ribbon which shall be ten centimeters in width, pasted from the front to the rear on the mid-section of both sides of the vehicle;
- b) the reflective ribbon under sub-regulation (1) shall be of a colour corresponding to the province in which the omnibus or taxicab was licensed to operate as set out in the Fourth Schedule of the Principal Regulation;
- c) a transport operator with a fleet of more than thirty vehicles may apply to the Director to be exempt from the provisions of this Regulation and shall maintain the entire fleet in one colour to be approved by the Director;
- d) a passenger public service vehicle shall be registered with the Agency and shall be issued with a fleet code by the Director which shall be clearly inscribed on the front doors of the vehicle in visible letters in a font of two centimeters width and ten centimeters height;
- e) a public service vehicle shall, upon registration, be issued with and be required to affix on the front and rear of the vehicle a red registration mark number; and
- f) a luxury coach is exempted from the provisions of Sub-regulations (1) and (2).

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued pursuant to the provisions of *Section 233 of the Road Traffic Act, No. 11 of 2002*.

STATUTORY INSTRUMENT NO 57 OF 2013: THE INFORMATION AND COMMUNICATION TECHNOLOGIES (ACCESS) REGULATIONS, 2013

101. The Permanent Secretary submitted that in accordance with *Section 91 of the Information and Communication Technologies Act, No 15 of 2009*, the Minister of Transport, Works, Supply and Communications in June, 2013 issued this Statutory Instrument to facilitate the administration of the Act. The regulatory framework would ensure that the incidence of unnecessary duplication of infrastructure was minimised or completely avoided and ensure that the economic advantages derived from the sharing of facilities were harnessed for the overall benefit of ICT stakeholders. Further, the Government would promote fair competition through equal access being granted to the installations and facilities of operators (licensees) on mutually agreed terms.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Section 91 of the Information and Communication Technologies Act*,

No 15 of 2009. In addition, your Committee notes that ZICTA may face challenges in enforcing the Statutory Instrument, particularly since some mobile operators have proceeded to sell some of their infrastructure to third parties who are not regulated under the Act for purposes of access, interconnection and co-location while others are in the process of doing so. Your Committee, therefore, recommends that as ZICTA increases its involvement in the process of infrastructure deployment and in order to foster the success of the infrastructure sharing process, it is prudent for the ICT regulator to consider coming up with a regulatory framework that will bring all those who own ICT infrastructure under its regulation in order to facilitate the enforcement of the this Statutory Instrument. Your Committee awaits a progress report on the matter.

STATUTORY INSTRUMENT NO 63 OF 2013: ROAD TRAFFIC (PUBLIC SERVICE VEHICLES) REGULATION

102. The Permanent Secretary submitted that from the time the colour code for PSVs was introduced, a number of challenges had arisen, particularly the increase in the number of unregistered taxis. This increase in the number of unregistered taxis had partly been attributable to the high cost of painting taxis in order to comply with the colour code regulation. This had in turn made the entry into the formalised taxi industry prohibitive. Hence, the issuance of this Statutory Instrument was intended to provide for the identification of omnibuses and taxicabs (colour codes corresponding to the province in which the omnibus or taxicab is licensed to operate as set out in the Fourth Schedule of the Principal Regulation). The intended regulation shall exempt omnibuses or taxis from being painted in one uniform colour.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 233 the Road Traffic Act, No 11 of 2002*.

STATUTORY INSTRUMENT NO 73 OF 2013: THE TOLLS REGULATIONS

103. The Permanent Secretary submitted that in order to implement the National Road Tolling Programme, the Road Development Agency (RDA) had identified suitable tolling sites to maximise toll revenue collections on a number of roads on the core road network, using World Bank criteria for road tolling in developing countries and other international best practices on road tolling. These Regulations were issued to describe the applicability and operability of the Tolls Act.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of the *Tolls Act, No 14 of 2011*. Your Committee, however, calls upon the Government to consider making special arrangements to allow suppliers of essential services such as bulk carriers of fuel and entities involved in provision of utility services up country, such as mobile telecommunication service providers, the option to pay toll fees in advance at discounted rates. This matter must be discussed further with these service providers in order to avert a situation where

these services become unaffordable to ordinary Zambians, especially those in economically depressed areas. It awaits a progress report on the matter.

STATUTORY INSTRUMENT NO 86 OF 2013: THE INFORMATION AND COMMUNICATION TECHNOLOGIES (UNIVERSAL ACCESS) (AMENDMENT) REGULATIONS

104. The Permanent Secretary submitted that Part VIII of the *ICT Act, No 15 of 2009*, established the Universal Access and Service Fund which shall be used for the financing of universal access and service. ZICTA was required to determine a system to promote the widespread availability and usage of electronic communications networks and services throughout Zambia by encouraging the installation of electronic communications networks and the provision of electronic communications services in un-served or under-served areas and communities. In accordance with *Sections 70 and 91 of the Information and Communication Technologies Act, 2009*, the Minister of Transport, Works, Supply and Communications issued the Information and Communication Technologies (Universal Access) Regulations, 2012 and subsequent amendments; the Information and Communication Technologies (Universal Access) (Amendment) Regulations, 2013. The Regulations were issued to provide for the use of universal access funds by the Authority and clarify the nature of disbursement to be subsidies as opposed to loans.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in line with the provisions of *Sections 70 and 91 of the Information and Communication Technologies Act, 2009*.

MINISTRY OF JUSTICE

STATUTORY INSTRUMENT NO 70 OF 2013: PROROGATION OF PARLIAMENT, PROCLAMATION NO 1 OF 2013

105. This Proclamation was made pursuant to *Article 88(5) of the Constitution*. The objective of the Proclamation was to prorogue the Second Session of the Eleventh National Parliament with effect from 6th August, 2013.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the powers conferred on the President under the Constitution of the Republic of Zambia.

STATUTORY INSTRUMENT NO 71 OF 2013: SUMMONING OF PARLIAMENT, PROCLAMATION NO 2 OF 2013

106. This Proclamation was made pursuant to *Article 88(1) of the Constitution*. The objective of the Proclamation was to summon the Third Session of the Eleventh Parliament which resumed sitting on 20th September, 2013.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the powers conferred on the President under the Constitution of the Republic of Zambia.

MINISTRY OF COMMERCE, TRADE AND INDUSTRY

STATUTORY INSTRUMENT NO 44 OF 2013: THE STANDARDS (COMPULSORY STANDARDS) (CHALK) (DECLARATION) ORDER

107. The Permanent Secretary submitted that this Standard was declared in exercise of the powers contained in *Section 7 of the Standards Act, Chapter 416 of the Laws of Zambia*. Before the Standard was declared compulsory, there were numerous complaints received by the Competition and Consumer Protection Commission and the Zambia Bureau of Standards from the users of chalk that the chalk available on the market was too dusty, thereby posing health risks to users. Further, the chalk was too soft and ran out quickly, thereby negatively affecting the amount of chalk used. This ultimately led to an increase in the amount of money spent on buying chalk. The proposals for declaring the chalk standard compulsory came from the local industry supported by the Competition and Consumer Protection Commission, the Zambia Bureau of Standards and the Ministry. The standards specified the materials, size, mass, free moisture and breaking strength of moulded white and colored chalks primarily intended for writing on chalkboards. The declaration of the standard as compulsory would empower the Zambia Bureau of Standards to monitor and inspect the quality of chalk which was being manufactured locally as well as the imported product.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 7 of the Standards Act, Chapter 416 of the Laws of Zambia*.

STATUTORY INSTRUMENT NO 59 OF 2013: THE STANDARDS (COMPULSORY STANDARDS) (DECLARATION) ORDER

108. The Permanent Secretary submitted that this Order was issued pursuant to *Section 7 of the Standards Act* and declared five Zambian standards on electric cables compulsory. The rationale underlying this Order was that there had been numerous accidents due to fires caused by electrical faults. Therefore, the Order was necessary in order to ensure safety to consumers of electricity and to protect electrical installations in the country. The proposals for declaring compulsory electrical cable standards came from different stakeholders. Following the declaration of these five standards as compulsory, it had empowered the Zambia Bureau of Standards to monitor and inspect the quality of the electric cables covered in the standards so as not to allow sub-standard (locally produced or imported) cables to be on the Zambian market in order to ensure public safety. The Bureau had since started testing locally manufactured electrical cables so as to determine the quality of the products and would in the near future start monitoring

imported cables since its laboratories had the capacity to test all the types of cables specified in the Order.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with the provisions of *Section 7 of the Standards Act, Chapter 416 of the Laws of Zambia*.

MINISTRY OF HEALTH

STATUTORY INSTRUMENT NO 113 OF 2013: THE HEALTH PROFESSIONS (APPEALS) RULES, 2013

109. The Permanent Secretary submitted that this Statutory Instrument provided for the rights of a person aggrieved by a decision of the Health Professions Council of Zambia and the Disciplinary Committee to appeal to the High Court. These Rules were made pursuant to the provisions of *Section 69 of the Health Professions Act, No. 24 of 2009*, which empowered the Chief Justice to make rules regulating appeals to the High Court and provided for appeals against the refusal of registration or restoration to the Register. In addition, the Rules provided for appeals from the decision of the Disciplinary Committee as well as general provisions. In short, the Health Professions (Appeals) Rules, 2013 provided for a systematic process for requesting a formal change to an official decision made either by the Health Professions Council of Zambia or the Disciplinary Committee to an independent institution, in this case the High Court.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued pursuant to the powers conferred on the Chief Justice in *Section 69 of the Health Professions Act, No. 24 of 2009*.

STATUTORY INSTRUMENT NO 114 OF 2013: THE HEALTH PROFESSIONS (DISCIPLINARY PROCEEDINGS) RULES, 2013

110. The Permanent Secretary submitted that these Rules were made in accordance with the provisions of *Section 70(1) of the Health Professions Act, No 24 of 2009*, which empowered the Chief Justice, on recommendation of the Health Professions Council of Zambia, to make rules relating to, among other things, the manner and form for lodging of complaints under the Act; the mode of summoning persons before the Disciplinary Committee; the form and manner of service of summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or things; the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and the functions of the assessors to the Disciplinary Committee.

These Rules were issued on the premise of the need to protect the public from practitioners who may abuse their professional privileges and provided for processes that should be followed when reporting cases of professional misconduct, enquiries

and proceedings of the Disciplinary Committee as well as general provisions relating to disciplinary proceedings. This Statutory Instrument was meant to facilitate the smooth implementation of the provisions of the *Health Professions Act, No. 24 of 2009*, especially when dealing with matters relating to professional misconduct.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument, which has been issued in accordance with the powers conferred on the Chief Justice in *Section 70(1) of the Health Professions Act, No 24 of 2009*.

MINISTRY OF INFORMATION AND BROADCASTING SERVICES

STATUTORY INSTRUMENT NO 100 OF 2013: THE COPYRIGHT AND PERFORMANCE RIGHTS (HOLOGRAM) REGULATIONS

111. The Permanent Secretary submitted that the Copyright and Performance Rights (Hologram) Regulations were intended to provide for the implementation of the hologram in Zambia. The hologram would be affixed on all audio-visual products to be sold on the Zambian market. The Regulations also widened the legal framework by providing for penalties and accountability among the importers and producers of audio-visual products through submission of accounts and other records to the Registrar. The Regulations also provided for appeals by aggrieved parties and further defined fees payable when procuring the hologram.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it is issued in accordance with the provisions of *Section 57 of the Copyright and Performance Rights Act*. Your Committee, however, notes that it is apparent that pirated works are still prevalent on the Zambian market and calls upon the Government to intensify enforcement of the law in order to enhance the value that copyright holders receive for their works.

MINISTRY OF AGRICULTURE AND LIVESTOCK

STATUTORY INSTRUMENT NO 62 OF 2013: THE VETERINARY AND VETERINARY PARA PROFESSIONS (GENERAL) REGULATIONS

112. The Permanent Secretary submitted that this Statutory Instrument was issued in order to facilitate the regulation of the veterinary profession pursuant to the provisions of *Section 75 of the Veterinary and Veterinary Para-Professions Act of 2010*. In particular, the Statutory Instrument provided for the registration of veterinary surgeons and veterinary para-professionals; the licensing of animal health facilities; and the fees applicable for the purpose of these regulations.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 75 of the Veterinary and Veterinary Para-Professions Act of 2010*.

STATUTORY INSTRUMENT NO 85 OF 2013: THE CONTROL OF GOODS (IMPORT AND EXPORT) (AGRICULTURE) (PROHIBITION OF EXPORT) ORDER

113. The Permanent Secretary submitted that this Statutory Instrument was issued to ban the export of maize grain, maize bran and No 3 meal with effect from 9th September, 2013. The export ban of maize grain, maize bran and No 3 meal was necessary because of concerns on domestic human consumption and from livestock farmers who were facing difficulties in acquiring bran for farm use because substantial quantities of maize grain, maize bran and No 3 meal were being exported. This situation negatively affected national food security and livestock production in the country as it was creating an artificial shortage, thereby raising the prices of maize grain, maize bran and No 3 meal, which in turn led to increased cost of mealie meal production and high livestock feed production costs among the local millers. Consequently, these factors could result in high prices for both mealie meal and livestock products on the domestic market. He added that depending on the rainfall pattern, it was envisaged that as soon as the situation improved with the coming of the rains and availability of natural pastures, export of maize bran and No 3 meal could still be reviewed with a view to allowing exports without compromising the domestic livestock industry. Following issuance of this Statutory Instrument, exports of maize grain were restricted to Government to Government transactions and for relief purposes under the World Food Programme.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 3 of the Control of Goods (Import and Export) (Agriculture) Regulations* but expresses concern on the persistently high prices of maize meal prevailing in the country.

MINISTRY OF COMMUNITY DEVELOPMENT, MOTHER AND CHILD HEALTH

STATUTORY INSTRUMENT NO 14 OF 2013: THE JUVENILES (APPROVED SCHOOL) (ESTABLISHMENT) NOTICE

114. The Permanent Secretary submitted that in 2005, the Ministry of Community Development, Mother and Child Health established Insakwe Probation Hostel to facilitate the rehabilitation of female probationers by the Courts. The institution had faced a number of challenges in its operations as it only accommodated probation offenders. In accordance with the *Juvenile Act, Chapter 53 of the Laws of Zambia*, juvenile offenders were either sent to Katombora Reformatory School or Nakambala Approved School which only accommodated male juvenile offenders. Insakwe Probation Hostel, could by law only admit female juvenile offenders with a Probation Order from the Court. In this regard, it had been very difficult to accommodate female probationers at Insakwe Probation Hostel because the institution was not gazetted as a Government institution providing probation services. As a result, the Courts would order the female juveniles to undergo community service rehabilitation despite the gravity of the offence due to lack of an institution that could accommodate such juveniles.

The significance of this Statutory Instrument was that it provided for the establishment of an Approved School that would be used to effectively rehabilitate not only female probationers but all female juvenile offenders as provided in *Section 75 of the Juveniles Act, Chapter 53 of the Laws of Zambia*. Having been turned into an Approved School, the institution would be utilised to full capacity to provide correctional services such as counseling, skills training and formal education to enhance their social development. Further, female juvenile offenders were usually the most vulnerable and subjected to abuse. Therefore, this Approved School for female offenders would provide special treatment and care relevant to their sex. Therefore, the Ministry envisaged that this Statutory Instrument would facilitate the provision of the improved correctional services to female juvenile offenders and consequently foster a reduction in juvenile delinquency.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument as it has been issued in accordance with the provisions of *Section 75 of the Juveniles Act, Chapter 53 of the Laws of Zambia*.

MINISTRY OF HOME AFFAIRS

STATUTORY INSTRUMENT NO 38 OF 2013: THE IMMIGRATION AND DEPORTATION (IMMIGRATION CONSULTANTS) REGULATIONS

115. The Permanent Secretary submitted that in its quest to improve service delivery and to ensure harmony and sanity in the provision of immigration consultancy, the Government embarked on a vigorous program to ensure that immigration consultancy was properly managed and regulated. Thus, this Statutory Instrument was aimed at providing a legal framework for registering immigration consultants and through which immigration officers could provide immigration services to registered immigration consultants. This was done by introducing new measures to enhance compliance and provision of efficient, transparent, and quality immigration services. The Government was of the view that if immigration consultancy was left unregulated, the existing trend of misrepresentation was going to continue to thrive to the detriment of the Department of Immigration, well meaning registered consultants as well as unsuspecting clients. It was, however, expected that with the implementation of this Statutory Instrument, there would be reduced incidents of false or misleading material statements by unscrupulous consultants, including misrepresentations as regards immigration law, what results the consultant could achieve, or gross misrepresentation as regards the complexity of an application in order to justify an exorbitant fee. The Statutory Instrument was issued in exercise of the powers contained in *Section 59 of the Immigration and Deportation Act, No 18 of 2010*.

Committee's Observations and Recommendations

Your Committee notes the Statutory Instrument which has been issued in accordance with *Section 59 of the Immigration and Deportation Act, No 18 of 2010*.

PART II

FINDINGS FROM THE LOCAL TOUR OF THE COMMITTEE FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

In its quest to deepen its understanding of the implementation of various Statutory Instruments, your Committee undertook visits to various places in Lusaka, Kabwe, Ndola, Kitwe, Mufulira and Solwezi Districts. The tour was a fact finding mission to assess the extent of implementation, achievements and challenges relating to various Statutory Instruments. As part of its tour, your Committee also followed up on the implementation 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. A summary of the findings of your Committee during its local tours is set out below.

Visit to Kwame Nkrumah University - Statutory Instrument Nos 106 and 107 of 2013

116. During the tour of Kwame Nkrumah University, your Committee learnt that degree programmes commenced even before the promulgation of the Statutory Instrument in November, 2013; the Statutory Instrument merely legalised the status of the institution as a University. The University produced its first 300 graduates in 2013 and these had been posted to various schools. In a bid to check the quality of the education it offered, Kwame Nkrumah University had followed up its graduates and had received very favourable reports as regards the performance of its graduates.

The above notwithstanding, the Council of Kwame Nkrumah University was yet to be appointed despite the institution being declared a University and as a result, the management team was still led by a Principal. Because of the non-appointment of the University Council, the establishment of the institution and conditions of service for staff had remained as if it were still a College and not a University. Even the funding (Government grants) to the University were still at the level of a College rather than a University. The institution had a total of forty five full time lecturers, of whom four were PhD holders and all other lecturers either held Masters Degrees or were pursuing studies towards the same. As the number of lecturers was still inadequate, the University depended on part time lecturers, who currently included two PhD holders and four Masters Degree holders, to fill the gap.

Your Committee learnt that the University's programmes were very popular but, as per Government policy, the University could only enroll a maximum of slightly over 500 students per intake. Currently, the University had a total enrolment of 2,150 full time undergraduates and about 4,000 distance education students. It was anticipated that by August, 2014, 2,000 teachers (degree holders) would graduate from Kwame Nkrumah University. Apart from transferring the infrastructure of the erstwhile Pan African Institute for Development for East and Southern Africa (PAID-ESA) (which had been adopted as the East Campus) to Nkrumah University, the Government had commenced various infrastructure expansion projects, including classrooms, laboratories, libraries and student residences at the University.

However, works had stalled since January, 2014 as the contractor had not received necessary payments. The institution was facing challenges like inadequate infrastructure, insufficient books and other research material in the libraries, an apparent shortage of appropriate furniture, inadequate and erratic internet connectivity and inadequate space for library users. In the quest to serve its ever-increasing number of Distance Students better, the University had constructed a Distance Education Building using part of the fees received from Distance Education Students.

There was also a dire need for residential accommodation for the teaching staff of the University. Currently, there were only thirteen houses against forty five full time and about fifteen part time lecturers. In the long term, this was expected to improve under subsequent phases of the infrastructure development programme being implemented by the Government. As the full time lecturers were still on the Government payroll, they were currently getting housing allowances and most of them were living in rented houses. It was noted that the University had adequate land for future infrastructure expansion programmes.

The University had no recreation facilities and suffered from chronic transport problems with only one reliable, though old, utility vehicle and two old buses, one bought by the Government and one bought by the institution itself from user fees.

Committee's Observations and Recommendations

Your Committee notes that Kwame Nkrumah University is being run by Zambians and it is being run in a very professional manner. So far, degree programmes have been developed in collaboration with the University of Zambia. All departments are staffed, even though the staff are overstretched because the numbers are inadequate. Your Committee commends the management and staff of the newly declared University for the impressive levels of dedication and patriotism exhibited by the staff despite the numerous challenges.

Your Committee is of the view that the Government must urgently develop and publicise a roadmap for the full transformation of Kwame Nkrumah College into a University. In this regard, your Committee calls upon the Ministry of Education, Science, Technology, Vocational Training and Early Education to appoint a Council for the University without further delay and to ensure that funding to the institution is improved to levels befitting a University. As regards infrastructure development, your Committee recommends that the Government urgently provides funding for the completion of the projects which have stalled at the institution in order to make the environment at the University conducive to learning. The Government should also expedite the appointment of the University Council, which once appointed, will assist the Council to resolve all the operational challenges facing the University.

117. ***Presentations by International Institute for Tropical Agriculture (IITA), Peco Limited and RASMA Engineering - Statutory Instrument No 51 of 2013: The Customs and Excise (Excise Duty) (Suspension) (Amendment) Regulations***

a) **International Institute for Tropical Agriculture IITA**

Your Committee received a very insightful presentation relating to the work of the International Institute for Tropical Agriculture (IITA). This is an African Regional Organisation which works to promote and improve the production and usage of cassava by providing assistance to seed multiplication and distribution. The Organisation is also aimed at assisting cassava producers to access markets for their produce as well as promote value addition in the cassava value chain. Your Committee learnt that the IITA had not been aware of the promulgation of Statutory Instrument 51 until just a few days prior to your Committee's visit.

b) **Peco Limited**

During the visit to Peco Limited, your Committee learnt that this company was, among other things, a cassava processor. The Company had set up a small cassava processing plant in Mansa, and also had an outlet in Lusaka. The Company processed cassava into flour and, having obtained the rights to the formula from the National Council for Scientific Research, previously manufactured cassava biscuits. However, the biscuit manufacturing equipment had since broken down and the Company had found it difficult to repair the equipment because of the high importation costs of the requisite spare parts, hence the company had suspended production of the cassava biscuits. The Company procured its raw materials from cassava farmers in Luapula and Western provinces. The proprietors of Peco Limited indicated that, in their experience, there was a huge market for cassava products in the Southern African Region, particularly in Angola and the Democratic Republic of Congo (DRC). However, it was difficult, if not possible at all, to obtain assurances as regards payments arising from international transactions with clients in these countries. Therefore, despite holding very large orders for various cassava products from these countries, the transactions could not proceed as planned as there were no assurances that the payments would be forthcoming. While Peco Limited was still operating, it mostly concentrated on production of cassava flour and was experiencing serious challenges, especially with the high cost of energy.

c) **RASMA Engineering**

Your Committee learnt that RAMSA Engineering was a small scale Zambian company run by an indigenous Zambian. The Company specialised in engineering and fabrication of various products and had been involved in manufacturing various types of equipment used in the processing of cassava, including graters, dryers, pressers and heat exchangers. According to the proprietor of the Company, a client only needed to come up with an idea and the Company could manufacture whatever equipment that client wanted in accordance to the client's specifications. Your Committee learnt that for quite a long time now, there had been no orders for such equipment, and the Company was even considering changing its line of business.

Committee's Observations and Recommendations

Your Committee notes that while Statutory Instrument No 51 is aimed at reducing the excise duty on clear beer made from cassava, there is currently no institution or company actually engaged in the production of clear beer from cassava. It came to the attention of your Committee that this measure has been taken following representations by one very large clear beer producer which had indicated that they wanted to commence production of clear beer from cassava. According to officials from the Ministry of Commerce, Trade and Industry, it envisaged that this Company is in the process of organising itself and will, by the end of the year 2014, commence production of clear beer from cassava.

In light of the foregoing, your Committee is concerned over the fact that the Government could introduce such a measure at the behest of a single operator, who is not even ready to commence production and for the benefit of one product only. Your Committee further notes that this Statutory Instrument appears to ignore other cassava products which can enhance the cassava value chain if properly harnessed and supported. Your Committee, therefore, strongly recommends that the coverage of the Statutory Instrument be broadened to cover other cassava products such as, *inter alia*, bread, biscuits, glue and industrial starch. This should be done through a transparent and consultative process spearheaded by the Government. Your Committee awaits progress on the matter.

Visit to Sub Sahara Gemstone Exchange (SGE) - Statutory Instrument No 94 of 2013

118. Your Committee learnt that this was an indigenous Zambian Industrial Park. It was disclosed that the intention behind the creation of this industrial park had been to create a "gem city" which would encompass the full gemstone value chain from polishing, cutting, to jewellery manufacture as well as to provide a platform for local gemstone and gemstone product trading. It had been envisaged that about 30,000 jobs would be created once the gemstone exchange was fully operational. Your Committee learnt, however, that it appeared that there had been a policy shift on this matter, and some equipment procured for gemstone processing had since been removed from the Industrial Park by the private operators who were supposed to run the gemstone processing operation hence the ambitious gemstone exchange project had stalled and local gemstone trading was currently being undertaken in Lusaka. However, the promoters of the Industrial Park were trying to set up an oil refinery in the industrial park with a 1,800 km pipeline from Dar-es-Salaam to Ndola. This would be the anchor development in which over US\$3 billion was expected to be invested. The project had already attracted an international investor as an anchor developer in the park and this investor had made a considerable investment pledge. As this was envisaged to be a crude oil refinery, it was expected to create both primary and secondary industries which would ultimately create around 18,000 jobs from construction to operation phases. For example, it was expected that the project could actually provide raw material (co-mingled feedstock) to INDENI refinery, rather than be a competitor to the Government-run refinery. It would also lead to the development of a multiplicity of related upstream and downstream industries.

Despite the ambitious plans that the promoters of the project had, there had been some bottlenecks experienced, particularly with regard to delays in the processes involving Government permission and approvals at various stages of the project. Currently, the project was at feasibility study stage. It was hoped that this process and subsequent ones would go smoothly and that Government support and incentives, where necessary, would be forthcoming.

Committee's Observations and Recommendations

Your Committee is concerned that up until now, not much progress has been achieved in terms of development of the Ndola Industrial Park despite the Government having declared it an Industrial Park with all the attendant incentives. Your Committee notes the ambitious plans of the promoters of the projects envisaged in the Industrial Park. Your Committee recommends that the Government takes keen interest in the operations of the Industrial Park and render necessary support to the projects therein, in the interest of national development. For example, rather than a multiplicity of ministries dealing with various applications by the developers, an inter-ministerial committee could be set up to deal with various issues simultaneously and expeditiously.

Visit to Chambishi Multi-Facility Economic Zone (MFEZ) pursuant to Statutory Instrument No 94 of 2013

119. During the visit to the Chambishi Multi-Facility Economic Zone (MFEZ), your Committee learnt that the MFEZ covered a total area of 11.58 square kilometers. Over the last six years, some considerable progress had been made, but much more still needed to be done. The MFEZ had 42 companies on its register but only 28 were operational. Of the 28 companies that were operational, some of them, such as banks, did not hold MFEZ certificates as they did not require them but could operate in the MFEZ without the MFEZ incentives. Your Committee learnt that MFEZs could be the hub around which Zambia's manufacturing industry could be built as they would bring in international expertise and experience for the development of the sector.

According to the developers of this MFEZ, there was need for stability in Government policy and legislation governing the MFEZs because frequent changes tended to undermine the international marketing efforts by the developers of MFEZs and ultimately investor confidence. There was also need for enhanced Government support to the operators in the MFEZ. For example, there was currently an issue where the Chambishi and Kalulushi local authorities were demanding from the developers of the MFEZ huge sums in property rates. The operators of the MFEZ recognised that these demands were rooted in the law, but felt that the developer's investment should be taken into consideration, especially that there was need for the promoters of the MFEZ to realise a return on their investment. In this vein, it was highlighted that the MFEZ developers had invested heavily in the provision of certain utilities such as water and roads to investors in the MFEZ and these costs should ideally have been borne by the Government, including the local authorities. There was also a call for the revision of the qualifications for incentives in the MFEZ in order to encourage even smaller investors who did not necessarily qualify under the current legislation to set up and operate in the MFEZ.

Committee's Observations and Recommendations

Your Committee notes the concerns by the developers and calls upon the Ministry of Local Government and Housing to assist in resolving the issue of property rates in the MFEZ area. Your Committee also agrees with the developer as regards the need for stability in the policy and legislative framework governing the MFEZs and implores the Government to take serious note of this concern as they undertake policy and legislative reviews. Your Committee further calls upon the Government to consider revising the US\$500,000 investment threshold for qualification for MFEZ incentives downwards.

Visit to Mufulira Municipal Council – Follow up on enforcement of Statutory Instrument No 64 of 2012

120. Your Committee met the Mayor of Mufulira Municipal Council and learnt that there had not been much improvement in the enforcement of Statutory Instrument No 64 of 2012 because the Council still had challenges in terms of inadequate staffing levels. The situation had been exacerbated by the fact that the number of bars in the district had more than doubled since your Committee's last visit to the District (from 218 in 2003 to 464 in April, 2014) without any increase in the staffing levels at the local authority. The Mayor stated that the Council still had only three Public Health Inspectors. He explained that while he was aware that there were some bars which were complying with the Statutory Instrument voluntarily, it was difficult for the Council to fully monitor compliance on account of the aforesaid challenges. He stated that the Council did sometimes undertake joint inspection operations with the Zambia Police Force in a bid to enforce the Statutory Instrument, but these were not very regular as both the Council and the Zambia Police Force had challenges of inadequate transport and inadequate staffing levels. The Mayor added that it was not possible for the Council to urgently recruit the necessary staff as this mandate now fell under the Local Government Service Commission. He called for the decentralisation of the operations of the Local Government Service Commission in order to improve its presence and service delivery to the local authorities. Additionally, the Mayor explained that there was also the growing challenge of illegal bars which had sprung up as a result of the negligible penalty of K150. The penalty did nothing to deter the illegal bar operators, further complicating the Council's effort at enforcing Statutory Instrument No 64 of 2012.

Committee's Observations and Recommendations

Your Committee notes with concern that the situation as regards the enforcement of Statutory Instrument No 64 in Mufulira has not improved since its last visit to the District. Your Committee calls upon the Local Government Service Commission and the Ministry of Local Government and Housing to urgently address the issue of inadequate staffing levels and lack of transport at Mufulira Municipal Council in order for the Council to perform its functions effectively. Your Committee awaits a progress report on this matter.

Visit to Lumwana MFEZ - Statutory Instrument No 94 of 2013

121. Your Committee met the representatives of Lumwana Property Development Company (LPDC), which was the license holder for the Lumwana MFEZ. During the interaction, your Committee learnt that the MFEZ license was obtained by the initial shareholders of Lumwana Mine, Equinox. Following the acquisition of Equinox's shareholding in Lumwana Mine by Barrick Gold, the new shareholders had different views, particularly with regard to the physical location of the MFEZ within the mine area. The land on which the MFEZ sat was held under title by Lumwana Mine. This had, therefore, posed a challenge in the sense that most investors who wished to invest in the MFEZ were unwilling to commit huge finances without security of tenure to the land. Additionally, Barrick Gold was also not keen to have other big manufacturing operations within the mining area as it would further complicate the security arrangements in the mine area and there may be issues regarding usage of utilities such as water and electricity. As a result of this apparent deadlock, there had been no progress in terms of the flow of investment into the MFEZ.

The above notwithstanding, the development of the Lumwana Integrated Development Plan (IDP) by the Government through the local authority had offered a resolution to the problem of developing a manufacturing hub in the area as a considerable piece of land had been reserved for the MFEZ. This land was outside the Lumwana Mine area but still close enough to the mine to encourage the growth of a manufacturing industry related to the mine's operations. It was also disclosed that there was a rapidly growing settlement called Manyama near the Lumwana mine area and this would create an immediate demand for other goods and services which could be met by the enterprises in the MFEZ. The representatives of the LPDC stated that there were a lot of smaller investors who had expressed interest in investing in the MFEZ but they could not meet the US\$500,000 threshold prescribed under the ZDA Act. They stated that while the reasoning behind the threshold was well understood, there was need to revise downwards it in light of the need to attract more investors to enter the MFEZ.

Committee's Observations and Recommendations

Your Committee commends the Government for quickly taking the initiative of creating another MFEZ in the immediate vicinity of the Lumwana Mine in order to promote economic growth and emancipation of the people of that area. Your Committee calls for expeditious processing of all issues relating to the IDP so that the investments can begin to flow into Lumwana area via the MFEZ. Your Committee also calls upon the Government to consider reviewing downwards the US\$500,000 threshold prescribed under the ZDA Act for an investor to be entitled to enjoy the incentives in the MFEZs downwards.

122 Visit to Shoprite Ndola, Kitwe Store and Shoprite Head Office, Lusaka – Follow up on implementation of Statutory Instrument No 47 of 2012

- *Meetings with management officials*

During interactions with the managers at the Shoprite Ndola and Kitwe Stores, it was explained to your Committee that Shoprite complied with Statutory Instrument

47 in relation to its permanent employees in 2013. The only problem was that of the casual workers. However, following protracted negotiations, an agreement had been reached with the Union leadership in which all jobs in Shoprite were re-categorised. This agreement would see all former casual employees becoming permanent. This agreement was signed on 4th April, 2014 but was effective 1st April, 2014. Owing to the nature of the business of Shoprite, however, it was not possible to have this category of employees work the same hours as the permanent workers as their services were required more at peak times and less during off peak times. They would, therefore be employed to work flexible hours and would be known as “permanent flexi-timers”. Be that as it may, the hours of work for this category of employees would be arranged in such a way that none of them would be paid less than the minimum wage. In fact, it may be possible for some of the “permanent flexi timers” to earn higher salaries than the permanent workers depending on the number of hours worked per month. All other conditions of work, including pension benefits, would be the same for all Shoprite employees regardless of whether they were permanent or permanent flexi timers.

- *Meeting with Union representatives*

The union officials indicated that all permanent workers in Shoprite were currently being remunerated above the minimum wage. However, as regards the permanent flexi timers, it was still not clear as the agreement would only be effective in April, 2014. Additionally, the Union officials indicated that casual workers still existed in Shoprite and these were paid between K300-K900 per month, well below the minimum wage.

- *Meeting with Shoprite Zambia General Manager*

The General Manager, Shoprite Zambia assured your Committee that the Company was now fully compliant with the provisions of Statutory Instrument No 47 of 2012 in that all its employees were earning above the minimum wage. Following a job re-categorisation exercise, and effective 1st April, 2014, all employees were now either full time or permanent flexi timers, and all jobs in the institution were now pensionable.

Submission by the Principal Labour Officer, Copperbelt Province

123. Your Committee learnt that the challenges facing the Copperbelt Province Labour Office had continued unabated despite its recommendations arising from its visit to the Office in 2013. The staffing situation was the same with only one full time officer manning the Office. At the time of your Committee’s visit, there was an intern who was attached to the Office. Additionally, the Office was suffering from a critical shortage of transport. The Office was therefore, severely constrained and could not carry out labour inspections in its area of jurisdiction Sadly, since your Committee’s last visit, the Labour Office had not been able to undertake inspections at the Shoprite Stores and the Principal Labour Officer was not even aware of re-categorisation exercise that had been undertaken by Shoprite.

- Meeting with the Minister of Labour and Social Security

Following its visits to Shoprite Stores in Ndola, Kitwe and the Head Office in Lusaka, your Committee requested the Minister of Labour and Social Security to clarify the following issues:

- i) whether the Ministry of Labour and Social Security was satisfied that Shoprite Checkers was in full compliance with the Statutory Instrument in question;
- ii) if so, when Shoprite Checkers became fully compliant with the provisions of the Statutory Instrument;
- iii) whether there was a time lag between the effective date of the Statutory Instrument and the date on which Shoprite Checkers fully complied with it;
- iv) if there was such a time lag, whether the Ministry of Labour and Social Security was following up the payment of any arrears due to the employees of Shoprite, and if not, why; and
- v) if Shoprite Checkers was not fully compliant with the Statutory Instrument, what measures the Ministry of Labour and Social Security had taken to enforce the provisions of the Instrument.

The Minister of Labour and Social Security submitted that Shoprite Checkers was currently compliant with Statutory Instrument No 47 of 2012 for both permanent and part-time employees. The lowest basic pay at entry for a permanent employee who was a General Assistant was K700, excluding allowances, which translated into an hourly rate of K3.6. The part-time employee for the same position got the same hourly rate of K3.6, net of allowances, and at K5.81 with allowances. The total amount payable for a part-time employee was dependant on the hours worked in a month. The maximum number of hours worked by a permanent employee per month by law was 195 hours which if accrued by a part-timer at K5.81 would come to K1,132.95 prescribed under the Statutory Instrument.

As an example, if a General Assistant X, a part-time employee, worked 152 hours, the gross pay shall be calculated as follows: 152 x K5.81 which translates to K883.12.

The Minister added that Shoprite Checkers became compliant with the Statutory Instrument for part-timers with effect from 1st April, 2014. Therefore, there was a time lag of twenty one months after the effective date of the Statutory Instrument before Shoprite complied with it in relation to this category of workers. He stated that the arrears relating to the period Shoprite was in breach of the Statutory Instrument would have to be paid to the employees in accordance with the law. Prior to the issuance of this Statutory Instrument, which became effective on 4th July, 2012, the minimum gross hourly rate prescribed by the 2011 Order was K3.9. Shoprite was paying a gross pay of K4.1. The Statutory Instrument raised this gross hourly rate to K5.81 while Shoprite was paying a gross hourly rate of K4.8. This meant that in respect of the affected part-time employees, arrears per hour worked stood at K1. The Minister further assured your Committee that his Ministry was

working closely with Shoprite in order to ensure that the company could be current with all the provisions of the Statutory Instrument.

In addition, the Minister informed your Committee that the Ministry of Labour and Social Security had assisted Shoprite to reduce the number of part time employees from 1,200 to 870 by migrating 330 part time employees to full time employment. The effort of migrating employees from part time to full time was on-going in order to implement the policy of the Government aimed at eradicating casualisation of labour. He informed your Committee that he was hopeful that the Government's hand would be strengthened once the on-going review of labour legislation was concluded, which was expected to happen in the near future so that the relevant Bills could be presented to the National Assembly for enactment without undue delay.

Committee's Observations and Recommendations

Your Committee notes the submissions from various witnesses regarding the question of compliance with Statutory Instrument No 47 of 2012 by Shoprite Checkers. In this vein, your Committee expresses its serious concern regarding the working conditions and general working environment for the employees of Shoprite Zambia and recommends as follows:

- i) the Ministry of Labour and Social Security should take particular interest in the developments regarding the salaries and conditions of service as well as the working environment for workers at Shoprite Checkers;
- ii) the Ministry of Labour and Social Security should quickly review the re-categorisation exercise undertaken by Shoprite Checkers to ensure that employee interests are protected to the full extent of the applicable laws in the entire process;
- iii) the Ministry of Labour and Social Security should actively follow up and ensure that all arrears due to employees on account of the company not having complied in a timely manner with the Statutory Instrument are paid to the affected employees within reasonable time; and
- iv) the Ministry should also follow up the migration of employees from part time to full time so that there is a reduction in the levels of casualisation in the company.

Your Committee will await progress reports on all these matters.

Tour of Zambia Bureau of Standards Facilities, Lusaka Statutory Instrument No 59 of 2013: The Standards (Compulsory Standards) (Declaration) Order and Statutory Instrument No 44 of 2013: The Standards (Compulsory Standards) (Chalk) (Declaration) Order

124. During the visit to the Zambia Bureau of Standards facilities in Lusaka, your Committee was informed that standards were important in trade as they created confidence in the measurement and/or standards of the goods being sold. By

making it easier for products to be accepted, standards facilitated trade. The World Trade Organisation (WTO) was responsible for setting guidelines for the criteria for declaration of standards, and it was recommended that standards should be voluntary as making too many standards compulsory would result into technical barriers to trade, which would go against the trade agreements under the WTO.

Your Committee was further informed that the Bureau was fairly well staffed and although its main operations were quite centralised in Lusaka, the Bureau had representation at the major border areas. In any case, recruitment, especially of technical staff, and training were on-going activities within the Bureau in order to ensure that its staff were always up to date with latest trends and practices. The Bureau also supported and collaborated with other regulatory agencies who enforced specific industry standards. These included ZICTA, Food and Drugs laboratory, Zambia Weights and Measures Agency, local authorities, among others.

The Zambia Bureau of Standards had been offered 3 hectares of land by the National Council for Scientific and Industrial Research (NCSIR) on which, funds permitting, the Bureau hoped to set up its own permanent infrastructure. The current offices occupied by the Bureau were inadequate and located in a very busy area in the central business district which may not be conducive for its operations.

As regards Statutory Instruments No 44 and 59 of 2013, your Committee was informed that these standards were developed by the Bureau in collaboration with various stakeholders and the Bureau had adequate capacity to monitor and enforce these standards. Your Committee was taken on a conducted tour of the Bureau's various laboratories and, in particular the electrical laboratory in which testing of electrical cables was done and the chemistry laboratory where chalk was tested. Your Committee was assured that the Bureau had adequately qualified personnel to enforce these standards and has since started undertaking the necessary tests on the affected products.

Committee's Observations and Recommendations

Your Committee is pleased to note that the Bureau has adequate capacity to enforce the compulsory standards declared through Statutory Instruments No 44 and 59 and calls on the Government to ensure continued support to the Bureau's work in the interest of national development.

PART III

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE SECOND SESSION OF THE ELEVENTH NATIONAL ASSEMBLY

Your Committee considered the responses contained in the Action-Taken Report on its Report for the Second Session of the Eleventh National Assembly and made further recommendations as outlined below.

CONSIDERATION OF STATUTORY INSTRUMENTS

MINISTRY OF LOCAL GOVERNMENT AND HOUSING

Para 4, Page 3

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

125. This 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 provided for the recommended packaging of the various types of liquor. Further, the Statutory Instrument prohibited the manufacture, importation, etc of certain intoxicating liquor such as *Tujilijili*.

Your previous Committee had observed that the Statutory Instrument allowed hotels and aircraft to stock alcoholic beverages when packaged in quantities similar to those of the infamous *tujilijili*. To this effect, your Committee had wished to know the rationale behind this exemption.

In response, it was stated in the Action Taken Report that it was not correct that Statutory Instrument No 23 of 2012 allowed hotels and aircraft to stock alcoholic beverages packaged in quantities similar to those of infamous *tujilijili*. Hotels and aircraft did not package alcoholic beverages in small plastic sachets such as *tujilijili* but packed in small breakable bottles.

Following further inquiry by your Committee as regards the exemption, the Secretary to the Cabinet explained that the exemption on packaging for airlines and hotels was because they traditionally used miniature packaging for the regulated supply of alcohol. This was especially required for facilitation of aviation safety standards, especially when examined in light of space and weight limitations. The same rationale for miniaturisation could be applied to hotel mini bars. In practice, hotels and airlines legitimately used miniature bottles, whose capacity fell below the thresholds specified in the Statutory Instruments, hence the need for the exemptions.

Committee's Observations and Recommendations

Your Committee notes the response and considers the matter closed.

MINISTRY OF FINANCE

Para 8, Page 7

Statutory Instrument No 33 of 2012: The Bank of Zambia (Currency) Regulations, 2012

125 This Statutory Instrument was issued to reinforce the use of the Kwacha, which was Zambia's legal tender, in domestic transactions. In previous years, the

economy had experienced distortions, one of which was the management of the currency. There was excessive demand for foreign currency resulting from 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.

Your previous Committee had noted the Statutory Instrument as it was provided for under *Section 57 of the Bank of Zambia Act, Chapter 360 of the Laws of Zambia*. Your previous Committee had noted 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, such as imprisonment for up to ten years, were not only excessive, but unnecessary, and should, therefore, be removed.

It was reported in the Action Taken Report that the use of the word “may” meant that any regulations or rules made pursuant to this Act could either provide for the penalties as prescribed or not, and therefore the penalties were not mandatory. The same Regulations did prescribe a term less than ten years but not more than ten years. A penalty or sanction was intended to induce obedience to the law and to deter would-be offenders. Therefore, the intention was to ensure maximum adherence to the provisions of Statutory Instrument No 33 of 2012.

Committee's Observations and Recommendations

Your Committee notes the response and considers the matter closed.

Findings from the Local Tour of the Committee for the Second Session of the Eleventh National Assembly

126. Your previous 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 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) Regulations 2012 and challenges thereof.

Para 10, Page 16 – 17

Statutory Instrument No 47 of 2012: The Minimum Wages and Conditions of Employment (Shop Workers) Amendment Order, 2012

127. Your previous Committee had noted that Statutory Instrument No 47 of 2012 was well intended, although there had been some resistance from some employers to implement it. Your previous Committee had observed that the Government was failing to ensure that the Statutory Instrument was enforced due to the lack of labour inspectors and labour officers in the Ministry of Labour and Social Security. Your previous Committee, therefore, recommended that the Government should, as a matter of urgency, undertake an evaluation of the vacancies in the Ministry in the relevant positions, with a view to filling the vacancies. This was the only way the

Government would ensure compliance by employers with the Statutory Instrument.

In the Action taken Report, it was stated that the revision of the Ministry's strategic plan had been completed and a new structure for the Ministry developed. This had entailed creation of new labour officer and inspector positions within existing stations and opening new stations where they did not currently exist. Recruitment and placement would take place once Treasury Authority had been granted for the new positions.

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

Your previous Committee had also observed that the collective bargaining process for Shoprite workers was a mockery, as workers were forced to accept a pre-determined salary increment from South Africa. Further, due to the highly centralised system that Shoprite operated, workers from outside Lusaka did not have human resource personnel to whom they could make representations on various issues that affected them. Workers had also been denied payments of their pension contributions from a previous pension scheme which had since been terminated.

Your previous Committee, therefore, recommended that the Government, through the Ministry of Labour and Social Security, should engage Shoprite management to ensure that all the shortcomings noted by your Committee were ironed out. Most importantly, the Government should ensure that there was full compliance Statutory Instrument No 47 of 2012.

In response, it was stated in the Action taken Report that the Government, through the Ministry of Labour and Social Security, engaged Shoprite management and the union on the issues raised by your previous Committee. Management had since indicated that they would implement the conditions of service in line with Statutory Instrument No 47 of 2012 before the end of 2013. This was expected to increase the wage bill at Shoprite by 16%.

Your previous Committee observed with sadness that the Shoprite contracts in contention were attested by the Ministry of Labour and Social Security. This meant that the Ministry was perpetuating an illegality despite the issuance of the Statutory Instrument by the same Ministry. In this light, your previous Committee recommended that the Ministry of Labour and Social Security should revisit these contracts and correct the anomaly so that all workers were paid according to the prescribed minimum wage.

In response, it was stated in the Action-taken Report that the Union and management were currently negotiating for new conditions of service which would reflect the provisions of Statutory Instrument No 47 of 2012.

Committee's Observations and Recommendations

Your Committee resolved to undertake follow up visits to the Ndola Labour office and Shoprite stores in Ndola, Kitwe and Lusaka in an effort to verify whether the company was now compliant with the provisions of Statutory Instrument No 47 of 2012. The findings and recommendations of your Committee during these follow up visits are contained in Part II of this Report.

Statutory Instrument No 64 of 2012 – The Liquor Licensing (Permitted Hours) Regulation, 2012

128. Your previous Committee observed that there was a general failure to enforce this Statutory Instrument by the local authorities as most night clubs and bars were open twenty four hours a day. Additionally, bottle stores, which were only authorised to sell alcohol, had also become places where consumption of alcohol took place, despite not having proper sanitation facilities. Your previous Committee had also observed that there were a lot of unauthorised 'bars', especially in markets and compounds; but the local authorities lacked the necessary human resource to adequately enforce the Statutory Instrument. This was compounded by the authorised opening time of 10:00 hours, which was relatively early.

In view of the above, your previous Committee recommended that the Government should employ more Council Police who could 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.

It was stated in the Action Taken Report that employment of any worker in a Council was in accordance with approved establishments. The establishment of the Council Police was different from one Council to another and was dependent on the level of income of a Council. This category fell under Division IV employees whose recruitment was by respective Councils. However, the Ministry of Local Government and Housing had sent a circular to all Councils on these vacancies in their establishment so that the vacant positions could be filled in order to enforce the Statutory Instrument in terms of opening and closing times for bars.

Your previous Committee further observed that road traffic accidents, gender based violence and other such vices were on the increase due to the illicit consumption of alcohol, some of which was perpetrated by early opening hours of bars and night clubs. As a result, your previous Committee recommended that the Statutory Instrument should be amended to revise the opening hours to a later time other than the morning. Your previous Committee observed that the current opening time of 10:00 hours was counter-productive and expressed concern with the low productivity rates in the country which could be attributed at least in part to the consumption of alcohol, especially by the youth.

In response, it was indicated in the Action-Taken Report that the Government had noted your previous Committee's observation. However, the Government amended Statutory Instrument No 96 dated 27th July 2011 on permitted hours of operation of liquor outlets because the business community complained that the said Statutory

Instrument which was revoked only allowed the liquor traders to trade for few hours. Therefore, the liquor traders were failing to meet their operating costs as they were trading at a loss due to reduced permitted hours of trade. The Government had since issued Statutory Instrument No 64 dated 25th September, 2012. The amendment was done following a consultative process with all the relevant agencies of Government and stakeholders to revise the permitted hours of trade as indicated in the amended Statutory Instrument No 64 of 2012.

Committee's Observations and Recommendations

Your Committee is concerned at the apparent lack of compliance with the provisions of Statutory Instrument No 64 of 2012. In this vein, your Committee revisited some of the District Councils it had visited as part of its tours during the Second Session of the Eleventh National Assembly in an effort to check whether the vacancies in the Council Police have since been filled and whether there is an improvement in the level of enforcement of the provisions of the Statutory Instrument. The findings and recommendations of your Committee are contained in Part II of this Report.

Findings from the Foreign Tour of the Committee for the Second Session of the Eleventh National Assembly

Your previous Committee undertook a study tour to Ghana in an effort to learn how other jurisdictions handled the delegated legislation portfolio and share best practices in so far as delegated legislation was concerned.

Para 14, Page 22

129. Your previous Committee had observed that the lack of detail in the Zambian Constitution on the process of administering Statutory Instruments had contributed to the non-effectiveness of the delegated legislation portfolio in the Zambian Parliament. In this light, your Committee recommended that the Government should ensure that adequate provisions on the process of issuance of delegated legislation were clearly outlined and stated in the Constitution. This was in view of the constitutional reform process currently taking place in the country.

In response, it was stated in the Action-Taken Report that the Constitution provided general principles for several matters, including the authority of Parliament to cause the draft of Statutory Instruments. Additionally, the constitutional review process would provide an opportunity for the people to determine how Statutory Instruments would be treated in future.

Your previous Committee had further observed that the issuance of delegated legislation by various authorities was without the involvement of your Committee in the initial stages which made your Committee a mere spectator, unlike the practice in the Parliament of Ghana. In addition, your previous Committee had noted that it was a discomfoting state of affairs that the delegated legislation which was issued by the Executive, whether legislative or administrative, took effect without input from your Committee. In this light, your Committee recommended that the Government, through the Ministry of Justice, should initiate the enactment of a legal framework to provide for the involvement of your Committee in the initial

stages of preparing delegated legislation so as to enable your Committee to have an input before the delegated legislation was enforced. Further, all delegated legislation issued by the Executive which was legislative in nature must be scrutinised by your Committee before it could take effect.

In response, it was stated in the Action-Taken Report that this proposal would pose practical challenges since subsidiary legislation was generally administrative in nature and its scope was defined by the enabling legislation. The proposal also defeated the rationale for delegated legislation. Because of the volume of delegated legislation generated in any given year, effective administration of statutes would be hampered if measures required the input of the National Assembly prior to promulgation. This was especially so when viewed in light of the fact that, on average, the Ministry of Justice drafted and approved over 100 Statutory Instruments on behalf of client ministries every year. Further, all subsidiary legislation was of a "legislative" nature and Parliament was required to scrutinise the exercise of power to make delegated legislation, and this role could not be performed before that power was exercised.

Furthermore, your previous Committee had observed that the role of stakeholders in the delegated legislation portfolio could not be over emphasised. The issuance of delegated legislation by various authorities without due consideration of interested parties could be a source of conflict and misunderstanding if not properly handled. In this regard, your Committee recommended that the Government and other authorities with the power to issue delegated legislation must involve relevant stakeholders before the issuance of any such legislation in order to take stock of their concerns.

In response, it was indicated in the Action-Taken Report that the various ministries and authorities did engage in consultations with various stakeholders and would continue to improve the consultative process with stakeholders.

Your Committee had observed that the delays in submitting explanatory memoranda by most ministries and other authorities to Parliament were a source of concern. In some instances, your Committee had considered Statutory Instruments six months after their enforcement due to the late submission of explanatory memoranda. Your previous Committee, therefore, recommended as a matter of urgency that the Government must ensure that explanatory memoranda were submitted as and when the Statutory Instruments were published. This would also allow your Committee to consider the Statutory Instruments on time.

It was indicated in the Action-Taken Report that the Government issued a circular to remind the various ministries to submit memoranda on the various Statutory Instruments in accordance with the requirements of the National Assembly.

During his meeting with your Committee, the Secretary to the Cabinet submitted that the Government recognised the fact that there were some serious challenges as regards submission to Parliament of explanatory memoranda relating to Statutory Instruments. In this regard, in addition to the Circular issued to all permanent secretaries on the need to submit these explanatory memoranda in a timely manner, the Ministry of Justice had in the recent past organised training for some

of the Government officials concerned with the issuance of delegated legislation. It had been hoped that these measures would ameliorate the situation but he noted from your Committee's lamentations that the situation had not improved. He, therefore, indicated that he recognised the need to tighten the deadline for the submission of explanatory memoranda and he would endeavour to do so.

As regards consultative process prior to the promulgation of Statutory Instruments, the Secretary to the Cabinet submitted that such a process did in fact exist. He explained that under the Private Sector Development Programme, the Government endeavoured, to the extent possible, to use the private sector impact assessment framework in order to have an understanding of the possible impact of legislation on the private sector. This notwithstanding, it was impossible to predict fully what impact a piece of legislation could have on society. At the same time, it would be unrealistic to expect that all stakeholders would be in agreement with everything in the law. Therefore, what was important in any legislative process was to strike a balance between the exigencies of governance and the views of the stakeholders.

The Secretary to the Cabinet further informed your Committee that the legislative landscape in Zambia was such that all Statutory Instruments and other such delegated legislation were only reviewed by Parliament, through your Committee on Delegated Legislation, after they had been published and had taken effect. This procedure could only be changed via legislative changes. He stated that public servants were bound to abide by the provisions of the prevailing legal provisions at any given time. He, however, added that the Zambian Government was not averse to considering the models and legislative arrangements followed by other countries and making appropriate recommendations as regards possible amendments to the law with a view to smoothening the handling of delegated legislation. He undertook that his Office would spearhead this effort.

Committee's Observations and Recommendations

Your Committee notes the responses and the undertakings made by the Secretary to the Cabinet with regard to possible improvements in the process of handling delegated legislation and resolves to await the outcome of the inquiries as regards possible legislative changes that may result in improvements to the process.

CONCLUSION

130. Your Committee would like to express its appreciation to you Mr Speaker, for the wise counsel and direction offered to it during the Third Session of the Eleventh National Assembly. Your Committee also wishes to thank all the witnesses who made both oral and written submissions to it, thereby providing the basis for it to make informed decisions on the issues under its deliberation. 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.

M Lubezhi, MP (Ms)
CHAIRPERSON

June, 2014
LUSAKA

APPENDIX I

List of Officials

Mr S C Kawimbe, Acting Principal Clerk of Committees
Ms M K Sampa, Acting Deputy Principal Clerk of Committees
Ms C Musonda, Assistant Committee Clerk
Mrs S M Mensah, Personal Secretary II
Mr R Mumba, Committee Assistant
Mr C Bulaya, Committee Assistant
Mr D Kunda, Intern