



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON DELEGATED LEGISLATION

FOR THE

SECOND SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

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FOREWORD

Honourable Madam Speaker, the Committee on Delegated Legislation has the honour to present its Report for the Second Session of the Thirteenth National Assembly. The functions of the Committee are as set out in Standing Orders No.193 of the National Assembly of Zambia Standing Orders, 2021.

In line with its Programme of Work for the Second Session of the Thirteenth National Assembly, the Committee received Explanatory Memoranda from Permanent Secretaries and the Chief Registrar of the Judiciary under whose portfolios the Statutory Instruments were issued. The Committee held ten meetings and considered a total of fifty-nine Statutory Instruments for the year 2022.

Madam Speaker, the Committee also considered the Action-Taken Report (ATR) on the Committee's Report for the First Session of the Thirteenth National Assembly. The Committee expressed concern at the inordinate delay and slow pace at which matters noted by your Committee and previous Committees were being addressed, in particular, the review and drafting processes of the Anti-GBV Act and the Penal Code, which process had commenced in the year 2016.

The Committee also notes that there has been progress made and positive response from the Executive as has been highlighted from the Committee's resolve to close several matters raised in the Action-Taken Report. This is a clear demonstration of your Committee fulfilling its oversight function in governance.

The Committee Report is arranged in two Parts. Part I deals with consideration of Statutory Instruments for the year 2022 while Part II deals with consideration of the Action-Taken Report on the Report of the Committee for the First Session of the Thirteenth National Assembly.

The Committee is grateful to all the stakeholders who tendered both oral and written submissions. The Committee further wishes to thank you, Madam Speaker, for affording it an opportunity to carry out its work. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly during its deliberations.


Mr Chanda Remember Mutale, MP
CHAIRPERSON

June, 2023
LUSAKA

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REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE SECOND SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Mr Remember Chanda Mutale, MP (Chairperson); Ms Emeldah Munashabantu, MP (Vice Chairperson); Mr Jeffrey Mulebwa, MP; Mr Gregory Ngowani, MP; Mr Kenny Siachisumo, MP; Mr Siphon Hlazo, MP; Mr Phillimon Twasa, MP; Mr Christopher Chibuye, MP; Mr Misheck Nyambose, MP; and Mr Charles Abel Mulenga, MP.

2.0 FUNCTIONS OF THE COMMITTEE

The functions of the Committee are set out in Standing Order No. 193 of the *National Assembly Standing Orders, 2021*.

PART I

CONSIDERATION OF STATUTORY INSTRUMENTS

3.0 MINISTRY OF FINANCE AND NATIONAL PLANNING

- i) Statutory Instrument No. 2 of 2022 - The Customs and Excise (Suspension) (Fuel) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the laws of Zambia* so as to suspend excise duty on petrol and diesel. The suspension of excise duty was intended to guarantee steady supply and stable prices for fuel and was valid for the period 1st January, 2022 to 30th June, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- ii) Statutory Instrument No. 3 of 2022 - The Customs and Excise (Suspension) (Fuel) (No. 2) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend customs duty on diesel (734,850 m³), petrol (29,420 m³) and kerosene (5,000m³) and liquefied petroleum gas (5,000m³). The suspension of customs duty was intended to guarantee steady supply and stable prices for fuel and was valid for the period 16th January, 2022 to 30th June, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- iii) Statutory Instrument No. 4 of 2022 – The Value Added Tax (Zero-Rating) (Amendment) Order, 2022*

The Statutory Instrument was issued pursuant to sections 15 and 51 of *the Value Added Tax Act, Chapter 331 of the Laws of Zambia* so as to correct the omission of the zero-rating of the leasing of agricultural equipment to farmers.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- iv) Statutory Instrument No.14 of 2022 - The Presidential (Emoluments) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 2 of *the Presidential Emoluments Act, Chapter 261 of the Laws of Zambia* so as to revise the emoluments payable to the holder of the office of President.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- v) Statutory Instrument No.15 of 2022 - The Ministerial and Parliamentary Offices (Emoluments) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 2 (1) of *the Ministerial and Parliamentary Offices (Emoluments) Act, Chapter 262 of the laws of Zambia* so as to revise the emoluments payable to Ministerial and Parliamentary Offices.

Committee's Observations and Recommendations

While noting the issuance of the Statutory Instrument, the Committee is concerned that the emoluments of Members of Parliament or the Legislature will be determined by the Emoluments Commission, a body in the Executive Arm of Government.

The Committee recommends that emoluments payable to Members of Parliament and Parliamentary Staff be left to the Standing Orders Committee, in view of the non-operationalisation of the Parliamentary Service Commission. This is recommended so as to safeguard the independence of the Legislature and forestall the Separation of Powers, which is the bedrock of a constitutional democracy.

- vi) Statutory Instrument No. 16 of 2022 – The Local Authorities Superannuation Fund Act*

The Statutory Instrument was issued pursuant to section 41 of *the Local Authorities Superannuation Fund Act*, so as to provide for rules for the management of the Local Authorities Superannuation Pension Fund.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- vii) *Statutory Instrument No. 17 of 2022 - The Customs and Excise (Electronic Machinery and Equipment) (Suspension) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to amend the Customs and Excise (Electronic Machinery and Equipment)(Suspension) Regulations, 2021, Statutory Instrument No. 102 of 2021 to align the tariff codes with the updated World Customs Organisation Tariff Book.

The Statutory Instrument also suspended customs duty on solar powered devices in order to promote and ensure affordable access to off-grid efficient energy solutions.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- viii) *Statutory Instrument No. 23 of 2022 - The Customs and Excise (Suspension) (Refined Sugar) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend the duty on 17,000 metric tons of refined sugar to guarantee supply of sugar during the time of low local production. The Statutory Instrument was valid for the period of 1stMarch, 2022 to 15thMay, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- ix) *Statutory Instrument No. 24 of 2022 - The Customs and Excise (Suspension) (Wheat) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend the customs duty on 100,000 metric ton of wheat to guarantee supply of wheat during the time of low local production. The suspension was valid for the period of 1stFebruary to 31stJuly, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

x) Statutory Instrument No. 29 of 2022 - The Customs and Excise (Suspension) (Fuel) (No.3) Regulations, 2022.

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to amend the Customs and Excise (Suspension) (Fuel) (No.2) Regulations, 2022, in order to increase the quantities of fuel on which duty was suspended for importation by Oil Marketing Companies.

The Ministry of Finance and National Planning and the Energy Regulation Board (ERB) submitted to the Committee as set out hereunder.

The Energy Regulation Board undertook monitoring of the fuel supply chain on a daily basis to ascertain the petroleum stock levels in the country held by Government and Oil Marketing Companies' (OMCs) through hospitality arrangements at TAZAMA. Furthermore, the status of petroleum stock levels in OMCs' depots and retail sites across the country was also monitored through daily submission of available stocks and product uplift reports.

In addition, whenever there was an observed disturbance in the fuel supply chain, the ERB dispatched inspectors to undertake physical fuel stock verification by dipping fuel storage tanks to ascertain fuel stocks stored at various service stations and major bulk fuel storage depots owned by OMCs countrywide, located in areas where the ERB had a permanent presence as well as neighbouring towns.

Further, whenever the country's fuel stocks were observed to be below the set target of fourteen stock days, the ERB engaged the OMCs directing them to submit restocking plans and to ensure that their service stations were restocked and where persistent stock outs were identified, appropriate enforcement action was undertaken.

Committee's Observations and Recommendations

While noting the Statutory Instrument as having been issued according to the enabling legislation, the Committee notes the submission and urges the Ministry of Finance and National Planning and the Energy Regulation Board to conduct regular investigations to ensure that the Statutory Instrument was not subject of possible abuse.

xi) Statutory Instrument No. 30 of 2022 - The Public Procurement Regulations, 2022.

The Statutory Instrument was issued pursuant to section 112 of *the Public Procurement Act, 2020*, so as to:

- (i) enable the proper management of the bidding process, including pre-bid meetings, clarification and amendment of solicitation documents and the withdrawal, modification and substitution of bids;
- (ii) stipulate sanctions imposed on office holders that incur loss from that office holder's actions;
- (iii) encourage the use of information and communication technologies, including the use of an e-procurement system or website set up by the Zambia Procurement Authority; and

- (iv) the publication of data and information in open data formats; and to stipulate the circumstances amounting to an emergency.

The above measures were intended to bring about efficiency, transparency and prudence in the procurement process.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xii) Statutory Instrument No. 32 of 2022 - The Income Tax (John Snow Health Zambia Limited) (Approval and Exemption) Order, 2022.*

The Statutory Instrument was issued pursuant to section 15 of *the Income Tax Act, Chapter 323 of the Laws of Zambia* so as to exempt the Electronic Supply Chain Management Information System project from income tax. The project was funded by the United States Agency for International Development (USAID) and was being implemented by John Snow Health Zambia Limited on behalf of the Ministry of Health.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xiii) Statutory Instrument No. 36 of 2022 - The Customs and Excise (Ports of Entry and Routes)(Amendment) Order, 2022.*

The order was issued pursuant to section 13 and 199 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to include Sakania Border Post on the list of designated borders for transit of risk goods to decongest Kasumbalesa Border Post.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xiv) Statutory Instrument No. 37 of 2022 - The Tax Appeals Tribunal Rules, 2022.*

The Statutory Instrument was issued pursuant to section 18 of *the Tax Appeals Tribunal Act No. 1 of 2015*. The purpose of the Statutory Instrument was to provide procedural rules which ensured the expeditious hearing and conclusion of appeals before the Tribunal. The Rules also provided for the payment of segregated fees according to the size of the taxpayer.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in accordance with the enabling legislation.

- xv) Statutory Instrument No. 40 of 2022 - The Customs and Excise (Suspension) (Fuel) (No. 4) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend customs duty on diesel and kerosene when imported by TAZAMA, in order to support the conversion of the TAZAMA pipe line from transporting comingled crude oil to pump finished petroleum products. The Statutory Instrument was valid for the period of 13th May, 2022, to 30th June, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xvi) Statutory Instrument No. 42 of 2022 - The Customs and Excise (Suspension) (Fuel) (No. 5) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to extend the sunset clause of the Customs and Excise (Suspension) (Fuel) (No. 4) Regulations, 2022, which suspended customs duty on diesel and kerosene when imported by TAZAMA.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xvii) Statutory Instrument No. 43 of 2022 - The Customs and Excise (Suspension) (Fuel) (No. 6) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend customs duty on diesel, petrol, and kerosene and liquefied petroleum gas. The suspension of customs duty was intended to guarantee steady supply and stable prices for fuel and was valid for the period 1st July, 2022 to 30th September, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xviii) Statutory Instrument No. 44 of 2022 – The Customs and Excise (Suspension) (Fuel) (No. 7) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend excise duty on diesel, petrol and kerosene and liquefied petroleum gas. The suspension of excise duty was intended to guarantee steady supply and stable prices for fuel and was valid for the period 1st July, 2022 to 30th September, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xix) Statutory Instrument No. 45 of 2022 – The Customs and Excise (Suspension) (Refined Sugar) Regulations, 2022.*

Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to increase the quantities and extend the period for the suspension of customs duty on refined sugar to guarantee the supply of refined sugar during the time of low local production.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xx) Statutory Instrument No. 46 of 2022 - The Customs and Excise (Machinery and Equipment) (Suspension) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend the customs duty on machinery and equipment for the mining sector in order to promote investment in the sector.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xxi) Statutory Instrument No. 49 of 2022 - The Public-Private Partnership (Kasumbalesa Border Post) (User Fees) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 43 of 43 of *the Public-Private Partnership Act No, 14 of 2009* so as to provide for the decongestion of Kasumbalesa Border Post and encourage truck drivers to cross into and out of the Democratic Republic of Congo (DRC) without undue delay. In the regard, the Government had resolved that the period beyond which the parking fee should be paid for a vehicle parked in the Kasumbalesa customs area should be reduced from the current forty – eight hours to twenty - four hours.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xxii) Statutory Instrument No. 50 of 2022 - The Customs and Excise (General) (Amendment) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to provide customs rebate on machinery and

equipment for the mining sector in order to promote investment in the sector and increase mineral production.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xxiii) Statutory Instrument No. 52 of 2022 - The Customs and Excise (Suspension) (Manganese Ores and Concentrates and Copper Ores and Concentrates) Regulations, 2022.*

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend export duty on manganese ores and concentrates and copper ores and concentrates to enable Musamu Resources Limited undertake various commercial production tests aimed at setting up a smelter in Chipili district for large scale value addition, and Mopani Copper Mines PLC export copper concentrates and ores during the time of bi-annual shutdown.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xxiv) Statutory Instrument No. 53 of 2022 - The Financial Intelligence Centre (Prescribed Threshold) Regulations, 2022.*

The Statutory Instrument was issued pursuant to Section 26 of the *Financial Intelligence Centre Act No. 46 of 2010* so as to ensure that the financial service provider undertaking a wire transfer identifies and verifies the identity of the originator; obtains and maintains information on the identity of the beneficiary; obtains and maintains the account number of the originator and beneficiary, or in the absence of an account number, a unique reference number; and obtain and maintain the originator's address.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- xxv) Statutory Instrument No. 54 of 2022 - The Financial Intelligence Centre (General) Regulations, 2022.*

The Statutory Instrument was issued pursuant to Section 58 of *the Financial Intelligence Centre Act No. 46 of 2010* and is meant to ensure among others, risk-based application of customer due diligence; measures relating to Non-Governmental Organisations and obligations of accountable institutions.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

xxvi) Statutory Instrument No. 55 of 2022 - The Customs and Excise (Public Benefit Organisation) (Rebate, Refund or Remission) (Amendment) Regulations, 2022.

The Statutory Instrument was issued pursuant to section 89 of *the Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to curb the abuse of the Public Benefit Organisation Scheme with regard to importation of second hand clothes, shoes and handbags.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

4.0 MINISTRY OF HOME AFFAIRS AND INTERNAL SECURITY

i) Statutory Instrument No. 6 and 48 of 2022-The Zambia Police (Fees) (Amendment) (No. 2) Regulations, 2022

The Statutory Instruments No. 6 and 48 were developed pursuant to section 62 of *the Zambia Police Act, Chapter 107 of the Laws of Zambia* so as to adjust upwards the fees collected by the Zambia Police Service, standardise the fees for services offered by the Police and also provide legislative authority for fees collected such as the anti-stock movement and commission of oaths fees.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law. The Committee, however, urges the Zambia Police to engage in sensitisation of members of the public on the new fees so that citizens pay the right amounts for respective services.

ii) Statutory Instrument No. 7 of 2022- The National Archives (Fees) Regulations, 2021

The Statutory Instrument was issued pursuant to section 21 of *the National Archives Act, Chapter 175 of the Laws of Zambia* to support revenue collections following the upward adjustment of revenue projections for 2022 for the National Archives of Zambia, by the Ministry of Finance and National Planning on fees charged to researchers, the general public and registration of periodicals.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iii) Statutory Instrument (S.I) No. 11 Of 2022-The Zambia Correctional Service Act (Commencement) Order, 2021

The Statutory Instrument was issued pursuant to section 23 of *the Interpretations and General Provisions Act, Chapter 2 of the laws of Zambia* and section 1 of *the Zambia*

Correctional Service Act in order to operationalise the new *Zambia Correctional Service Act No. 37 of 2022* arising from Article 193 (4) of the *Constitutional (amendment) Act No. 2 of 2016*, providing a shift from the Zambia Prison Service to Zambia Correctional Service.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iv) *Statutory Instrument (S.I) No. 12 of 2022-The Societies (Amendment) Rules, 2022*

The Statutory Instrument was issued pursuant to section 38 of *the Societies Act Cap 119 of the Laws of Zambia* to support revenue collections following the upward adjustment of revenue projections for 2022 for the Registrar of Societies by the Ministry of Finance and National Planning. The intention of the Statutory Instrument was to provide legislative support to the Registrar of Societies to effect the adjusted fees.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

v) *Statutory Instrument (Si) No: 27 of 2022 The Citizenship Of Zambia Act No: 33 of 2016 (Amendment) Regulations, 2022*

The Statutory Instrument was issued pursuant to section 45 (1) and (2) (h) of *the Citizenship of Zambia (Amendment) Act No 33 of 2016* to support revenue collections following the upward adjustment of revenue projections for 2022 for citizenship services by the Ministry of Finance and National Planning.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

5.0 MINISTRY OF TECHNOLOGY AND SCIENCE

i) *Statutory Instrument No. 19 Of 2022-The Information and Communication Technology (Fees) (Amendment) Regulations, 2022*

The Statutory Instrument was issued pursuant to section 91 of *the Information and Communication Technologies Act, No. 15, 2009*. The intention was to amend and provide regulations for applicable fees payable for various services as per the Appendix in the Statutory Instrument.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

ii) Statutory Instrument No. 28 of 2022- The Information and Communication Technology (Administration of Authority) Regulations, 2022

The Statutory Instrument was issued pursuant to section 91 of *the Information and Communication Technologies Act, No. 15 of 2009*. The objective of the Statutory Instrument was to provide for the constitution of the Board, its functions, proceedings of the board and committees.

Committee’s Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

6.0 MINISTRY OF COMMERCE, TRADE AND INDUSTRY

i) Statutory Instrument No. 22 of 2022-The Corporate Insolvency (Insolvency Practitioners Accreditation) (Amendment) Regulations, 2022

The Statutory Instrument was issued pursuant to section 142 (7) of *the Corporate Insolvency Act No. 9 of 2017* to amend Statutory Instrument No. 40 of 2019, the Corporate Insolvency (Insolvency Practitioner Accreditation) Regulations, 2019.

The main objective of the Statutory Instrument was to provide for and enhance regulations relating to accreditation of insolvency practitioners pursuant to section 142 (7) of the *Corporate Insolvency Act No. 9 of 2019*.

The Statutory Instrument further provides for three forms which were inadvertently not included under Statutory Instrument, 40 and 41, namely; Notice of Intention to Revoke Accreditation (Form II), Notice of Revocation of Accreditation (Form III) and an Application for Variation of Accreditation (Form IV).

Committee’s Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

ii) Statutory Instrument No. 35 of 2022-The Zambia Institute of Marketing Act (Commencement) Order, 2022

The Statutory Instrument was issued pursuant to section 1 of *the Zambia Institute of Marketing Act No. 2 of 2022* to operationalise *the Zambia Institute of Marketing Act No. 35 of 2022*, which is an Act promulgated to repeal *the Zambia Institute of Marketing Act No. 14 of 2003*.

Committee’s Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iii) *Statutory Instrument No. 56 of 2022-The Zambia Development Agency (Kalumbila Multi-Facility Economic Zone) (Declaration) Order, 2022*

The Statutory Instrument was issued pursuant to Section 18 of *the Zambia Development Agency Act, No. 11 of 2006*, so as to declare the parcel of land covering 5,040 hectares belonging to Kalumbila Town Development Corporation Limited located in the Musele area of Kalumbila District, North Western Province, as a Multi-Facility Economic Zone under the Zambia Development Agency (Kalumbila Multi-Facility Economic Zone) (Declaration) Order, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iv) *Statutory Instrument No. 106-The Competition and Consumer Protection (General) (Amendment) Regulations, 2022*

The Statutory Instrument was issued pursuant to section 84(1) of *the Competition and Consumer Protection Act, No 24 of 2010*, read together with the Competition and Consumer Protection (General) Regulations (Statutory Instrument No.97 of 2011), which mandates the Competition and Consumer Protection Commission to issue Guidelines on how it conducts its activities. The Statutory Instrument was issued so as to amend regulation 8(1) of the Principal Regulations of Statutory Instrument No. 97 of 2011 under *the Competition and Consumer Protection Act, 2010*.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

v) *Statutory Instrument No. 107 of 2022-The Companies Act (No. 10 of 2010), the Companies (Fees) Regulations, 2022*

The Statutory Instrument was issued pursuant to section 374 of *the Companies Act, No. 10 of 2017* so as to amend the Companies fees payable for various services offered by the Patents and Companies Registration Agency. The issuance of the Statutory Instrument was necessitated by the Government's desire to reduce the cost of doing business as well as the numerous applications for waiver of fees relating to registration of companies and alteration of share capital by companies with huge nominal share capital, coupled with innovation and automation of the processes offered for which fees were charged.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- vi) ***Statutory Instrument No. 108-The Moveable Property (Securities Interest) Act No. 3 of 2016: The Movable Property (Security Interest) (Fees) Regulations, 2022***

The Statutory Instrument was issued pursuant to section 32 and 100 of *the Moveable Property (Securities Interest) Act No. 3 of 2016* to amend the fees payable for registration of financial statements and other services offered in the Movable Property (Security Interest) Registry System to address concerns raised by the financial service providers and other stakeholders that fees charged under the Collateral Registry were high.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law

7.0 THE ELECTORAL COMMISSION OF ZAMBIA

- i) ***Statutory Instrument No. 8 of 2022- Electoral Process by-election (Kabwata Constituency) (Election Date and Time of Poll) Order, 2022***

The Statutory Instrument was issued pursuant to section 125 of the *Electoral Process Act No. 35 of 2016*. The objective of these regulations was to stipulate the election dates and times of polls in respect of the Constituency contained in the schedule of the Statutory Instrument.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- ii) ***Statutory Instrument No. 18-The Electoral Process (Local Government By-Elections) (Election date and time of Poll) Order, 2022***

The Statutory Instrument was issued pursuant to section 125 of *the Electoral Process Act No. 35 of 2016*. The objective of these regulations was to stipulate the election dates and times of polls in respect of the Constituency contained in the schedule of the Statutory Instrument.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- iii) ***Statutory Instrument No. 21-The Electoral Process (Local Government By-Elections) (Election date and time of Poll) Order, 2022***

The Statutory Instrument was issued pursuant to section 125 of *the Electoral Process Act No. 35 of 2016*. The objective of the regulations was to stipulate the election dates and times of polls in respect of the district and wards contained in the schedule of the Statutory Instrument and to revoke the Electoral Process (Local Government By-Elections) (Election Date and Time of Poll) (Statutory Instrument No. 18) Order, 2022, which stipulated the election dates

and times of polls in respect of the district and wards contained in the schedule of the said Statutory Instrument.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- iv) Statutory Instrument No. 51-The Electoral Process (Local Government By-Elections) (Election date and time of Poll) Order, 2022*

The Statutory Instrument was issued pursuant to section 125 of *the Electoral Process Act No. 35 of 2016*. The objective of these regulations was to stipulate the election dates and times of polls in respect of the Constituency contained in the schedule of the Statutory Instrument.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

8.0 MINISTRY OF INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

- i) Statutory Instrument No. 34 of 2022-The Tolls (Toll Exemption) Order, 2022*

The Statutory Instrument was issued pursuant to section 10 of the *Tolls Act, No. 14 of 2011* in order to provide Khal Amazi Farms an exemption from paying toll fees for a period of 12 months, starting from 16th May, 2022 to 11th May, 2023. The exemption order was restricted to the Chongwe Toll Station with the exempted vehicles shown on the schedule to the Statutory Instrument.

The objective of the Statutory Instrument was to help Khal Amazi Farms sustain its operations in the period of exemption with a view of the company putting in place a Sustainable Management Plan for its operations, thereafter.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

9.0 MINISTRY OF ENERGY

- i) Statutory Instrument No. 58 of 2022-The Zambezi River Authority (Terms and Conditions of Service (Amendment) By-Laws, 2022*

The Statutory Instrument pursuant to Article 10 of the Agreement in the schedule to the *Zambezi River Authority Act Chapter 467 of the Laws of Zambia* for the purpose of paving way for recruitment of four additional officers, namely; Legal officer and three I.T Technicians.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

10.0 MINISTRY OF TOURISM

- i) Statutory Instrument No. 25 of 2022-The Tourism and Hospitality (Registration of Hotel Managers) (Temporary Disapplication of Registration Fee) Regulations, 2022*

The Statutory Instrument was issued pursuant to sections 26, 55, 64 and 80 of the *Tourism and Hospitality Act No. 13 of 2015*.

The rationale for the statutory Instrument was to cushion operators from the impact of the Covid-19 pandemic, which had greatly affected the Hotel industry by suspending the registration fees but still maintain the requirement to register hotel managers as a measure to uphold standards in the sector.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

- ii) Statutory Instrument No. 26 of 2022-The Tourism and Hospitality (Licensing) (Temporary Disapplication of Renewal and Retention Fees) Regulations, 2022*

The Statutory Instrument was issued pursuant to sections 26, 55, 64 and 80 of *the Tourism and Hospitality Act No. 13 of 2015*.

The rationale for the statutory Instrument was to cushion operators from the impact of the Covid-19 pandemic which had greatly affected the Hotel industry by suspending the paying of the renewal and retention fees, respectively.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

11.0 MINISTRY OF LABOUR AND SOCIAL SECURITY

- i) Statutory Instrument No. 13 of 2022-The Minimum Wages and Conditions of Employment (Truck and Bus Drivers) (Amendment) Order, 2022*

The Statutory Instrument was issued pursuant to section 106 of *the Employment Code Act, No. 3 of 2019*, which empowers the Minister of Labour and Social Security to prescribe minimum wages and conditions of employment for vulnerable groups of employees where the Minister considers that adequate provisions do not exist for the effective regulation of the minimum wages and conditions of employment.

Committee's Observations and Recommendations

While noting that the Statutory Instrument was done in conformity with the law, the Committee observes that the consultative meeting leading to the promulgation of the Statutory Instrument was not inclusive as it left out the employees or their representative association.

The Committee therefore, recommends that a review of the impact or performance of the Statutory Instrument be undertaken to ascertain the prevailing business conditions.

12.0 THE JUDICIARY

- i) *Statutory Instrument No. 5 of 2022-The Economic and Financial Crimes (Division of Court) Order, 2022*

The Statutory Instrument was formulated pursuant section 3 of *the High Court Act* so as to establish the Economic and Financial Crimes Court as a division of the High Court with Magistrates at the Subordinate Court level assigned additional responsibilities of hearing and determining cases of an economic and financial crimes nature as well as corruption.

Committee's Observations and Recommendations

While noting that the Statutory Instrument was issued in conformity with the law, the Committee observes that the Order has no time frame within which a matter must be disposed of and hence defeats the very essence of these courts being fast track courts.

The Committee recommends that the Statutory Instrument be amended to include a specified time frame within which matters relating to economic, financial and corruption cases must be disposed of.

13.0 MINISTRY OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT

- i) *Statutory Instrument No. 57 of 2022-The Urban and Regional Planning Act No. 3 of 2022 and the Regional Planning (Designated Local Planning Authorities) Regulations of 2022*

The Statutory Instrument was issued pursuant to section 13 of *the Urban and Regional Planning Act No. 3 of 2015*, for the designation of Mumbwa Town Council as a Local Planning Authority.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

14.0 CABINET OFFICE

- i) *Statutory Instrument No. 1 of 2022- The Electronic Government Act (Commencement) Order, 2022*

The Statutory Instrument was issued pursuant to section 1 of *the Electronic Government Act No. 1 of 2021*, so as to operationalise *the Electronic Government Act No. 1 of 2021*.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

ii) Statutory Instrument No. 20 of 2022-The Public Holidays (Declaration) (No.2)Notice of 2022

The Statutory Instrument was issued pursuant to section 3 of *the Public Holidays Act Chapter 272 of the Laws of Zambia*, so as to facilitate the declaration of 18th March, 2022 as a Public Holiday for the state funeral and burial of the Fourth Republican President, Mr Rupiah Bwezani Banda, who had died on 11th March, 2022.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iii) Statutory Instrument No. 33 of 2022-The Judges (Salaries and Conditions of Service) (Amendment) Regulations, 2022-The Judges (Conditions of Service) Chapter 277 of the Laws of Zambia

The Statutory Instrument was issued pursuant to section 3 and 12 of *the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia*, so as to provide for the emoluments of Judges and amend, revoke and replace the principal regulations in the First Schedule of the said Act and to provide for regulations and additional conditions of service for the Judges.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

iv) Statutory Instrument No. 47 of 2022-The Emoluments Commission Act (Commencement) Order, 2022

The Statutory Instrument was issued pursuant to section 1 of *the Emoluments Commission Act, No. 1 of 2022*, so as to operationalise *the Emoluments Commission Act No. 1 of 2022*.

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

15.0 MINISTRY OF WATER DEVELOPMENT AND SANITATION

i) Statutory Instrument No. 31 of 2022-The Water Resources Management (Charges and Fees) (Amendment) Regulations, 2022

The Statutory Instrument was issued pursuant to section 7, 150, 151,152 and 153 of *the Water Resources Management Act, 2011* so as to remove the application and registration fees for domestic boreholes as contained in Statutory Instrument No. 18 of 2018 the Water Resources Management (Charges and Fees).

Committee's Observations and Recommendations

The Committee notes the issuance of the Statutory Instrument as it was done in conformity with the law.

16.0 LOCAL TOUR REPORT

As part of its programme of work the Committee had resolved to assess the implementation of selected Statutory Instruments through interaction with stakeholders in some districts of Lusaka, Central and the Copperbelt Provinces. The highlights of the Committee's local tour are set out below.

(16.1) Statutory Instrument No. 48 of 2021 - The Environmental Management (Strategic Environment Assessment) Regulations

The Statutory Instrument was issued pursuant to section 30 of *the Environmental Management Act, No. 12 of 2011* so as to make regulations for the effective administration of Strategic Environmental Assessments.

The Committee having held a meeting with the Zambia Environmental Management Authority (ZEMA) in the year 2021, which was responsible for enforcing the regulations contained in the Statutory Instrument, resolved to visit Mwembeshi Resource Limited site in the lower Zambezi so as to have an appreciation of the implementation of the Statutory Instrument. The Committee had a meeting with ZEMA, the Department of National Parks and Wildlife and representatives of Mwembeshi Resources Mine.

The Committee was informed as stated hereunder.

- i) In the year 2010, Zambezi Resources Mine, now referred to as Mwembeshi Resources Mine applied for a mining licence, which was granted by the Department of Mines and Mineral Development in the year 2011.**
- ii) A decision letter was issued to Mwembeshi Resources Mine by ZEMA in the year 2014 with conditions as to what the developer had to comply with for the development in the Game Reserve Area to go ahead.**
- iii) A court action by a consortium of Non-Governmental Organisations followed and there had been no progress made on the project until the matter was dismissed by both the High Court and Court of Appeal in 2019 and 2021, respectively.**

- iv) The Department of National Parks and Wildlife (DNPW) was working with Mwembeshi Resources Mine to ensure that as the mine begins its operations, the developer complied with provisions of the relevant law and regulations. In this vein, a Memorandum of Understanding was being drafted between the Department of National Parks and Wildlife and Mwembeshi Resources Mine to ensure that the environment and wildlife was protected.
- v) The current status is that no mining was being undertaken at the site.
- vi) Mwembeshi Resources Mine would provide office space to ZEMA and the DNPW at the mine site once operations commence so as to ensure compliance.

Committee's observations and Recommendations

- i) The Committee notes that the Strategic Environmental Assessment Regulations are well intended; however, the Committee is concerned that the appropriate authorities like ZEMA and DNPW may not have the capacity to ensure full compliance by the developer of this project in the Game Reserve Area. The Committee, therefore, recommends that ZEMA and DNPW should be adequately supported financially and materially to effectively carry out their mandate under the law and to enforce the regulations.
- ii) The Committee observes that the intention of the regulations is to protect the environment and the rights of people in places where developers intend to implement policies, plans and programmes that may have adverse effect on the environment. To this end, the Committee recommends that measures are put in place to ensure that the developer complies with the stipulated guidelines in the decision letter so as to safeguard the environment, wildlife and the rights of people.

Furthermore, the committee recommends that, Mwembeshi Resources Ltd, ZEMA and DNPW work together and regularly hold meetings to ensure that the conditions provided for in the ZEMA decision letter are strictly adhered to and further improvements are implemented.

- iii) The Committee is concerned at the submission that mining activities can co-exist with wildlife. The Committee recommends that mitigation measures are put in place to ensure safety of wildlife from toxic and poisonous substances from production and processing at the mine.
- iv) The Committee also notes that according to decision letters given by ZEMA in 2012, the chances of failure are high and the impact would be significant and would extend to neighbouring countries. The Committee recommends that a detailed design of the tailings storage facility should be submitted to ZEMA and the Mines Safety Department prior to project implementation.
- v) The Committee further notes that in the addendum submitted to ZEMA, Mwembeshi Resources Limited proposes a new dry-stack method (page 8), which is "*rarely used, largely because of the high capital and operating costs.*" However, Page 5 of the EIS projected initial capital costs for the whole project at 494,600,000 USD. The project costs in the Addendum have not been increased but remain at 494,600,000 USD. The

Committee recommends that the extra costs or a new investment budget be submitted to carter for this extra high capital and operating costs.

(16.2) Statutory Instrument No. 6 and 48 of 2022-The Zambia Police (Fees) (Amendment) (No.2) Regulations, 2022

The Statutory Instruments No. 6 and 48 were developed pursuant to section 62 of *the Zambia Police Act, Chapter 107 of the Laws of Zambia* so as to adjust upwards the fees collected by the Zambia Police Service, standardize the fees for services offered by the Police and also provide legislative authority for fees collected such as the anti-stock movement and commission of oaths fees.

The Committee held a meeting with the Deputy Commissioner of Police for Central Province with her team to appreciate the implementation of the Statutory Instruments.

The Committee was informed as set out hereunder.

- i) The Police Command in Central Province was aware of the Statutory Instrument, whose implementation was received as a radio message with a covering note from Police Headquarters Command in Lusaka in September of 2022.
- ii) Senior Staff Officers were then sent to explain the implementation of the Statutory Instrument to the sixteen Police stations in the Province, which were allowed to collect revenue as prescribed by the Statutory Instruments.
- iii) The departments, which were mandated to collect revenue and prescribed fees were; Interpol, traffic police, anti-stock theft, fingerprints and firearms. The revenue was handled by Administration officers at different stations while the Accountant at Kabwe Central Police Headquarters collected from all the stations and submitted to the Police Headquarters in Lusaka for further transfer to the treasury at the Ministry of Finance.
- iv) The Police Command in the Province receives funding for operations. However, this funding was not adequate to carter for all activities including sensitisation on the statutory instrument.
- v) In addition, the Police fleet of vehicles for operations was not adequate to undertake sensitisation and routine police work.

Committee's Observations and Recommendations

- i) While the Committee observes that the Statutory Instruments were well intended, the Committee notes the meagre budget allocated for Police operations in the Province, which makes it difficult for the Zambia Police Command to undertake its activities of sensitising members of the public in both urban and far flung rural areas of the Province on the fees payable. The Police Command therefore, relies heavily only on radio programmes than community outreach activities. The Committee recommends that the Government should increase funding towards Police operations in Central Province to enable the Police Command to widely sensitise the communities about the Statutory Instruments.

- ii) The Committee observes with concern the transport challenges experienced by the Zambia Police in the province as the last time utility vehicles were purchased was in the year 2011. This hampers the collection of revenue especially in rural areas where banking services are scarcely available. Therefore, Administration officers in rural stations only deposit collections every fortnight. The Committee recommends that the Government should urgently avert the transport challenges facing the Zambia Police in general and in Central Province, in particular to enhance revenue collection and operations.
- iii) The Committee also notes with concern that there was no standard form utilised by Police officers in relation to stock movement and that in practice the Statutory Instruments were applied equally as the law does not specify the number of animals for which the K30 should be paid for but merely states that the amount be paid for the stock movement permit. The Statutory Instruments seems to favour those with more animals who also only pay K30. There is need for Government to provide a standard form to be used by Police officers as they execute their duties so as to prevent possible abuse of the Statutory Instrument.
- iv) With regards the lack of a standard accountable document for the stock movement permit, the Committee expressed concern at how effective and prudent the system was and if the funds collected were a true reflection of the revenue collected by officers. The Committee recommends that a standard form be provided for use by officers in relation to stock movement permits to prevent possible abuse of the Statutory Instrument.

The Committee also recommends mandatory advertising of prescribed fees in the print media and at notice boards at all Police stations for ease of identification of services being paid for by members of the public. In addition, the Committee recommends that Statutory Instruments should not only be pegged in fee units but also have a Kwacha equivalent so that the payable fees are easy to interpret by ordinary members of the public.

(16.3) *Statutory Instrument No. 30 of 2022 - The Public Procurement Regulations, 2022*

The Statutory Instrument was issued pursuant to section 112 of the *Public Procurement Act, No.8 of 2020*, so as to among others; enable the proper management of the bidding process, including pre-bid meetings, clarification and amendment of solicitation documents and the withdrawal, modification and substitution of bids.

In order to appreciate the implementation of this Statutory Instrument, the Committee held three meetings with Ndola and Kitwe City Councils and Mufulira Municipal Council, respectively.

16.3.1 Meeting with Ndola City Council

The Committee held a meeting with the Town Clerk and Management team and was informed as highlighted below.

- i) As a local authority and procuring entity, Ndola City Council had embraced and implemented the Statutory Instrument which was being used as a guide in the execution of the Council's procurement activities. The local authority through its procurement committee had unlimited threshold to handle all procurement activities for the Council. The Committee also superintended over procurement activities for other devolved Ministries and Government departments especially in instances where the procurement amounts were above their prescribed threshold.
- ii) The introduction of the Statutory Instrument No. 30 of 2022 had not only enhanced good governance through upholding public procurement principles such as efficiency, transparency, competition, fairness, economy, integrity and value for money but had also embraced usage of information and technology via Electronic Government Procurement system (e-GP) and the Market Price Index (MPI) interventions.

Committee's observations and recommendations

- i) With regard to the thresholds contained in the second schedule to the Statutory Instrument, for simplified bidding as provided for in regulation 29 (1) (2), the Committee observed that the current threshold of K1,000,000 was low considering that the estimated cost to construct some infrastructure such as school classroom blocks range from K800,000.00 to K1,400,000. Therefore, this increases the time frame within which projects can be completed as authority has to be sought whenever a project under simplified bidding costs above the threshold. The Committee recommends that the second schedule of the regulations be amended to increase the threshold to K1, 500,000.00 for simplified bidding. This will help in achieving efficiency as many infrastructure projects will be implemented within a short period of time because the floatation period will be reduced.
- ii) The Committee also observes that there were too many stages on the confirmation of availability of funds and budgetary provision on procurement of goods, works and non-consulting services in line with Regulation 64 (1). By this provision, confirmation of availability of funds is done with the office of the Director of Finance at Cabinet Office. The Committee recommends that the confirmation of availability of funds process be shortened by removing the need for the Director of Finance at Cabinet Office to verify the availability of funds but that this function is performed by the Director of Finance at the Local Authority.
- iii) In relation to the minimum bidding period for Open National Bidding under Regulation 181 (2), the Committee observes that the four (4) weeks period is too long. This affects the quick performance of projects. The Committee recommends that the time period be reduced to two weeks or 14 days to enable quick implementation of projects.
- iv) The Committee observes with concern that the objective of the e-GP system under Regulation 163 is to enhance efficiency and ensure transparency in public procurement. However, the Committee has observed that the adoption and usage of the technology among SME's is not impressive and this can be confirmed by the low participation in online tender submissions. The Committee recommends that intensive

training programmes in the use of the e-GP system for SME's be conducted by end of June, 2023 so that SME's can effectively participate in the procurement processes.

- v) In line with Regulation 11 on the MPI, the Committee notes that the Zambia Public Procurement Authority (ZPPA) is mandated to publish the quarterly MPI. However, the publications are not done on specific dates at the end of every quarter. The publication is always delayed and is not specific to any date. The Committee recommends that quarterly publication be done on the last day of the last month of the quarter. In addition, there is need to provide clarity by ZPPA on pricing whenever the price on the market was lower than the prescribed MPI as some Local Authorities did not consider prevailing market prices in such cases.
- vi) The Committee also notes with concern that the authorisation of contracts under open or limited bidding or limited selection as per Regulation 181 (2) is unduly delayed at Attorney General's Chambers, which takes between two weeks and at times months on end for a clearance to be secured, thus causing delays in the implementation of projects. The Committee, therefore, recommends that Regulation 181 (2) be amended so as to delegate the authority currently performed by the Attorney General to the Provincial level or the office of the Director Legal Services at the Councils.

Lastly, there is need to add more items to be enlisted to the portal in order to avoid disparities in prices of certain goods and services while at the same time the threshold for simplified bidding be not only increased to K1, 500,000.00 but also be reviewed every after two (2) years.

16.3.2 Meeting with Kitwe City Council

The Committee held a meeting with the Town Clerk and Management team and was informed as highlighted below.

- i) As a Local Authority and procuring entity had embraced and implemented the Statutory Instrument No. 30 of 2022, which was being used as a guide in the execution of the Council's procurement activities.
- ii) The use of the e-GP and the MPI had brought among others, efficiency, transparency, competition, fairness, economy, integrity, value for money and cost control to the procurement system.
- iii) The increase in the thresholds had also brought efficiency as only particular values of procurement were subjected to the Procurement Committee thereby reducing the lead time.

Committee's observations and recommendations

- i) The Committee observes that items published in the current quarter tend to be absent in the succeeding quarter and prices provided for in the MPI tend not to be market reflective. The Committee recommends that items from the previous quarter are

reflected in the subsequent quarter and that the MPI be cost reflective at every quarterly review.

- ii) With regard to records of procurement proceedings under Regulation 16, the Committee observes that procurement proceedings conducted via the e-GP platform tend to be inaccessible after they are forwarded to the audit trail. The Committee recommends that the system be upgraded to allow for proceedings conducted on the e-GP platform to be accessible even when under audit trail.
- iii) The Committee observes with concern that the objective of the e-GP system under Regulation 163 is to enhance efficiency and ensure transparency in public procurement. However, the adoption and usage of the technology among SME's is not impressive as can be confirmed by the low participation in online tender submissions. The Committee recommends that continuous training is required to build the capacity of the citizen bidders for them to effectively participate in the procurement processes.
- iv) The Committee is concerned that owing to the challenges SME's are facing in accessing the e-GP platform, some officials from the Local Authorities who had been trained by ZPPA were taking advantage of this situation to be the ones uploading the requirements on the system on behalf of companies connected to individuals in the Councils. The Committee recommends that there is need for Local Authorities countrywide to investigate this practice and bring to book erring officers and reprimand Councils to conduct trainings for suppliers, especially citizen bidders who lack the capacity in most instances.
- v) With regard to Regulation 218 on contract variation, the Committee observes that projects are made to a grind to a halt while variation is awaiting approval of the Treasury and legal advice of the Attorney General. The Committee recommends that the regulation be amended so that this authority is delegated to the procurement committee for all variations with guidelines provided for variations.

16.3.3 Meeting with Mfulira Municipal Council

The Committee also met the Mfulira Municipal Council Management led by the Town Clerk.

The following were the highlights.

- i) Mfulira Municipal Council had embarked on implementation of the Statutory Instrument, which was assisting the district and procurement unit in achieving good procurement procedures by bringing efficiency, transparency and a corrupt free procurement process.
- ii) The regulations were also being applied in implementing projects under the Constituency Development Fund through the engagement of citizen bidders.
- iii) The number of external members on the evaluation committees, which currently sits at two is inadequate coupled with the meager allowance of K300 paid per sitting.

Committee's observations and recommendations

- i) The Committee is concerned with the Local Authorities capacity to manage, approve and implement projects if functions placed for confirmation of availability of funds and contracts and variation of contracts were to be assigned to the Councils. The Committee, therefore, recommends that functions be delegated to the Provincial Office for Councils which may not have capacity while for those that have Directorate of Legal Services, can be allowed to undertake such functions.
- ii) The Committee observes that there is rigidity with regard to the MPI when the market price was lower. The Committee reiterates that the principle of picking the lower price in procurement still applies in the midst of a prescribed MPI. The Committee also notes that there is need for ZPPA to issue a circular to procurement entities to that effect.
- iii) The Committee observes that the objective of the e-GP system under Regulation 163 is to enhance efficiency and ensure transparency in public procurement. However, the Committee observes that the adoption and usage of the technology among SME's in Mufulira district is not impressive as participation by citizen bidders remains low. The Committee recommends that Mufulira Municipal Council adopts and rolls out the e-GP platform so as to fully implement the regulations. In the same vein, the Committee urges the Council to conduct pre-bidding meetings and embark on continuous training to build the capacity of the citizen bidders since Council staff had just recently been trained on the use of the e-GP system.
- iv) The Committee is concerned at the meager allowance of K300 paid only to external members of the Evaluation Committee when the Committee dealt with huge sums of procurement. The Committee recommends that improved and reasonable allowances commensurate to what is being paid to members of similar Committees in other government and quasi-government institutions be paid to all Members of Procurement Committees to attract qualified experts to seat on Committees, prevent rampant absenteeism by external members and reduce possible corruption related to the procurement process. The Committee also recommends that the number of external members on Evaluation Committees be increased to four so as to have wider expertise.

(16.4) Statutory Instrument No. 46 of 2022 - The Customs and Excise (Machinery and Equipment) (Suspension) (Amendment) Regulations, 2022

The Statutory Instrument was issued pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia* so as to suspend the customs duty on machinery and equipment for the mining sector in order to promote investment in the sector.

In order to appreciate the Statutory Instrument, the Committee held several stakeholder meetings as set out below.

16.4.1 Meeting with the Kitwe-District Chamber of Commerce and Trade

The highlights of the meeting were as stated hereunder.

- i) The Kitwe-District Chamber of Commerce and Trade were aware of the Statutory Instrument. However, the Chamber noted that the Statutory Instrument was one that was not in daily use but only when companies or businesses needed equipment or machinery.
- ii) The Committee was informed that the Statutory Instrument was a carry-over of Statutory Instrument No. 86the Customs and Excise (Machinery and Equipment) (Suspension) (Amendment) Regulations, 2019.
- iii) The Chamber noted that the regulations could not easily be manipulated or abused as there was a set procedure for both acquisition and disposal of equipment and machinery acquired using these regulations.

Committee's Observations and Recommendations

- i) The Committee observes that there has been little appreciation of the impact of the Statutory Instrument owing to reduced mining activity in the Copperbelt following the placing of Mopani Mine under administration and the liquidation of KCM, respectively. The Committee urges the Government to find a lasting solution on the issue of Mopani and KCM if the local businesses and companies are to derive benefit from the Statutory Instrument.
- ii) The Committee observes that the Statutory Instrument is well intended and the Government must, therefore, institute ways to sensitise the intended beneficiaries of the regulations.

16.4.2 Meeting with the Federation of Small Scale Miners Association

The Committee held a meeting with the representative members of the Federation of Small Scale Miners, namely; the Small Scale Miners Association, Association of Women in Mining, the Emeralds and Semi-Precious Stones Mining Association of Zambia (ESMAZ), and the Women in Emeralds Extractive Mining Industry Association (WEEMIA).

The following were the highlights of the meeting.

- i) Most members of the federation were not aware of the Statutory Instrument nor had they utilised its provisions. Members only became aware of its existence when the National Assembly contacted the Associations and scheduled for the meeting. Even so, there was little information available that could help the members appreciate the implementation of the regulations.
- ii) The Federation informed the Committee that it was not consulted prior to promulgation of the regulations and very little sensitisation was done by the Government on the implementation of the Statutory Instrument.
- iii) The Federation noted that the Statutory Instrument could work to the benefit of the small scale miners if it were well implemented but that at present, only the multi-national corporations with huge capital in-flows were benefitting from such incentives.

Committee's observations and Recommendations

- i) The Committee observes with concern the lack of awareness on the part of stakeholders about the existence of the Statutory Instrument. The Committee urges the Government to engage all mining sector participants especially the small scale miners who are in dire need of government support.
- ii) The Committee notes that while there may be no abuse on face value at acquisition, abuse occurs at the point when the equipment is hired out to small scale miners at exorbitant fees. The Government would do well to monitor the usage and high hiring fees charged on equipment bought under these regulations.

(16.5) Statutory Instrument No. 36 of 2022 - The Customs and Excise (Ports of Entry and Routes) (Amendment) Order, 2022.

The order was issued pursuant to section 13 and 199 of the Customs and Excise Act, Chapter 322 of the Laws of Zambia so as to include Sakania Border Post on the list of designated borders for transit of risk goods to decongest Kasumbalesa Border Post.

16.5.1 Meeting with Zambia Revenue Authority at Sakania Border

The Committee was informed as set out below.

- i) In early 2022, Kasumbalesa Border Post had seen an increase in traffic, which had led to stalling of traffic crossing in and out of the country. Frequent protests by truck drivers, Covid-19 measures undertaken by the Congolese Government in April, 2022 and the security situation in the Democratic Republic of Congo were some of the reasons for the traffic jam at the border.
- ii) Therefore, Statutory Instrument No. 36 was issued to amend the eighth schedule of Statutory Instrument No. 115 of 2020 by inclusion of Sakania Border Post, which has opened the border for all transactions.
- iii) On commencement, the border started receiving an average of 250-300 trucks in a day crossing into DRC, the bulk of which were tankers of fuel at an average of about 150 trucks. This is an increase in traffic as prior to the implementation of the Statutory Instrument; the station was processing on average six trucks per day.

Committee's Observations and Recommendations

- i) The Committee observes with concern the huge volume of traffic on the Zambian side owing to lack of enough manpower by the Zambia Revenue Authority, which only has six permanent officers stationed at the border with a deficit of nine officers as per the projected manpower. The situation is also compounded by the lack of parking space or a car park in or around the border. In view of the above observation, the Committee recommends that the Zambia Revenue Authority employs or sends more officers to help manage the border station to meet the required number of fifteen officers so as to help decongest the border post.

In addition, it is recommended that the Government should build the relevant infrastructure such as a car park to uplift the status of Sakania Border and so that Zambia collects more revenue as has been done on the DRC side where trucks are charged US\$25 per day as parking fees.

- ii) The Committee observes that the state of the road infrastructure leading to the border is dilapidated and the situation is compounded by heavy trucks parked on the roadside. The Committee recommends that the Government should prioritise permanent works to be done on the road as patching up the road in its current state may prove to be more costly in the long run.
- iii) The Committee also expresses concern as to why truckers carrying other consignments prefer using the Kasumbalesa Border to Sakania Border citing that preference on the DRC side was given to tankers carrying fuel. Therefore, this results in the other trucks overstaying in the parking yard due to slow clearance. This in turn results in transporters carrying other consignments paying exorbitant charges by the time the goods are cleared.

The Committee urges the Government through the Joint Cooperation between the Ministers of Commerce, Trade and Industry of the two countries to find an amicable solution so that trucks carrying other consignments are given equal preference.

- iv) The Committee observes with concern the lack of infrastructure at the border. The infrastructure on the Zambian side is inadequate to handle high volumes of traffic and with the anticipated launch of the new facilities on the DRC side; the volume of traffic from DRC into Zambia is likely to increase, which will exert even more pressure on the inadequate infrastructure on the Zambian side. The Committee, therefore, urges the Government of Zambia to prioritise putting up modern infrastructure that will promote and support commerce and trade at the border.

(16.6) Statutory Instrument No. 49 of 2022 - The Public-Private Partnership (Kasumbalesa Border Post) (User Fees) (Amendment) Regulations, 2022

The Statutory Instrument was issued pursuant to section 43 of *the Public-Private Partnership Act No. 14 of 2009* so as to provide for the decongestion of Kasumbalesa Border Post and encourage truck drivers to cross into and out of the DRC without undue delay. In this regard, the Government had resolved that the period beyond which the parking fee should be paid for a vehicle parked in the Kasumbalesa customs area should be reduced from the current forty – eight hours to twenty - four hours.

16.6 Meeting with Zambia Revenue Authority at Kasumbalesa Border

The highlights of the meeting were as stated below.

- i) The Committee was informed that as of 3rd March, 2023, the Ministry of Finance and National Planning had tasked ZRA to take charge of border operations following the expiry of the revised twelve year concession between the Government of Zambia and the Zambia (IP) Border Crossing Company. The two entities had signed a memorandum of understanding for the concessionaire to undertake to design, build and transfer the border infrastructure at Kasumbalesa through the concession agreement.

- ii) The construction of the border infrastructure by Z (IP) BCC had seen an increase in traffic volume by 93.79% in 2022 relative to 2017 in terms of DRC bound traffic and an increase in trade statistics between Zambia and DRC in the same period to about 68%.
- iii) Statutory Instrument No. 49 was signed on 6th July, 2022 and was a build-up of other statutory instruments such as Statutory Instrument No. 37 of 2014 and 99 of 2015 that had been issued before save that its main consideration was reducing the border dwell time from 48 hours to 24 hours.
- iv) Kasumbalesa Border Post management implemented the regulations on 20th February, 2023 due to constant congestion in the border and on the main highway leading to the border, having experienced inertia when the authority first attempted to implement the regulations in August, 2022.
- v) The Zambia Revenue Authority embarked on a change management process prior to implementation of the Statutory Instrument involving communication by letter to the General Directorate of Customs and Excise (DGDA) Headquarters in Kinshansa from the ZRA Commissioner, engagement with the truck drivers and other relevant stakeholders on various traditional and non-traditional platforms and continuous announcements through the PA system within the border of the new regulations.

Committee's Observations and Recommendations

- i) The Committee observes that despite the statutory instrument being implemented, traffic congestion in the border and along the road to the border remains at a high volume. The Committee urges Government that the resolutions of the high level bilateral meetings between Zambia and the DRC over Kasumbalesa traffic congestion are immediately implemented. In particular, resolutions No. 4 which requires Zambia to reconsider implementation of the night-time restrictions on movement of commercial cargo and No. 6 which requires the DRC to upgrade the parking at Wisky and to construct a ring road within DRC to facilitate the movement of fast track goods.
- ii) The Committee notes that owing to the delays in clearance of trucks on either side of the border, trucks marooned in the parking yard beyond the prescribed period of 24hours are now having the \$25 parking fee waived as the delay is usually attributed to the DRC side, which does not have adequate parking space and at times closes earlier than the Zambian side.

The Committee recommends that the Statutory Instrument which provide for parking fees and states that the fee be paid after release of the vehicle from customs control, be amended to apply only once a truck enters the parking yard. This will provide clarity as to when the \$25 will apply.

- iii) The Committer observes that the circumstances under which the waiver to motor vehicles that remain in the parking yard after all formalities are concluded are not provided for in the regulations and thereby subjecting the process to administrative discretion and possible abuse of the regulations. The Committee, therefore, recommends that the Statutory Instrument should be amended to clearly provide the anticipated circumstances which may qualify a motor vehicle for a waiver.

- iv) With regard to clearing the traffic congestion in the border and the highways, the Government is urged to implement the One-Stop-Border-Post operational model as noted by the latest bilateral meeting between Zambia and the DRC. This will ease off traffic congestion.
- v) The Committee also notes that while the Statutory Instrument was well intended and a good tool for enhanced trade facilitation and revenue collection as it improves the turn-around time for all players, security concerns and the alleged high fees charged for parking in the DRC makes it difficult for the effective implementation of the regulations. The Committee reiterates that there is need for continuous high level engagement between Zambia and the DRC in order to guarantee benefit realisation of the regulations.

(16.7) Statutory Instrument No. 13 of 2022-The Minimum Wages and Conditions of Employment (Truck and Bus Drivers) (Amendment) Order, 2022

The Statutory Instrument was issued pursuant to section 106 of *the Employment Code Act, No. 3 of 2019*, which empowers the Minister of Labour and Social Security to prescribe minimum wages and conditions of employment for vulnerable groups of employees where the Minister considers that adequate provisions do not exist for the effective regulation of the minimum wages and conditions of employment.

16.7.1 Meeting with the Bus, Taxi and Truck Drivers Association of Zambia and the Southern Africa Development Community Truck Drivers Association at the Kitwe City Council Chambers

The Committee met with the above stakeholders in Kitwe in order to appreciate the implementation of the Statutory Instrument. The Committee was informed as set out hereunder.

- i) The Statutory Instrument was promulgated at the peak of the Covid-19 virus to mitigate the negative impact experienced by businesses in the transport sector;
- ii) The consultative meeting leading to the promulgation of the regulations was not inclusive as it left out the employees or their representative association;
- iii) The Statutory Instrument had negatively affected members of the Associations in that it had given so much power to the employers who, despite the reduced allowances, were failing to pay the prescribed allowances.
- iv) The taxi, bus and truck drivers had received very little help from the Ministry of Labour and Social Security despite several reports of employers failing to pay the prescribed revised allowances.

Committee's observations and Recommendations

- i) The Committee observes with concern that the Government did not engage the drivers when promulgating these regulations. The Committee is of the strong view that it is important that all stakeholders are engaged prior, during and after

formulation of regulations so as to ensure consensus and appreciation of rationale behind the policy itself.

- ii) The Committee further notes with great concern the lack of the Government support and intervention to ensure that complaints and concerns raised by the taxi, bus and truck drivers are addressed especially compliance to the regulations. The Government must swiftly act to ensure that the welfare of this category of un-unionised employees is helped.
- iii) The Committee recommends that the Government must build capacity at the Ministry of Labour and Social Security so as to ensure that officers are able to conduct inspections and on -the -spot checks to track compliance.
- iv) The Committees is aware that the circumstances that preceded the promulgation of this Statutory Instrument have since changed. In this vein, the Ministry of Labour and Social Security is urged to review or assess the efficacy of this piece of regulations for possible revocation and reversion to Statutory Instrument No. 106 of 2020, the Minimum Wages and Conditions of Employment (Truck and Bus Drivers), Order, which provided better minimum conditions of employment for bus and truck drivers.

(16.8) *Statutory Instrument No. 47 of 2022 – The Emoluments Commission Act (Commencement) Order, 2022*

The Statutory Instrument was issued pursuant to section 1 of *the Emoluments Commission Act No.1 of 2022*. It is aimed at operationalising the provisions of The Emoluments Commission Act No.1 of 2022, which will enable the Emoluments Commission to discharge its mandate of rationalising and harmonising Conditions of Service across the Public Service in the Republic of Zambia.

Meeting with Acting Director General and Management team

The following were the highlights:

- i) The Emoluments Commission was established under Article 232 of the *Constitution of Zambia (Amendment) Act, 2016* with the mandate to determine, on the recommendation of the relevant authority or Commission, the emoluments of public officers, chiefs and members of the house of chiefs. Further, Article 264 (2) provides for the Commission to determine emoluments of a state officer, councilor, constitution office holder and a judge.
- ii) The objective of the Commission is to provide for a harmonised and unified framework for determining pay while eradicating wage discrepancies across and within State organs and State institutions.
- iii) Article 266 of the Republican Constitution defines a State office to include the office of President, Vice-President, Speaker, Deputy Speaker, Member of Parliament, Minister and Provincial Minister; Constitutional Office Holders which includes the Secretary to the Cabinet, the Secretary to the Treasury, Attorney

General, Solicitor General, Permanent Secretary, Director of Public Prosecution and Public Protector; a Councilor and a Judge.

- iv) By virtue of section 36 of the *Emoluments Act No. 1 of 2022*, a State organ, State institution or any other authority concerned with the determination of emoluments of a chief or an officer in a State organ or State institution before the commencement of the Act ceased to be responsible for the determination of emoluments after the commencement of the Act.
- v) In the same vein, the Emoluments Commission Act enjoys supremacy against other Acts where there is an inconsistency between the provisions of the Act and the provisions of any other written law on the determination of emoluments subject only to the Constitution.

Therefore, the signing of the Statutory Instrument, -The Emoluments Commission Act (Commencement) Order, 2022 on 28th June, 2022 and its publication on 6th July, 2022 gave effect to the operationalisation of the Emoluments Commission Act with effect from 6th July, 2022.

Committee Observations and Recommendations

- i) The Committee observes the huge mandate placed on the Emoluments Commission in carrying out rationalisation, harmonisation and job evaluations for officers in all the three wings of government and quasi-government institutions, but expresses concern over the current staffing levels owing to the lack of an approved organisational structure of the institution, which is affecting the staffing levels at the institution. The Committee recommends that the Government finalises the approval of the organisational Structure and filling of required positions so that the staffing levels challenge at the Emoluments Commission is addressed to ensure that the commission is able to effectively and timely discharge its mandate.
- ii) The Committee further notes the challenge of inadequate funding to the Commission to fully perform its functions. The Committee implores the Government to increase the budgetary allocation to the Commission if it is to effectively discharge its mandate.
- iii) The Committee also observes with concern the lack of fit-for-purpose office space. Therefore, recommends that the Government considers finding suitable infrastructure from which the Commission can operate from if the current premises cannot be improved upon.
- iv) The Committee further notes that the Commission is facing possible resistance from some institution in the rationalisation and harmonisation of salaries and conditions of service. The Committee urges the Government to embark on continued stakeholder engagement on the functions of the Emoluments Commission so as to ensure that all stakeholders are brought on board.
- v) With regard to the two year review cycle, the Committee notes that there is need to ensure that the Commission takes into account the economic situation in the country and be able to consider special reviews whenever possible.

(16.9) Statutory Instrument No. 34 of 2022-The Tolls (Tolls Exemption) Order, 2022

The Statutory Instrument was issued pursuant to Section 10 of the *Tolls Act, No. 14, 2011* in order to provide Khal Amazi Farms an exemption from paying toll fees for a period of 12 months, starting from 16th May, 2022 to 15th May, 2023. The exemption order was restricted to the Chongwe Toll Station with the eleven exempted vehicles shown on the schedule to the Statutory Instrument.

The objective of the Statutory Instrument was to help Khal Amzi Farms sustain its operations in the period of exemption with a view that the company would put in place a Sustainable Management Plan for its operations, thereafter.

21.10 Meeting with Ministry of Infrastructure, Housing and Urban Development and National Road Fund Agency

The Committee was informed as stated hereunder.

- i) The Ministry of Infrastructure, Housing and Urban Development, through the *Tolls Act No.14 of 2011* had designated the National Road Fund Agency as the lead tolls agent in the implementation of the National Road Tolling Programme (NRTP). A total of thirty-Eight toll collection points, comprising twenty-seven inland toll stations and eleven port of entry stations were in operation. The Chongwe toll station was one of the 27 inland toll stations located on Great East Road about 40 km from Lusaka post office.
- ii) Khal Amazi Farms was situated in Chongwe district along the Great East Road. It operated 3 sites namely Sunrose Farm, Khal Amazi Farm and Kapwelomba Farms all of which were within 6 to 8Km radius from Chongwe toll station. The entity used the 11 vehicles to ferry workers to and from the farm at several pick-up points along the Great East Road between Lusaka and Chongwe.
- iii) Khal Amazi Farms first appealed for a toll discount at Chongwe toll station to enable them to ferry workers from Chongwe and thereby continue to provide employment for the greater Chongwe district population in 2017. This was considered and the vehicles paid K15 per passage from K50 per passage, until 2020 when full exemption was granted under Statutory Instrument No. 26 of 2020. This was given following a request for total exemption due to financial challenges experienced by the farms. The exemption was extended in 2021 by Statutory Instrument No. 16 of 2021.

Committee's observations and Recommendations

- i) The Committee observes that the Statutory Instrument was well intended as it was issued to ensure that Government provides relief to the farm that employs locals in Lusaka and Chongwe districts. However, the Committee observes that the Statutory Instrument lacked clarity as to when and how the exemption is being applied. The Committee was not clear as to whether the exemption applied only when the vehicles were transporting staff or whenever the vehicles passed at the toll gate with whatever consignment. The Committee recommends that the Statutory Instruments should provide clarity as to when the exemption would apply and not provide an open

bracket but be specific as to when the exemption would apply to prevent possible abuse by users.

- ii) The Committee further observes that while the implementation of the Statutory Instrument was intended to save the farm from serious financial difficulties that could have led to mass unemployment due to downsizing and loss of revenues from taxations and value addition from the farm operations, the traffic flow in terms of vehicle passages report has drastically been reducing from 13,758 in 2021 to 10, 778 in 2022. The Committee recommends that a thorough assessment be conducted on the Khai Amazi farms, which has applied for a further extension of the full exemption before any decision can be arrived at as to whether the full exemption should no longer be granted. A commensurate discount should be considered as recommended by the National Road Fund Agency so as to provide relief without foregoing all revenue.
- iii) The Committee observes that while the provisions of the Act, which grant exemptions, are well intended, very little sensitisation by Government has been done to ensure that local indigenous Zambian companies have access to such incentives.

The Committee urges Government to ensure that more Zambians are engaged and upon determination by the Minister responsible, brought on board so that such companies could also benefit from these incentives for them to reinvest and grow.

17.0 FOREIGN TOUR TO ZIMBABWE

The Committee also undertook a bench-marking tour to Harare, Zimbabwe from Sunday 14th to Saturday 20th May, 2023 in line with its Programme of Work for the year. The main objective of the tour was to share best practices in public procurement of goods and services in the two jurisdictions. The Committee held meetings with the following stakeholders:

- a) paid a courtesy call on the Speaker Advocate Jacob Mudenda;
 - i) the Parliamentary Legal Committee;
 - ii) the Committee on Justice, Legal and Parliamentary Affairs;
 - iii) the Attorney General;
 - iv) the Ministry of Justice Acting Director of Constitutional and Parliamentary Affairs;
 - v) the Zimbabwe Law Development Commission; and
 - vi) the Procurement Regulatory Authority of Zimbabwe (PRAZ).

The Procurement Regulatory Authority of Zimbabwe (PRAZ), which is equivalent to the Zambia Public Procurement Authority (ZPPA), is an institution that regulates public procurement of goods and services in Zimbabwe.

The Committee was informed as set out hereunder:

- i. Public Procurement is provided for by the Constitution of Zimbabwe in section 315, which provides that an Act of Parliament must prescribe procedures for the procurement of goods and services by the State and all institutions and agencies of government at every level, so that procurement is effected in a manner that is transparent, fair, honest, cost-effective and competitive. In addition, section 195(2)

of the Constitution provides that State-controlled commercial entities must establish transparent, open and competitive procurement systems.

- ii. In this vein, the *Public Procurement and Disposal of Public Assets Act [Chapter 22:23] Act No. 5 of 2017* was promulgated to provide for inter alia, the control and regulation of public procurement and the disposal of public assets so as to ensure that such procurement and disposal is effected in a manner that is transparent, fair, honest, cost-effective and competitive; to establish the Procurement Regulatory Authority of Zimbabwe and to provide for its functions.
- iii. In furtherance, the Public Procurement and Disposal of Public Assets General Regulations, which have undergone five amendments since enunciation in the year 2018, are applicable in relation to public procurement of goods and services.

17.1 BEST PRACTICES LEARNT FROM THE PROCUREMENT REGIME IN ZIMBABWE

- i) Decentralized procurement, which is now taking place in the Procurement Management Units (PMUs) within the individual procuring entities (PEs). This is unlike in Zambia, where procurement entities such as Local Authorities only enjoy delegated power.
- ii) The award of tenders and contract formation is done by Accounting officers in various State departments and companies, with PRAZ only playing a supervisory and monitoring role to ensure Government entities comply with the new Act and other set standards. This ensures that procurement processes are not exposed to undue delay as the case is in Zambia where contracts approvals are done through the Office of the Attorney General causing delay in execution of projects.
- iii) Professionalisation of procurement through creation of fully fledged Procurement Management Units (PMU) in the procuring entities and professionalisation of the involved staff. This is unlike in Zambia where procurement departments are often understaffed and in most PE's having unqualified staff.
- iv) Though PRAZ has not implemented the e-procurement platform, the authority has developed an electronic public procurement monitoring and evaluation system, which is an assessment tool, strategically designed to capture qualitative and quantitative data that is used in measuring performance and compliance levels of entities as prescribed by the Public Procurement and Disposal of Public Assets Act.

Committee's observations and Recommendations

The Committee observes that the Government of Zimbabwe had put in place the necessary policy framework that has curtailed unnecessary bureaucracy in public procurement of goods and services. This has been achieved through decentralising of decision making and authority to procuring entities while ensuring that the Procurement Regulatory Authority of Zimbabwe plays its watchdog role to ensure that the PE's are complying with laid down legal requirements. In view of the above, the Committee recommends that Zambia can learn from Zimbabwe by enhancing the existing legal and policy strategies to ensure that procedures such as seeking legal authority from the Attorney General in the case of local authorities as

they implement projects, is left to Directorates of Legal or Legal Practitioners in the established offices.

Further, the Committee recommends that funding is provided to ZPPA so that the authority is able to migrate from the current manual assessment and compliance system to an electronic monitoring and evaluation system.

Lastly, with regards to the Review Panel whenever an aggrieved member of the public appeals, the Committee recommends that the ad-hoc Committee to review a decision of a procuring entity comprises external members while ZPPA provides secretarial services.

PART II

CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE FIRST SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

18.0 MINISTRY OF JUSTICE

Statutory Instrument No. 49 of 2021 – The Zambia Institute of Advanced Legal Education (Student) Rules

The Statutory Instrument was issued pursuant to section 23 of *the Zambia Institute of Advanced Legal Education Act, Chapter 49 of the Laws of Zambia*, so as to prescribe rules relating to among others, examinations and enrolment of students.

On the high enrolment rate, lack of corresponding training facilities and absence of pre-entry examinations, the previous Committee had recommended that the above be attended to in the rules if there was to be any improvement in the results being produced at the institute.

Executive Response

The Committee was informed through the Action Taken Report that there was a disproportionate lecturer to student ratio but the Institute had managed to mitigate it through online learning and making recorded lectures available or accessible to students at any time.

Committee Observations and Recommendations

The committee resolves to request for a further progress Report on the issue of pre-entry examinations. The previous Committee had also observed that the students were at the receiving end of high user and exam fees because the Institute was not well funded by the Government.

The Committee had recommended that the Government should increase funding levels to ZIALE as a reprieve to the high user and examination fees imposed on the students.

Executive Response

It was reported in the ATR that ZIALE was poorly funded by the Government for its operations. At present, the Government contributed 10% towards ZIALE operations; an

increase in funding to provide for 100% of the annual budget would help subsidise the user fees. During the period 2019 – 2022, the Government’s funding contribution towards ZIALE’s annual budget had averaged 10%.

Committee Observations and Recommendations

The Committee resolves to await a progress report on the status of funding, from Treasury. The Committee further urges the Government to take the matter of increasing funding to ZIALE seriously.

19.0 MINISTRY OF GREEN ECONOMY AND ENVIRONMENT

(i) *Statutory Instrument No. 48 of 2021 - The Environmental Management (Strategic Environment Assessment) Regulations*

The Statutory Instrument was issued pursuant to section 30 of *the Environmental Management Act, No. 12 of 2011* so as to make regulations for the effective administration of Strategic Environmental Assessments.

While noting the issuance of the Statutory Instrument, the previous Committee had resolved to assess the implementation of the Statutory Instrument in view of the fact that environmental issues had direct impact on the livelihoods of citizens.

- a) The Committee had noted that the Strategic Environmental Assessment Regulations were well intended, but would require robust implementation to achieve their intended objectives.

The Committee had, therefore, recommended that ZEMA should be adequately supported financially and materially to effectively carry out its mandate under the law and to enforce the regulations.

Executive Response

The Executive responded in the ATR that the Ministry of Green Economy would engage the Treasury to allocate more financial resources to ZEMA so that it could carry out its mandate under the law and to enforce regulations.

Committee Observations and Recommendations

The Committee resolves to await a progress Report on the status of funding of ZEMA.

- b) The previous Committee had further observed that pursuant to regulation 9 of the Statutory Instrument, a proponent was required to consult members of the public as part of the process for conducting a strategic environmental assessment. In this regard, the rule required a proponent to place the report in a conspicuous place and to publish findings in a newspaper of general circulation.

The Committee had further observed that these requirements might not be impactful in a rural setting where newspapers were never received or literacy levels were low. The rule systematically discriminated against such communities that were usually host to large scale

industrial activity that affected the environment and were usually sponsored by big multi-national corporations.

In view of the above, the Committee had recommended that rule 9 be amended to include methods of informing remote communities that might not have access to the conventional means of disseminating information about a strategic environmental assessment.

Executive Response

It was reported in the ATR that the Ministry of Green Economy would engage ZEMA and the Ministry of Justice on the possibilities of amending regulation 9 to include methods of informing remote communities that may not have access to the conventional means of disseminating information about a strategic environmental assessment.

Committee observations and Recommendations

The Committee resolves to await a progress report on the status of the process to amend Regulation 9.

20.0 Local Tours

Statutory Instrument No 63 of 2019- The National Health Insurance (General) Regulations

- a) The previous Committee had observed that NHIMA had an elaborate complaints process, part of which could be done via the tollfree line on the number 8000. The Committee had, however, noted that access through the tollfree line was extremely poor.

The Committee had recommended that NHIMA should urgently engage the service provider to improve the toll free line services.

Executive Response

It was reported in the ATR that the Government had engaged the service provider for enhancement of responsiveness of the toll-free line to meet members' needs.

Committee Observation and Recommendation

The Committee resolves to request for a further progress report on the outcome or progress after the engagement with the service provider.

20.1. Visit to Choma General Hospital

The previous Committee held a meeting with the Hospital Management team, Provincial Health Director and representatives from NHIMA.

- (i) The Committee had observed that although the hospital received regular Government grants, it was not adequate to meet its operational needs. The Committee had recommended that the Government through the Ministry of Health should increase funding to the hospital and not abdicate its responsibility to NHIMA.

Executive's Response

The Committee was informed that the Government had noted the recommendation which had been included in the review of its strategic plan for the period 2022 – 2026.

Committee Observation and Recommendation

The Committee resolves to seek clarity on the link between increased funding to the hospital and review of its Strategic Plan. The Committee awaits a progress report on the recommendation to increase funding to Choma General Hospital.

The Committee had observed that Choma General Hospital had benefitted from NHIMA through CAP and regular claims on the scheme. The Committee had however, noted that sometimes claims were not paid in good time or were all together rejected for being outside the benefits package.

The Committee had recommended that NHIMA should improve its claims payments procedures and processes so that funds were made available to the hospital in good time.

Executive Response

The Committee was informed that the Government had begun the engagement of public health care providers to enhance capacity on claims processing that would eliminate rejections.

Committee observation and Recommendation

Based on this response, the Committee resolves to await a progress report on the timely payment of claims improvements in the claims procedures and processes.

20.2 Visit to Livingstone Teaching Hospital

The Committee in the previous session had observed that the scheme was initially tailored to second and third level health care, leaving out district hospitals, which traditionally provided primary health care.

The Committee had recommended that in order for the country to attain universal health coverage, first level hospitals should be brought on board to provide health care services to scheme members.

Executive Response

The Committee was informed through the ATR that all Level 1 Hospitals across the country were already earmarked for accreditation.

Committee's Observations and Recommendations

The Committee, therefore, resolves to await a progress report on the accreditation process of the level 1 hospital.

20.3. Site visits on tsetse fly control

Statutory Instrument No. 85 of 2020 – The Animal Health (Tsetse fly Area & tsetse fly Control Area) (Declaration)

The previous Committee had observed the operational challenges experienced by the Ministry of Fisheries and Livestock in Choma, Namwala and Livingstone districts. While appreciating that the three districts did not have traces of tsetse flies, the Committee had recommended as follows:

- (i) the Government should consider increasing the budget allocation to the Ministry of Fisheries and Livestock, particularly the Department of Veterinary Services in Choma, Namwala and Livingstone so that field animal disease surveillance could be enhanced

Executive's Response

The Executive informed the Committee that the Ministry of Fisheries and Livestock had received an increased budgetary allocation towards disease control for 2023 which would be used for field animal diseases surveillance including in Choma, Namwala and Livingstone.

Committee's Observations and Recommendations

The Committee resolves to await a report on whether funds had been disbursed towards disease control for 2023 for field animal disease surveillance in Choma, Namwala and Livingstone.

The previous Committee had observed that the three districts should be provided with proper transportation for field work, as they were located in areas where tsetse flies could emerge. The Committee had noted that it was disheartening that nothing had been done in terms of routine surveillance due to lack of adequate and reliable transport and equipment. As an interim measure, the districts could be supplied with motor cycles, especially at Livingstone where the situation was dire

Executive's Response

The Executive noted the Committee's recommendation and indicated that it was in the process of procuring 332 motor cycles to address the transport challenge in various districts that included Livingstone.

Committee Observations and Recommendations

The Committee resolves to await a progress report on whether the transport challenges in the named districts have been addressed.

The previous Committee had bemoaned the dilapidated state of the tsetse infrastructure in Namwala District and recommended that it be rehabilitated and staff deployed there to enhance surveillance.

Executive's Response

It was reported in the ATR that the Ministry of Fisheries and Livestock had been granted treasury authority to recruit 470 staff that would include staff for tsetse control in Namwala. With regard to dilapidated tsetse infrastructure in Namwala, the Committee was informed that the infrastructure had been included in the Ministerial Infrastructure Plan for 2023.

Committee Observations and Recommendations

The Committee resolves to await a progress report on the matter.

Statutory Instrument No. 87 of 2020 – The Animal Health (Designated Border Inspection Posts) Regulations

20.5. Visit to Kazungula Boarder

The previous Committee had recommended as follows:

- i) The Committee had noted that there was need to increase staffing levels for effective enforcement of the Statutory Instrument. Officers also required to be facilitated in terms of allowances when they covered long distances within the district for disease surveillance.

Executive's Response

The Committee was informed that the Ministry was in the process of restructuring the staff establishment. The Ministry of Fisheries and Livestock had been granted treasury authority to recruit 470 staff in 2022 that would include staff to man border posts. With regard to allowances, officers were paid according to prescribed civil service conditions of service.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on staff recruitment under the Ministry of Fisheries and Livestock.

- ii) The Committee had recommended that there was need to separate officers handling documentation from the quarantine facility to the terminal building to avoid spread of animal disease to humans.

Executive's Response

The Executive reported in the ATR that as a longtime measure, the Ministry of Fisheries and Livestock had included in its staff complement in the new proposed structure of the Ministry, specific officers to man the border and others to man the quarantine facility.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on the implementation of the new proposed structure of the Ministry.

- iii) The Committee had observed that there was need to resource the station with a reliable vehicle and funding to enhance enforcements and avert smuggling of animals.

Executive's Response

The Committee was informed through the ATR that the Ministry was in the process of procuring motor cycles to avert the transport challenge.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on the matter.

Statutory Instrument No. 7 of 2020 – The Road Traffic (Speed Limits) Regulations

20.6 Stakeholder interaction with RTSA in Lusaka & Livingstone

The previous Committee was informed that pursuant to section 148 (1) of *the Road Traffic Act No. 11 of 2002*, the Minister of Transport and Communications had issued this Statutory Instrument which revoked and replaced Statutory Instrument No. 90 of 2016 and provided for general speed limits for Zambian Roads.

The Committee had made the following observations and recommendations:

- i) The Committee had observed that the Statutory Instrument was well intended and should be enforced robustly. To this end, the Committee had recommended that the Road Development Agency in collaboration with Road Transport Safety Agency (RTSA) should enhance sensitisation as well as installation of speed limit signage.

Executive's Response

The Committee was informed that the mandate of RTSA was to recommend, through the Road Safety Engineering Committee (RSEC), road safety measures that should be considered by implementing Agencies.

This mandate was pursuant to section (4) (2) (b) of *the Road Traffic (Amendment) Act No. 8 of 2022* which amended section 4 (2) (h) of the principal Act and compelled implementing agencies to implement recommendations of road safety audits and inspections by the RSEC.

The Committee was further informed that RTSA had engaged and would continue to engage the implementing agencies to revise the posted speed limits in line with the Statutory Instrument No. 7 of 2020.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on whether RTSA has engaged the implementing agencies to revise the posted speed limits in line with the Statutory Instrument.

21.0 CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE OF DELEGATED LEGISLATION FOR THE FOURTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

21. Findings from the Local Tour of the Committee on Delegated Legislation for the Third Session of the Twelfth National Assembly

Statutory Instrument No. 7 of 2018 - The Railways (Transportation of Heavy Goods) Regulations, 2018

21.1 Visit to Zambia Railways Limited Headquarters

The previous Committee had resolved to request for a progress report on the matter and specifically the status of works on the contract signed between IDC and Team Sweden Railway Consortium.

Executives Response

The Committee was updated as follows:

- i. A feasibility study conducted by COWI consultants was done;
- ii. Contract negotiations and signing for the technical specifications and requirements were done;
- iii. The Environmental and Social Impact Assessment (ESIA) was underway and
- iv. Phase 1 works which include the final track assessment, market study and risk assessment for the project were expected to be completed by the end of 2022.

Committee's Observations and Recommendations

The Committee resolves to await a further progress report on the matter and in particular, the status of the contract signed between IDC and team Sweden Railway Consortium.

Statutory Instrument No. 44 of 2017 - The Local Government (Fire Services) Order, 2017

21.2. Visit to Samfya Town Council

The previous Committee had resolved to request for a further progress report on the matter since the construction of the fire station had not yet began.

Executive Response

The Committee was updated that the construction of the fire station had commenced and was on course with works at 80%. The Local Authority was yet to commence the remaining works on the dormitories and the appliance bay. Procurement procedures to award the contract were expected to commence.

Committee Observations and Recommendations

The Committee resolves to await a further progress report on whether works on the Fire Station have been completed and also if construction of the dormitories and the appliance bay have commenced and/or completed.

21.3. Visit to Mansa Municipal Council (deployment of fire officers and outcome of maritime training programme)

The previous Committee had resolved to await a progress report on the matter.

Executive Response

The Committee was updated that a number of works to rehabilitate the fire-fighter's facilities had been done. This included the ablution block, construction of a borehole as well as installation of a fire hydrant. However, the Local Authority was yet to undertake works on the dormitories and offices. With regard to training, two officers were trained in marine rescue operations.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on whether the rehabilitation of the fire-fighter's facilities has been completed and if works on the dormitories and offices have commenced.

21.4. Visit to Kasama Municipal Council (construction of a modern fire station for Kasama Municipal Council)

- i) The previous Committee had resolved to await a progress report on the matter.

Executive's Response

The Committee was informed that the project to construct the modern fire station for Kasama Municipal Council had still not commenced due to lack of funding. The project would only commence when funds were available.

Committee's Observations and Recommendations

The Committee resolves to request the Government to indicate when funds would be made available.

- ii) Regarding the installation of fire hydrants, the previous Committee had resolved to request for a progress report.

Executive Response

The Committee was updated that the local authority was yet to install the fire hydrants because the Chambeshi Water and Sanitation Company was in the process of establishing a new water network for the town. Installation of fire hydrants would be undertaken once the new water network was completed.

Committee's Observations and Recommendations

The Committee resolves to request for a progress report on the matter.

Statutory Instrument No 13 of 2018 - The Civil Aviation (Designated Provincial and Strategic Airports) Regulations, 2018

21.5. Visit to Kasama Airport (completion of construction works)

- i) The previous Committee had expressed disappointment that despite the project having been reported to have reached 90% completion, the contractor could not complete the remaining works due to outstanding payments.

The Committee had resolved to await a progress report.

Executive's Response

The Committee was informed that all outstanding payments to the Contractor were cleared for the works already done. The Contractor could however not proceed with the completion of the remaining works due to the expiration of the contract. To this end, the Attorney General guided the Ministry of Transport and Logistics to enter into a new contract for the completion of the remaining works.

The matter was taken to the Ministerial Procurement Committee and a "No Objection" for direct bidding of the current contractor- Anhui Shui'an Construction Group Corporation (Z) Limited was obtained. The Ministry also engaged the Department of Public Infrastructure and the Road Development Agency to re-evaluate and scope of the remaining works in order to come up with a bill of quantities as part of the solicitation document for the contractor to quote the remaining works.

The Government had divided construction of Kasama airport into two Lots. Lot 1 would be for asphalt surfacing and runway marking and would be undertaken by Anhui Shui'an construction group while Lot 2 would be removing earthworks on the sides of the runway, drainages and airport fencing and would be undertaken by Zambia National Service. The Committee was also informed that K39 million had so far been released for the Project.

Committee's Observations and Recommendations

The Committee resolves to await a progress report on the status of the project.

21.6. Visit to Mansa Airport (expansion and installation of run way lights at Mansa Airport)

- i) The previous Committee had resolved to request for a further progress report.

Executive's Response

The Committee was informed that due to treasury constraints, the Zambia Air Force (ZAF) that was engaged to install runway lights had not been funded for the project. However, ZAF

had procured mobile runway lights for their operations at any other airports where they would require using the lights, including at Mansa Airport.

Committee's Observations and Recommendations

The Committee resolves to await a report as to when ZAF will be funded to embark on the installation of runway lights at Mansa Airport.

21.7. Visit to Mbala Airport

The previous Committee had resolved to request for a further progress report on the matter.

Executive's Response

The Committee was informed that progress at the airport still remained at 92%. However, funds for the remaining works had been mobilised.

Committee's Observations and Recommendations

The Committee resolves to await a progress report.

22.0 CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE THIRD SESSION OF THE TWELFTH NATIONAL ASSEMBLY

Statutory Instrument No. 8 of 2016 – The Anti-Gender Based Violence (Court) Rules, 2016

- i) the previous Committee had expressed concern at the inordinate delay and slow pace at which the review and drafting process of the two pieces of legislation (Anti-GBV Act and Penal Code Act) were moving, which process had commenced in the year 2016.

Executive Response

The Committee was informed that the process to review and draft the two Acts had reached an advanced stage and progress was as follows:

- i) The project report containing specific findings and recommendations (which could be accessed on the ZLDC website), the draft Penal Code Bill and the draft Criminal Procedure Code Bill had been handed over to the Ministry of Justice on 15th February, 2022.

The Committee was further informed that what was left was presentation of the proposed Bills in Parliament once all internal legislative processes were completed by the Ministry of Justice; and

- ii) With regards to the Anti-Gender Based Violence Act, the Committee was informed that the Zambia Law Development Commission had scheduled the handover of the project report on the review of the Act for the week beginning 13th March, 2023.

Committee Observations and Recommendations

The Committee notes the submission and resolves to await a progress report on the matter.

Statutory Instrument No 39 of 2016 - The Provincial and District Boundaries (Division) (Amendment) Order (Kalumbila and Mushindamo Districts)

- i) The previous Committee had resolved to await a progress report on the matter.

Mushindamo District

The Committee was updated that the construction of the infrastructure that was earmarked for Mushindamo District could not commence as originally planned due to disagreement among stake holders that included the traditional leaders on the location of the Central Business District.

The dispute regarding the location had since been resolved and the agreed location was at a place called Kafulabunga. Plans were already under way to have the land degazetted and surveyed. However, following the Government directive not to commence new projects until running projects were completed, commencement of construction works for the district would commence once running projects were completed.

Committee's Observations and Recommendations

The Committee resolves to request for an update report on the project.

Kalumbila


The site for the Kalumbila Central Business District had been established at Mumbezhi and the area had been planned and surveyed. However, following the Government directive not to commence new projects until running projects were completed, commencement of infrastructure works for these two districts would commence once running projects were completed.

Committee's Observations and Recommendations

The Committee resolved to request for an update report on the project.

23.0 Conclusion

Your Committee, Madam Speaker, would like to express their appreciation of your wise counsel and direction given to them during the past year. Your Committee also wishes to thank all the witnesses who submitted memoranda that provided the basis for them to make informed decisions on the issues under their consideration. Lastly, your Committee wishes to express their appreciation of the services rendered by the Office of the Clerk of the National Assembly throughout their deliberations.



Mr Chanda Remember Mutale, MP
CHAIRPERSON

June, 2023
LUSAKA

APPENDIX I

List of Officials

Mr F Nabulyato, Principal Clerk of Committees (SC)
Mrs C K Mumba, Deputy Principal Clerk of Committees (SC)
Mr G Zulu, Acting Senior Committee Clerk (SC-2)
Mr T Lumba, Committee Clerk
Ms E Njobvu, Typist
Mr D Lupiya, Committee Assistant
Mr M Kantumoya, Parliamentary Messenger