

**REPORT OF THE COMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS ON THE PASSPORT BILL, N.A.B NO. 23 OF 2016, FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY, APPOINTED ON 24<sup>TH</sup> SEPTEMBER 2015.**

Consisting of:

Bishop Lt Gen R Shikapwasha, MP (Chairperson); Mr E T Chenda, MP; Prof. G Lungwangwa, MP; Mr S Katuka, MP; Mr E J Muchima, MP; Mrs I Mphande, MP; Mr P Kosamu, MP; and Mr S Sianga, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
LUSAKA.

Sir,

Your Committee has the honour to present its Report on the Passport Bill, N.A.B No. 23 of 2016, referred to it by the House on Thursday, 28<sup>th</sup> April, 2016.

***Functions of the Committee***

2. In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any Order of the House, your Committee may consider any Bills referred to it by the House.

***Meetings of the Committee***

3. Your Committee held four meetings to consider the Passport Bill, N.A.B No. 23 of 2016

***Procedure adopted by your Committee***

4. Your Committee, in considering the Bill, requested for written submissions from various stakeholders who also appeared before it to make oral submissions.

**Objects of the Passport Bill, N.A.B No. 23 of 2016.**

5. The objects of the Bill are to:-
  - a) provide for the vesting of powers and duties for the issuance of, and control over, passports and travel documents;
  - b) provide for the issuance of passports and travel documents;
  - c) provide for the recognition of Interpol travel documents;
  - d) repeal and replace the *Passports Act, 2003*; and
  - e) provide for matters connected with or incidental to, the following.

**Consideration of the Passport Bill, N.A.B No. 23 of 2016**

**Background**

6. The Bill seeks to provide for the vesting of powers and duties for the issuance of, and control over, passports and travel documents; and provide for the issuance of passports and travel documents. The Bill further seeks to provide for the recognition of Interpol travel documents and repeal and replace the *Passports Act, 2003*.

## ***Salient features of the Bill and ramifications***

7. The salient provisions of the Passport Bill, N.A.B No. 23 of 2016 are set out hereunder.

### **Clause 2 Interpretations**

This clause provides for definitions of key words used in the Bill.

### **Clause 3 Chief Passports and Citizenship Officer, passport officers and other staff**

This clause places the administration of the Act on the Chief Passports and Citizenship Officer, Deputy Chief Passports and Citizenship Officer, passport officers and other staff appointed under the *Citizenship of Zambia Act, 2016*. The clause further sets out the functions of the Chief Passports and Citizenship Officer and permits the Chief Passports and Citizenship Officer to delegate any function of the Chief Passports and Citizenship Officer to the Deputy or a passport officer.

### **Clause 4 Immunity**

This clause grants immunity to the Chief Passports and Citizenship Officer, a passport officer or other staff for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the functions conferred under the Act.

### **Clause 5 Persons entitled to passports, diplomatic passports and travel documents**

This clause provides that a citizen is entitled to be issued with a passport or travel document to facilitate international travel. The clause permits a citizen to hold a passport and a diplomatic passport and further makes passports, diplomatic passports and travel documents the property of the Government, but provides that the aforementioned shall remain under the control of its holder until lawfully withdrawn, cancelled or confiscated.

### **Clause 6 Types of passports and travel documents**

This clause sets out the types of passports and travel documents and to whom the passports and travel documents may be issued. The clause further permits the issuance of a passport in circumstances in which a travel document would normally be issued where for any reason it is desirable to issue a passport for travel to a foreign country.

### **Clause 7 Application for passport or travel document**

This clause sets out who may apply for a passport or travel document to the Chief Passports and Citizenship Officer for the purpose of facilitating international travel. The clause further permits the Minister to prescribe the manner of applying for, and the grant, renewal and cancellation of diplomatic passports and requires the Minister to do so by Statutory Instrument.

### **Clause 8 Issuance and validity of passport and travel document**

This clause mandates the Chief Passports and Citizenship Officer to issue an applicant with a passport or travel document, within fourteen days of the receipt of an application if the applicant meets the requirements of the Act. The clause provides that a passport shall be in the prescribed form; set out the countries for which it shall be valid; and sets out its period of validity. The clause also provides the period of validity for a passport issued in respect of a

child below the age of sixteen. The clause further permits the Chief Passports and Citizenship Officer to endorse a passport as valid for a specific country or restrict the validity to a specific country or countries. Where the Chief Passports and Citizenship Officer restricts a passport's validity as aforementioned, the clause requires the Chief Passports and Citizenship Officer to record the reasons for the restriction and furnish a report on the matter to the Minister. The clause provides that a travel document shall set out the countries for which it is valid; and sets out its period of validity.

**Clause 9 Refusal to issue passport, diplomatic passport or travel document**

This clause sets out the conditions on which the Chief Passports and Citizenship Officer may refuse to issue a passport, diplomatic passport or travel document. The clause requires the Chief Passports and Citizenship Officer to inform the applicant of the refusal and give reasons for the refusal within fourteen days of making the decision.

**Clause 10 Renewal of passport**

This clause permits a holder of a passport or travel document to apply for the renewal of the passport or travel document, at least thirty days before its expiry. The clause empowers the Chief Passports and Citizenship Officer to renew the passport or travel document if the holder continues to fulfill the eligibility requirements under the Act.

**Clause 11 Confiscation of passport, diplomatic passport or travel document**

This clause sets out the conditions under which the Chief Passports and Citizenship Officer or a law enforcement officer may confiscate a passport, diplomatic passport or travel document. The clause requires the Chief Passports and Citizenship Officer to inform the holder, in writing, of the confiscation and the reasons therefore. Additionally, the clause permits the withdrawal of a diplomatic passport if the purpose for which it was issued ceases to exist.

**Clause 12 Cancellation of passport or travel document**

This clause provides for circumstances when the Chief Passports and Citizenship Officer may confiscate a passport or travel document, including when a holder has ceased to be a citizen. The clause further provides for a period within which a person whose passport or travel document has been cancelled should surrender the passport or travel document to the Chief Passports and Citizenship Officer.

**Clause 13 Surrender of passport, diplomatic passport or travel document**

This clause mandates a person whose passport, diplomatic passport or travel document is expired or who no longer requires the use of the passport, diplomatic passport or travel document, to surrender it to the Chief Passports and Citizenship Officer for cancellation.

**Clause 14 Issuance of passport at Zambian Mission**

This clause empowers the Minister to authorise, by Statutory Instrument, a passport officer based at a Zambian mission to perform all or any of the functions of the Chief Passports and Citizenship Officer under the Act.

**Clause 15 Prohibition of entering or leaving Zambia without passport or travel document**

This clause prohibits a person from entering or leaving Zambia without certain documents depending on whether that person is a citizen, diplomat, law enforcement officer or foreign national.

**Clause 16 Delivery of passport, diplomatic passport or travel document**

This clause provides for the production of a passport or travel document by a person entering or leaving Zambia on demand by a passport officer or an immigration officer. The clause further mandates a person required to produce a passport, diplomatic passport or travel document to deliver the documents to the officers before leaving the aircraft, vessel or motor vehicle in which the person enters Zambia or at any time while the person is in Zambia.

**Clause 17 Replacement of lost or stolen passport, diplomatic passport or travel document**

This clause provides for what a holder needs to do in an event that the holder's passport, diplomatic passport or travel document is lost or stolen.

**Clause 18 Appeals**

This clause grants any person aggrieved with the decision of the Chief Passports and Citizens Officer, a right of appeal to the Minister within thirty days of the service of the decision on that person. The clause further allows the person to appeal to the High Court if aggrieved with the decision of the Minister within thirty days of the service of the decision on that person.

**Clause 19 Use of cancelled passport, diplomatic passport or travel document**

This clause prohibits a person from using a cancelled passport, diplomatic passport or travel document in connection with identification or international travel.

**Clause 20 Sale of passport, diplomatic passport or travel document**

This clause prohibits any person from selling a passport, diplomatic passport or travel document or a blank passport, diplomatic passport or travel document.

**Clause 21 Failure or refusal to submit or surrender passport, diplomatic passport or travel document**

This clause provides for a penalty of a fine not exceeding fifty thousand penalty units or imprisonment for a term not exceeding six months, or to both, to a person who without reasonable excuse, refuses or fails to submit or surrender a passport, diplomatic passport or travel document when required to do so by the Chief Passports and Citizenship Officer.

**Clause 22 Holding of more than one passport, diplomatic passport or travel document**

This clause provides for a penalty of a fine not exceeding five hundred thousand penalty units or imprisonment for a term not exceeding five years, or to both, to a person holding more than one passport, diplomatic passport or travel document in that person's name.

**Clause 23 General offences**

This clause provides for general offences and penalties.

**Clause 24 Regulations**

This clause empowers the Minister, by Statutory Instrument, to make regulations for the better carrying out of the provisions of the Act.

**Clause 25 Repeal of Act No. 22 of 2003**

This clause provides for the repeal of the *Passports Act, No. 22 of 2003*.

## **Clause 26 Savings and transitional provisions**

This clause provides for savings and transitional provisions.

### ***Concerns raised by stakeholders***

8. While supporting the Bill, the stakeholders expressed concern on the provisions highlighted hereunder.

#### **i. Clause 2**

The list of law enforcement officers does not include Immigration officers, whose job it is to monitor the use of passports by citizens. The exclusion of Immigration Officers from the list makes it illegal for them to perform the functions provided under Clause 11. The stakeholders further, contended that the term “law enforcement officer” should not include intelligence officers as this proviso might be abused to persecute those perceived to be unfriendly to the state.

#### **ii. Clause 2(a)**

The rank of Sub-Inspector was repealed by the *Zambia Police Act* and should, therefore, not be used in the Bill. The stakeholders observed that the restriction of powers to a particular rank poses operational challenges, especially considering that most of the work regarding the enforcement of the *Passport Act* provisions is done by officers of the rank of sergeant and below. The stakeholders, therefore, recommended that all officers be included for easy of enforcement.

#### **iii. Clause 6(1)**

The Chief passports and Citizenship Officer may issue the following:

- a) a passport;
- b) a diplomatic passport; and
- c) a travel document.

Some stakeholders suggested that in addition to the above, there should be a proviso to introduce the issuance of Service Passports to reduce the issuance of Diplomatic Passports to the various cadres in the Civil Service, as is the practice in other jurisdictions. They contended that the issuance of the Service Passports will ease the process of processing visas and foreign travel procedures for Civil Servants.

#### **iv. Clause 9**

This clause provides for the refusal of issuance of a passport to a citizen who has been repatriated or deported from a foreign country. Some of the stakeholders were of the view that the reason for repatriating or deporting a Zambian citizen from other countries cannot be used as a reason for refusing such citizens to go to other countries of their choice. This is particularly so because some deportations may be based on ill-founded and malicious grounds. Stakeholders, therefore, recommended that this provision be dropped.

#### **v. Clause 13**

This clause provides for the surrender of passport, diplomatic passport or travel document. It, however, does not provide a time period within which this should be done. The stakeholders recommended that a time frame such as seven days should be included to make enforcement easier. The Bill should also state that the Diplomatic or Service Passport holder shall surrender the passport due to the loss of status for which the Passport may have been issued.

vi. **Clause 14**

The Minister may, by statutory order, authorise a passport officer based at a Zambian Mission to perform all or any of the functions of the Chief Passport and Citizenship Officer under this Act. Some stakeholders were concerned that not all Missions abroad have Passport or Immigration Officers in their establishments. Of the thirty-nine Missions abroad, there are only twelve immigration officers spread across eleven missions abroad. They, therefore, recommended that there should be a proviso to allow the Minister by statutory order, to authorise or designate any other officer serving in the Mission to perform all or any of the functions of the Chief Passport and Citizenship Officer under this Act.

Other stakeholders were, however, of the view that allowing untrained officers to issue passports in missions abroad might be susceptible to abuse or misuse.

vii. **Clause 18**

Whereas clause 11 gives enforcement officers the same powers as the Chief Passport Officer and Citizenship Officer, the term law enforcement officer has been left out in this clause.

### **Committee's Observations and Recommendations**

9. Your Committee makes observations and recommendations as set out hereunder.

- a) Your Committee notes that clause 2 lists law enforcement officers, but does not include Immigration officers, whose job it is to monitor the use of passports by citizens. Your Committee observes that the exclusion of Immigration Officers from the list makes it illegal for them to perform the functions provided under Clause 11.

Your Committee, therefore, recommends that Immigration officers be included in this provision.

- b) Your Committee observes that clause 2(a) refers to the rank of Sub-Inspector which has been repealed by the *Zambia Police Act* and notes that this is anomalous. Your Committee notes further that the restriction of powers to a particular rank poses operational challenges especially considering that most of the work regarding the enforcement of *Passport Act* provisions is done by officers of the rank of sergeant and below.

Your Committee, therefore, recommends that the rank Sub-Inspector be deleted from the Bill and that officers of all ranks be included in the enforcement of the provisions of the Bill for ease of management.

- c) Your Committee notes that Clause 6 (1) provides that the Chief passports and Citizenship Officer may issue the following;
- i. a passport;
  - ii. a diplomatic passport; and
  - iii. a travel document.

Your Committee agrees with the stakeholders who suggested that in addition to the above, there should be a proviso to introduce the issuance of Service Passports to civil servants, as is the practice in other jurisdictions. This will remove the need for the issuance of

Diplomatic Passports to the various cadres in the Civil Service. This will also facilitate the processing of visas and foreign travel procedures for civil servants.

- d) Your Committee notes that clause 13 provides for the surrender of passport, diplomatic passport or travel document. It, however, does not provide a time period within which this should be done.

Your Committee, therefore, recommends that a time frame, of three months, should be included to make enforcement easier. The Bill should also state that the Diplomatic or Service Passport holder shall surrender the passport due to the loss of status for which the Passport may have been issued.

- e) Your Committee observes that whereas clause 11 gives enforcement officers the same powers as the Chief Passport Officer and Citizenship Officer, the term “law enforcement officer” has been left out in this clause.

Your Committee, therefore, recommends that “law enforcement officer” be included in this provision.

### ***Conclusion***

10. In conclusion, your Committee wishes to express its gratitude to you, Mr Speaker for granting it the opportunity to scrutinise the Passport Bill, N.A.B No. 23 of 2016.

Your Committee also wishes to thank the Office of the Clerk of the National Assembly for the support rendered to it throughout its deliberations. It is indebted to all the witnesses who appeared before it for their co-operation in providing the necessary briefs despite the short notice. Your Committee is hopeful that the observations and recommendations contained in this report will enable the House make an informed decision on the Bill.

We have the honour to be, Sir, your Committee on National Security and Foreign Affairs mandated to scrutinise the Passport Bill, N.A.B No. 23 of 2016, for the Fifth Session of the Eleventh National Assembly.

Bishop Lt Gen R Shikapwasha, MP

**(Chairperson)**

Prof. G Lungwangwa, MP

**(Member)**

Mr E T Chenda, MP

**(Member)**

Mr S Sianga, MP

**(Member)**

Mr S Katuka, MP

**(Member)**

Mr E J Muchima, MP

**(Member)**

Mrs I Mphande, MP

**(Member)**

Mr P Kosamu, MP  
**(Member)**

**May, 2016**



## **APPENDIX I**

### **LIST OF OFFICIALS**

#### **National Assembly**

Mr S C Kawimbe, Principal Clerk of Committees  
Ms M K Sampa, Deputy Principal Clerk of Committees  
Mr F Nabulyato, Committee Clerk (SC)  
Ms C Musonda, Committee Clerk (FC)  
Mr C Chishimba, Assistant Committee Clerk  
Ms L Chirwa, Personal Secretary II  
Mr C Bulaya, Committee Assistant  
Mr M Chikome, Parliamentary Messenger

## **APPENDIX II**

### **WITNESSES**

#### **Ministry of Justice (Permanent Witness)**

Ms M Sitali, Parliamentary Counsel

Mrs O J Sakala, Parliamentary Counsel

#### **Ministry of Foreign Affairs**

Amb. C Lombe, Permanent Secretary

Mr S Mwiinga, Chief Planning Officer

Mrs K M Phiri, Acting Principal Planner

#### **Transparency International-Zambia**

Mr W Chibamba, Director, Programmes  
Mr T Nhandu, media and education Officer

#### **Law Association of Zambia**

Mrs F Kateka, Honorary Secretary

Mr N Simachela, Council Member

#### **Ministry of Home Affairs**

Dr C Mulenga, Permanent Secretary

Mr M Nyirongo, Registrar General

Mrs B K Banda, Chief Passports Officer

Mr C Sichone, Legal Advisor, Commission for Refugees