

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE SECOND SESSION OF THE TENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 16TH JANUARY, 2008

Consisting of:

Mr Chifumu K B Banda, SC, MP (Chairperson); Mr B Chella, MP; Mr C Kambwili, MP; Mrs J M Limata, MP; Mrs J C Mumbi-Phiri, MP; Mr M M Mwangala, MP; Mr H L Imasiku, MP; and Mr V M Mooya, MP

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,'

Your Committee have the honour to present their report for the Second Session of the Tenth National Assembly.

Functions of the Committee

2. Your Committee are guided in all their deliberations by the relevant Standing Orders, which set out the functions of your Committee as follows:

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

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

If your Committee are of the opinion that a Statutory Instrument should be revoked wholly or in part or should be amended in any respect, they report that opinion and the ground thereof to the House, and any such debate is subject to a motion in the National Assembly which, if carried, would have the effect of a decision of of the House.

3 Meetings of the Committee

Your Committee held fourteen (14) meetings during the period under review and considered a total of seventy-five (58) Statutory Instruments. Your Committee also undertook local tours to Kaoma, Lusaka, Mazabuka and Livingstone. The foreign tour was a study tour of the Parliament of Kenya.

PART I

4 CONSIDERATION OF STATUTORY INSTRUMENTS

4.1 MINISTRY OF LOCAL GOVERNMENT AND HOUSING

Statutory Instrument No. 51 of 2007 – The Kapiri Mposhi District Council (Transit of Goods) By-Laws (Revocation) 2007

The statutory instrument was issued to revoke Statutory Instrument No. 60 of 2006 which had become unpopular with the general public, especially with truckers. The truckers had contended that they were being charged twice since they were asked to pay at the point of entry and in Kapiri Mposhi for the same goods that were being transported.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Revocation Order.

Statutory Instrument No. 53 of 2007 – The Chiefs (Withdrawal of Recognition) Order, 2007

The Statutory Instrument was issued to withdraw the recognition of Mr James Simon Mutembo as Chief Shibuchinga of the Lamba people of Lufwanyama District in the Copperbelt Province of Zambia. Mr Peter Chinsaka was subsequently elected as Chief Shibuchinga.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 54 of 2007 – The Chiefs (Recognition No.4) Order, 2007

The statutory instrument was issued to recognise Mr Lasford Mulubwa Chita of Manshibale area as Chief Kasomalwela of the Ushi People of Mansa District in Luapula Province.

Committee’s Observations and Recommendation

Your Committee note the issuance of the Recognition Order.

Statutory Instrument No. 56 of 2007 – The Chiefs (Recognition No.6) Order, 2007

The statutory instrument was issued to recognize Mr Polokanya Lwambula Bweupe of Kapundungoma area as Chief Mulonga of the Lamba people of Solwezi District in the North-Western Province of Zambia.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 57 of 2007 – The Chiefs (Recognition) (No. 7) Order, 2007

The statutory instrument was issued to recognise Mr Kalilele Munkoyo Mwape of Lwenge, Kiwilo and Nyakuyuma area as Chief Chikola of the Lamba people of Solwezi District in the North-Western Province of Zambia.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 62 of 2007 – The Chiefs (Recognition) (No. 8) Order, 2007

The statutory instrument was issued to recognise Mr James Kasoma Puta of Bwile area as Senior Chief Puta of the Bwile people of Chiengi District in the Luapula Province of Zambia.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 36 of 2007 – The Chiefs (Recognition) (No. 3) Order, 2007

The statutory instrument was issued to recognise Mr Ackson Chilufya Mwamba as Paramount Chief Chitimukulu of the Bemba people in the Northern Province of Zambia

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 83 of 2007 – The Markets and Bus Stations Act (Commencement) Order, 2007

The statutory instrument was issued to operationalise the Markets and Bus Stations Act No. 7 of 2007.

Committee’s Observations and Recommendations

Your Committee note the issuance of the Order and hope that Zambians will always be given preference in the allocation of market space countrywide.

Statutory Instrument No. 84 of 2007 – The Local Government (Councillors’ Allowances) (Amendment) Order, 2007

The statutory instrument was issued in order to revise allowances paid to Councillors upwards.

Committee’s Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 86 of 2007 – The Kafue District Council (Bird Levy) By-Laws, 2007

The statutory instrument was introduced to increase the revenue base for the Council and to also regulate the keeping and selling of all forms of birds in the District. The levy also included the sale of chicks for poultry and slaughtered birds.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 87 of 2007 - The Kafue District Council (Pole Levy) By-Laws, 2007

The statutory instrument was issued to broaden the revenue base for the Council.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 88 of 2007 - The Kafue District Council (Sand Levy) By-Laws, 2007

The statutory instrument was issued to increase the revenue base for the Council.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 89 of 2007 - The Kafue District Council (Sugar-Cane Levy) By-Laws, 2007

The statutory instrument was issued as part of the Council's efforts to broaden its revenue base.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No.29 of 2008-The Chiefs (Recognition) (No.3) Order, 2008

The statutory instrument was issued to recognise Mr Christopher Muke of Zambezi Area as Chief Nyakaseya of the Ndembu People of Mwinilunga District in the North-Western Province of Zambia. This was after he was selected by the Electoral College according to the traditions and customs in the area during the meeting held on 13th August, 2007 at Nyakaseya in Mwinilunga District.

Committee's Observations and Recommendations

Your Committee note the issuance of the order.

Statutory Instrument No. 28 of 2008-The Chiefs (Recognition) (No.2) Order, 2008

The statutory instrument was issued to recognise Mr Gideon Kajoba of Kashenga and Central Lunga areas as Senior Chief Mujimanzovu of the Kaonde People of Solwezi District in the North-Western Province of Zambia.

Committee's Observations and Recommendations

Your Committee noted the issuance of the Order.

Statutory Instrument No. 27 of 2008-The Chiefs (Recognition) Order, 2008

The statutory instrument was issued to recognise Mr Chikumbe Chibamba of Nangoma, Choma and Kabila Sala Area as Senior Chief Shakumbila of the Sala People of Mumbwa District in the Central Province of Zambia.

Committee's Observations and Recommendations

Your Committee note the issuance of the order.

Statutory Instrument No. 101 of 2007 – The Chiefs (Recognition) (No. 15) Order, 2007

The statutory instrument was issued to revoke Statutory Instrument No. 101 of 2004 which recognised Mark Maonde as Chief Machiya instead of Rodgers Maoma. The Statutory Instrument now read as the recognition of Mr Rodgers Maoma of Ching'ombe and Kansakala Area as Chief Machiya of the Lima People of Mpongwe District in the Copperbelt Province.

Committee's Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 72 of 2007 – The Chongwe District Council (Crop Levy) By-Laws, 2007

The statutory instrument was issued to widen the revenue base for the local authority which had limited sources of revenue. It was also intended to capture other crops and flowers that were not included in the earlier crop levy issued in 2004.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 50 of 2007-The Mansa Municipal Council (Charcoal Levy) By-Laws, 2007

The by-law was intended to widen the revenue base for the local authority and also regulate the use of natural resources in the District.

Committee’s Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No.49 of 2008-The Mansa Municipal Council (Pole Levy) By-Laws, 2007

The by-law was introduced to widen the revenue base for the Council.

Committee’s Observations and Recommendations

Your Committee note the introduction of the by-law.

Statutory Instrument No. 48 of 2007-The Mansa Municipal Council (Timber Levy) By-Laws, 2007

The by-law was introduced to widen the revenue base of the local authority and also to regulate the use of natural resources since there were a lot of traders dealing in commercial timber sales which were depleting the resources in the District.

Committee’s Observations and Recommendations

Your Committee note the issuance of the by-law.

Statutory Instrument No. 47 of 2007-The Mwense District Council (Pole Levy) By-Laws, 2007

The statutory instrument was issued to widen the revenue base for the council through application of the pole levy on ZESCO power line poles.

Committee’s Observations and Recommendations

Your Committee note the Statutory Instrument.

Statutory Instrument No. 46 of 2007-The Luangwa District Council (Pole Levy) By-Laws, 2007

The statutory instrument was issued to allow the District Council levy ZESCO power line poles in its jurisdiction through the pole levy.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 39 of 2007-The Kasama Municipal Council (Pole Levy) By-Laws, 2007

The statutory instrument was issued to enable the local authority to introduce a pole levy on ZESCO power line poles in its area.

Committee's Observations and Recommendations

Your Committee note the issuance of the by-law.

Statutory Instrument No. 34 of 2007-The Isoka District Council (Pole Levy) By-Laws, 2007

The statutory instrument was issued to widen the revenue base of the local authority through the introduction of the pole levy on ZESCO power line poles.

Committee's Observations and Recommendations

Your Committee note the issuance of the by-law.

Statutory Instrument No. 106 of 2007 – The Local Government (Re-Appointment of Local Government Administrator) (Kapiri Mposhi District Council) Order, 2007

The statutory instrument was issued to reappoint Mr Fewdays Yenga, the Provincial Local Government Administrator for Kapiri Mposhi District Council. The appointment meant that Mr Yenga would continue to act as Local Government Administrator for the Council for another three months with effect from the expiry of the earlier period. This also meant that the Council remained suspended for the same period.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

4.2 MINISTRY OF COMMUNICATIONS AND TRANSPORT

Statutory Instrument No.30 of 2008-The Aviation (Security) Regulations, 2008

The statutory instrument was issued in conformity to the regulations of the International Civil Aviation Organisation (ICAO) to which Zambia was a member.

Committee's observations and Recommendations

Your Committee note the issuance of the statutory instrument subject to a tour of selected airports and aerodromes.

Statutory Instrument No. 3 of 2008 – The Radio Communications (Licence Fees) Regulations, 2007

The statutory instrument was issued to give effect to the Radio Communications Act and provide sector guidance. The statutory instrument consolidated all the provisions into one document. It maintained existing spectrum fees applicable to certain services and created new fees for other services that had just been introduced.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 102 of 2007 – The Road Traffic Act (Blood and Breath Alcohol Content) (Prescription) Regulations, 2007

The statutory instrument was issued to amend the Law to include the results of breath alcohol content above the prescribed maximum to be admissible evidence in courts of law against suspected drunken motorists.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

4.3 MINISTRY OF FINANCE AND NATIONAL PLANNING

Statutory Instrument No. 9 of 2008-The Customs and Excise (Ports of Entry and Routes) (Amendment) Order, 2008

The statutory instrument was issued in order to extend operations hours at Lusaka International Airport to include Saturdays from 08:30 hours to 13:00 hours. This was intended to allow Zambia Revenue Authority to accept bills of entry on Saturdays in response to business demands. The statutory instrument further amended the Ports of Entry and Routes Order so as to include Lufwa, Lonshi and Solwezi/Kolwezi border Posts. This regularised the above mentioned border crossing points which were already operating under administrative arrangements.

Committee's observations and recommendations

Your Committee note the statutory instrument. However, they note that border posts in the country do not operate on a 24 hour basis. This is in reference to busy points like Chirundu and Kasumbalesa.

They, therefore, recommend that the Government should be urged to consider allowing some border points to operate on a 24 hour basis.

Statutory Instrument No. 10 of 2008-The Customs and Excise (Suspension) (Manufacturing Inputs) (Amendment) Regulations, 2008

The statutory instrument was issued in order to remove the condition of having at least 25 percent composition of manufacturing inputs to qualify for duty suspension. The amendment intended to make the application of the law less complicated on the part of the Zambia Revenue Authority.

Committee's observations and recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 11 of 2008-The Customs and Excise (General) (Amendments) Regulations, 2008

The statutory instrument was issued to change certain provisions of the Customs and Excise Regulations. In particular, the statutory instrument brought about the following specific changes:

- a) provision for advance rulings on classification so as to ensure predictability and transparency in tariff classification of imported and exported goods. The measure would also align the provisions of the law to international standards;
- b) provision for a schedule under which companies approved for rebate, refund or remission of duty paid or payable would be listed in respect of:
 - machinery, equipment and capital goods and parts required for use in the assembly of motor vehicles, trailers, motor cycles and bicycles;
 - inputs used in the manufacture of roofing sheets; and
 - raw materials, machinery, equipment and such other capital goods, other than spare parts required for use in priority sectors of Multi-Facility Economic Zones.

- c) updating the regulations in order to provide for customs bond schemes other than under COMESA; this amendment would compensate customs bond schemes to which Zambia was a party;
- d) introducing a simplified COMESA Certificate of Origin at a purchase price of 25 fee units. The Certificate would facilitate cross-border trade by traders and travellers with goods whose value does not exceed an equivalent of US\$ 500 consignment;
- e) reviewing upwards the Automated System for Customs Data (ASYCUDA) processing fee from K 32, 700 to K 50, 000 per entry. The processing fee was meant for the maintenance, replacement and expansion of the provision of automated customs clearance to other stations countrywide including the provision of wide area network for enhanced real-time communication. The adjustment would bring the fee in line with the increase in the cost of consumables; and

Other changes brought about by the amendment were with regard to amendments to the main Act that were intended to update the various provisions.

Committee's observations and recommendations

Your Committee note the statutory instrument and urge the Zambia Revenue Authority to improve the efficiency of the ASYCUDA system in order to reduce the time taken in clearing goods at border points.

Statutory Instrument No. 12 of 2008-The Value Added Tax Act (Exemptions) (Amendment) Order, 2008

The statutory instrument was issued in order to provide for an amendment to remove books and exercise books from the exemption schedule as they had been proposed to be zero-rated. Further, the amendment also included on the exemption schedule infant formula when prepared and labelled as such, so as to promote accessibility to cheaper infant formula as a major nutritional supplement for babies.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 13 of 2008-The Value Added Tax (Zero Rating) (Amendment) Order, 2008

The statutory instrument was issued in order to extend the list of zero-rated supplies under the pre-booked tour packages. This was meant to promote tourism by recognising these new activities for VAT purposes, which had been introduced in the sector. The amendment also made books zero-rated in order for local manufacturers of books to be able to claim input tax on raw materials used in the manufacture of books and to also make locally manufactured goods less expensive.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 14 of 2008-The Value Added Tax (Rate of Tax) Order, 2008

The statutory instrument was issued in order to reduce the Value Added Tax rate from 17.5 percent to 16 percent. The measure was intended to reduce both the cost of doing business as well as the household cost of living.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 15 of 2008-The Taxation (Provisional Charging) Order, 2008

The statutory instrument was issued in order to allow the Government to effect the tax measures in respect of VAT and Customs and Excise Duties that were announced in the 2008 Budget Address before the VAT and Customs and Excise Duties were enacted into the law.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 16 of 2008-The National Road Fund (Charges and Fees) (Apportionment) Regulations, 2008

The statutory instrument was issued in order to provide for 100 percent of fees and charges paid under the *Public Roads Act, Tolls Act* and the *Road Traffic Act* to be part of the Road Fund. The regulations provided for the proportion of road user charges under the Road Fund.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 17 of 2008-The Citizenship of Zambia (Amendment) Regulations, 2008

The statutory instrument was issued to revise the fees payable under the Citizenship of Zambia Act in order to bring the fees to an appropriate cost recovery level.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

Statutory Instrument No. 79 of 2007 – The Loans and Guarantees (Authorisation) (Delegation of Functions) (No. 3) Order, 2007

The statutory instrument was issued to delegate authority to sign the Loan agreement between the Government of the Republic of Zambia and the Export and Import Bank of China for the procurement of Earth Moving Equipment to Zambia's Ambassador to the People's Republic of China in Beijing, Mr Lupando Mwape, on behalf of the Government.

Committee's Observations and Recommendations

Your Committee note the issuance of the order.

Statutory Instrument No. 78 of 2007 – The Loans and Guarantees (Authorisation) (Delegation of functions) (No. 2) Order, 2007

The statutory instrument was issued to delegate authority to sign the Government Concessional Loan Restructuring Agreement between the Government of the Republic of Zambia and the Export and Import Bank of China for the Mulungushi Textiles Limited Technical Rehabilitation Project to Zambia's Ambassador to the People's Republic of China in Beijing, Mr Lupando Mwape, on behalf of the Government.

Committee's Observations and Recommendations

Your Committee note the issuance of the Order.

Statutory Instrument No. 69 of 2008-The Income Tax (Tax Clearance) (Exemption) (Amendment) Regulations, 2007

The statutory instrument was issued in order to provide exemption from the requirement to produce a tax clearance certificate where maize not exceeding a value of K 10 million per transaction was supplied. The

measure was intended to ease administration of maize marketing for those whose transaction level was less than the threshold. The statutory instrument was deemed to be effective from 10th June, 2008 and cease to have effect on 31st December, 2008.

Committee's observations and recommendations

Your Committee note the statutory instrument. They, however, note that the statutory instrument only indicates the title of the Minister of Finance and National Planning and not his full names. Your Committee hope this anomaly will not recur in future.

Statutory Instrument No. 66 of 2007-The Value Added Tax (Exemptions) (Amendment) (No. 2) Order, 2007

The statutory instrument was issued to give relief to the local manufacturers of polypropylene bags in the plastic industry by exempting imported plastic granules used in the manufacture of polypropylene bags so as to level the playing field in the local market. Imported polypropylene bags were exempt while the input into the manufacture of the same bags locally attracted VAT at the standard rate. The exemption status of the polypropylene bags meant that the producer could not claim the input tax, making the cost of the bags higher due to the unclaimed tax. This legislation exempted the plastic granules to ensure the producers did not pay tax on the inputs which they would not be able to claim.

Committee's observations and recommendations

Your Committee note the statutory instrument with satisfaction.

Statutory Instrument No.68 of 2008-The Customs and Excise (Excise Duty) (Suspension) Regulations, 2008

The statutory instrument was issued to provide for a reduction on excise duty on motor spirit and automotive gas, and to remove excise duty on kerosene type jet fuel in an effort to mitigate fuel prices.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

4.4 MINISTRY OF TOURISM, ENVIRONMENT AND NATURAL RESOURCES

Statutory Instrument No.22 of 2008-The Zambia Tourism Board Act (Commencement) Order, 2008

The statutory instrument was issued to give legal mandate to the Zambia Tourism Board to operate purely as a marketing board.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No. 43 of 2007 – The Game Management Area No. 38: Mufunta (Declaration) Order, 2007

The statutory instrument was issued in order to establish Mufunta Game Management Area in extent of 5, 104 square kilometers in Kaoma District for the purpose of protecting wildlife following the massive loss of animals west of the Kafue National Park by unscrupulous hunters.

Committee's Observations and Recommendations

Your Committee note the issuance of the Statutory Instrument and appreciate its significance in view of their tour of the park.

Statutory Instrument No. 81 of 2007 – The Local Forest No. 422: Ntobolole (Alteration of Boundaries) Order, 2007

The statutory instrument was issued in order to excise 3, 800 hectares of the forest reserve for settlements and agricultural development programmes, leaving 5, 800 hectares. The original purpose for creating Ntobolole Local Forest was to improve the management of the forest resources and thus protect the ecosystem.

Committee’s observations and Recommendations

Your Committee note the issuance of the statutory instrument and appreciate its significance in view of their successful tour of the forest.

Statutory Instrument No. 82 of 2007 – The Local Forest No.F26: Lusaka South (Alteration of Boundaries) Order, 2007

The statutory instrument was issued in order to excise 4, 302 hectares of the forest to facilitate the establishment of the Multi-Facility Economic Zone in Lusaka by the Government of the Republic of Zambia.

Committee’s Observations and Recommendations

Your Committee note with satisfaction the issuance of the order, and appreciate its significance in view of the successful tour of the forest.

4.5 MINISTRY OF HEALTH

Statutory Instrument No. 7 of 2008 – The Pharmaceutical (Fees) Regulations, 2008

The statutory instrument was issued by the Minister of Health to replace Statutory Instrument No. 111 of 1999.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

4.6 ELECTORAL COMMISSION OF ZAMBIA

Statutory Instrument No. 5 of 2008 – The Local Government Elections (Election Dates and Times of Poll) Order, 2008

The statutory instrument was issued to legally provide for the nominations and poll dates and times of various Local Government by-elections held on Thursday 31st January 2008 between 09:00 hours and 15:00 hours and Thursday 21st February 2008 between 16:00 hours and 18:00 hours.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument which had since run its course.

Statutory Instrument No.2 of 2008-The National Assembly–By-Elections (Kanyama Constituency No. 77) (Election Dates and Times of Poll) Order, 2008

The statutory instrument was issued to legally provide for the nominations and poll dates and times of one (1) Parliamentary by-election namely: Kanyama Constituency No. 77 held on Thursday 31st January 2008, between 09:00 hours and 15:00 hours and polls held on Thursday 21st February 2008 between 06:00 hours and 18:00 hours.

Committee’s Observations and Recommendations

Your Committee note the issuance of the statutory instrument which had since run its course.

Statutory Instrument No. 71 of 2007-The Local Government By-Elections (Election Dates and Times of Poll) (No. 2) Order, 2007

The statutory instrument was issued to legally provide for the nominations and poll dates and times in various Local government By-Elections on Tuesday 16th October and Thursday 8th November, 2007, respectively.

Committee's Observations and Recommendations

Your Committee note the statutory instrument which had since run its course.

Statutory Instrument No. 70 of 2007-The National Assembly By-Elections (Nchanga Constituency No. 17) (Election Dates and Times of Poll) (No. 2) Order, 2007

The statutory instrument was issued to legally back the nomination and poll dates and times for the Nchanga Parliamentary By-Election on Tuesday 16th October and Thursday 8th November, 2007, respectively.

Committee's Observations and Recommendations

Your Committee note the statutory instrument which had since run its course.

4.7 MINISTRY OF LABOUR AND SOCIAL SECURITY

Statutory Instrument No. 10 of 2007 – The National Pension Scheme (Pensionable Earnings) Regulations, 2007

The statutory instrument was issued in respect of the social security ceiling, minimum total average monthly contributions and maximum total monthly contributions for the period January to December, 2007.

The statutory instrument provides that the social security ceiling was K5, 888, 764, the minimum monthly contribution was K1, 500 and the maximum total monthly contribution was K588, 876. 40.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

4.8 MINISTRY OF SCIENCE, TECHNOLOGY AND VOCATIONAL TRAINING

Statutory Instrument No.31 of 2008-The Biosafety Act, 2007 (Commencement) Order, 2008

The statutory instrument was issued to establish the National Biosafety Authority after the President assented to the Biosafety Act 10 of 2007.

Committee's observations and recommendations

Your Committee note the issuance of the statutory instrument.

Statutory Instrument No.20 of 2008-The Technical Education, Vocational and Entrepreneurship Training (Gemstone Processing and Lapidary Training Centre) (Establishment) Regulations, 2008

The statutory instrument was issued to provide for the establishment of a management board for the Gemstone Processing and Lapidary Training Center which was opened in July, 2008.

Committee's Observations and Recommendations

Your Committee note the issuance of the statutory instrument.

4.9 JUDICIARY

Statutory Instrument No. 35 of 2006 – The High Court (2007 Sessions) (Amendment) Order, 2007

The statutory instrument was issued to prescribe the dates for High Court Sessions in the Eastern Province of Zambia.

Committee's Observations and Recommendations

Your Committee note the issuance of the order.

4.10 MINISTRY OF JUSTICE

Statutory Instrument No. 30 of 2007 – The Laws of Zambia (Revised Edition) Act (Specified Date) Notice, 2007

The statutory instrument was issued to specify the date for issuing the revised edition of the Laws of Zambia which the Ministry of Justice had embarked on.

Committee's Observations and Recommendations

Your Committee note the statutory instrument.

PART II

5 LOCAL TOURS FOR THE SECOND SESSION OF THE TENTH NATIONAL ASSEMBLY

5.1 Tour of Mufunta Game Management Area in Kaoma, Western Province

Mufunta Game Management Area was established through the Issuance of Statutory Instrument No.43 of 2008, The Game Management Area No.38 Mufunta (Declaration) Order, 2007. The reason for creating the Game Management Area was to protect wildlife following the massive poaching of animals west of the Kafue National Park by unscrupulous hunters.

Your Committee toured the Game Management Area (GMA) to ascertain the implementation of the statutory instrument and determine whether its creation had not adversely affected any persons.

Before commencing the tour, your Committee paid a courtesy call on the District Commissioner. Your Committee were briefed that there were a few problems with the implementation of the game management area and the Barotse Royal Establishment had even written the District Commissioner's office to seek its views on the proposed GMA. A report on the matter had since been prepared and a copy was availed to your Committee.

At the meeting, it was resolved that your Committee would pay courtesy calls on three Chiefs in the area as a way of community consultation on the GMA. It was resolved that courtesy calls would be made to the Palaces of Senior Chief Amukena, Chief Mutondo and Chief Kahare.

Courtesy call on Senior Chief Amukena

Your Committee started with a courtesy call on Senior Chief Amukena who informed them that the consultations on the creation of the GMA were not adequate as less than one percent of the population in the affected areas was consulted. He stated that the Zambia Wildlife Authority (ZA W A) official who conducted the survey behaved unprofessionally and even included some falsehoods in his report. The Senior Chief did not take this kindly and stated that the ZA W A officer would have to answer for his actions at some point before the Royal Establishment.

The Senior Chief's view was that the GMA was being forced on the people and that the issue needed further consultations since some of the affected areas were farming areas for the local people.

Courtesy call on Chief Mutondo

Your Committee paid a courtesy call on Chief Mutondo who informed them that he had heard about the GMA including the differences that had been reported between the Chiefs on the matter. He stated that the creation of the GMA was welcome although the differences had to be addressed. He added that the Senior Chief in the area was the one creating discontent over the creation of the GMA because he also wanted to have a role in the GMA. Chief Mutondo supported the creation of the GMA which he described as a good idea.

Courtesy call on Chief Kahare

Your Committee paid a courtesy call on Chief Kahare in whose area the GMA is located. The Chief informed your Committee that initial moves to establish the GMA started in 1991 and efforts were finally coming to fruition. The creation of the GMA was also approved by the full council meeting through a resolution.

The Chief, however, stated that some people misunderstood the idea behind the creation of the GMA and had even been agitated to the point of wanting to bring harm to him. The people were misled to think that some of them would be displaced by the creation of the GMA. The people had, however, since been sensitised and understood the noble intentions behind the creation of the GMA.

5.2 Tour of Lusaka South Local Forest No.F26, Lusaka

Your Committee toured Ntobolole local forest in Lusaka South to ascertain the implementation of the Statutory Instrument and ascertain the following:

- its impact on the local people and whether it has caused any displacements; and
- its impact on the flora and fauna in the forest.

Your Committee were informed that Lusaka South Forest Reserve No.26 was first gazetted in 1942 for the purpose of protecting the forest and production. The forest originally covered an area of 9,642 hectares.

Currently a total of 4, 302 hectares of Lusaka South Local Forest were excised for the purpose of establishing the Multi-Facility Economic Zone by the Government of the Republic of Zambia. This was created through Statutory Instrument No.82 of 2007.

During the tour, your Committee were informed and also ascertained that the issuance of the Statutory Instrument and the resultant creation of the Multi-Facility Economic Zone would not result in displacement of any people as there were no illegal or legal settlers in the forest area except seasonal cultivators who had made some make-shift structures.

5.3 Tour of Ntobolole Local Forest in Mazabuka, Southern Province

Your Committee toured Ntobolole Local Forest to ascertain the implementation of Statutory Instrument No. 81 of 2007 and check whether the implementation had had any adverse effect on the community (in terms of human displacement) and the flora and fauna.

During the tour, your Committee were informed that a total of 3, 800 hectares of Ntobolole Local Forest NoA22 were excised to create land for settlements and for agricultural development purposes. The total area remaining was 5, 800 hectares. The original propose for creating Ntobolole Local Forest was to improve the management of the forest resources and thus protect the ecosystem. There were no illegal settlers in the excised forest area or in the remaining forest.

Your Committee later held a meeting with members of the community.

Among the members of the community were two headmen and the area Councillor. The community expressed their happiness at the decision to allocate them the excised land which they intended to use for farming purposes once the land was allocated to them.

5.4 Tour of Mosi-O-Tunya National Park No.17 in Livingstone

Your previous Committee had intended to tour the National Park in 2007 to ascertain the alteration of the park's boundaries. However, when your Committee travelled to Livingstone to tour the Park, it was discovered that the alteration of boundaries had not yet been done. A recent report to your Committee had indicated that the alteration of boundaries had since been done.

Your Committee toured the park in the company of Zambia Wildlife Authority officials to ascertain the alteration of the boundaries and also check whether the issue of persons who were allocated plots in the Park, after its establishment, and issued with title, had been addressed.

Your Committee were briefed that part of the park area was degazetted to resettle two families who were living in the park even before it was gazzeted as a national park. One family had since moved to the degazetted land while the other family had issue over burial sites which were still in the park for its deceased family members. This family was, however, not resident in the park but still claimed the land.

The ZA W A officials informed your Committee that they had undertaken to respect the wishes of the two families with regard to the burial grounds. ZA W A had assured the families that they would have unrestricted access to the burial grounds in the park.

- **Visit to the Imusho family**

Your Committee visited one of the two families affected by the degazetion of Mosi-O-Tunya National Park No.17. The family was resettled to an area which is a few metres from the western boundary of the park along the Kazungula Road. Your Committee interviewed the family who stated that they were happy with the land where they had been resettled. The family had a decent house which was fenced. They, however, complained about the large number of animals in their area.

The family also raised concerns over their burial sites in the park and appealed to ZAWA to reserve the grounds by putting tombstones and fencing off the area.

6. **COMMITTEE'S OBSERVATIONS AND RECOMMENDS**

Your Committee note the implementation of the Statutory Instruments and urge ZAWA to found amicable solutions concerning human settlement.

7. **STUDY VISIT TO THE KENYAN PARLIAMENT**

Your Committee undertook a familiarisation tour of the Kenyan Parliament from 14th to 21st June, 2008.

Your Committee gained valuable experiences following exchange of views with their Kenyan counterparts. Your Committee are grateful to you, Mr Speaker for enabling your Committee to undertake the tour. Your Committee will use the knowledge gained to enhance how they conduct their business.

PART III

8 CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE FIRST SESSION OF THE TENTH NATIONAL ASSEMBLY

8.1 MINISTRY OF TOURISM, ENVIRONMENT AND NATURAL RESOURCES

Statutory Instrument No. 112 of 2006 - The Mosi-O-Tunya National Park No. 17 (Alteration of Boundaries) Order, 2006

Your previous Committee had urged the ministry to expedite the process of altering the boundaries as the Statutory Instrument was already in effect.

Your Committee were informed in the Action-Taken Report that the Ministry of Tourism, Environment and Natural Resources, through the Zambia Wildlife Authority, had already engaged the Survey Department, Livingstone Office to carry out the beaconing of the altered boundary points.

The computations for the final beacons had been done and extents of the re-alignment had also been determined. What remained was for the Survey Department to do the documentation of the remaining determined boundary points. The Survey Department had undertaken to complete this exercise by 30th of September, 2007.

The ministry updated your Committee later and submitted that the new boundaries of the park had since been determined after the Survey Department completed the alteration exercise.

Committee's Observations and Recommendations

Your Committee note the submission and close the matter.

8.2 Statutory Instrument No. 28 of 1997 – The Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations

Your previous Committee had urged the Ministry of Tourism, Environment and Natural Resources to urge the Ministry of Justice to expedite the process of amending Statutory Instrument No.28 of 1997 in order to bring it in conformity with the principal Act.

It was reported in the Action-Taken Report that the process of amending the Statutory Instrument in order to bring it in conformity with the principal Act had been completed.

Your Committee were later given an update to the effect that the Chief Parliamentary Counsel had given consent for the statutory instrument to be published. The ministry had since forwarded the statutory instrument to the Environmental Council of Zambia for their comments before publication of the new statutory instrument.

Committee's Observations and Recommendations

Your Committee express their dismay and disappointment at the delay by the Ministry of Tourism, Environment and Natural Resources' inertia in revoking the old statutory instrument even after the then Minister of Justice and Attorney General had called for its withdrawal. This action by the Ministry is tantamount to disrespect of your Committee and this House's resolutions and it is hoped that such inertia will be a thing of the past.

Your Committee will, therefore, await the new statutory instrument.

8.3 MINISTRY OF LABOUR AND SOCIAL SECURITY

Statutory Instrument No. 56 of 2006 – The Minimum Wages and Conditions of Employment (Shop Workers) Order, 2006

Your previous Committee had noted that knowledge on the Statutory Instrument in the country was low, except for the minimum wage figure of K268, 000 and as such employees did not get paid what was due to them. Therefore, there was need for the Ministry to carry out sensitisation programmes on the provision of the Statutory Instrument and that the principle of equal work for equal pay should be adhered to by employers.

It was reported in the Action-Taken Report that the Government, through the Ministry of Labour and Social Security, would address this issue by undertaking the following measures set out hereunder to ensure workers were sensitised on existing labour Laws and reduce casualisation.

1. Work with Tripartite Partners to Improve Awareness of Labour Laws

The Ministry was working with its tripartite partners, namely Employees and Employers organisations, to ensure the dissemination of information of Labour Laws to their members.

2. Development of a Ministerial Website

The Ministry was currently establishing a web site where all labour laws would be posted. This would assist in improving public awareness of existing labour Laws. The web site would also contain all labour-related information that would be useful to the Employers, Employees and the general public. It was hoped that this increased awareness would reduce cases of casualisation because workers would be aware of their rights.

3. Intensification of Labour Inspections

The ministry had since intensified labour inspections to deter Employers that deliberately flouted labour laws and, in this way, Employers and Employees were sensitised through labour inspections. Furthermore, the Ministry had employed over fifty-five officers in the last two years. A number of them had since been sent to work in the Provincial and District Labour Offices. This measure was expected to lead to improved workers and employers education.

Apart from recruiting new Labour Inspectors, the Ministry, between January 2007 and August 2007, procured seven motor vehicles to improve mobility of the inspectors thereby increasing inspection coverage, which would contribute greatly to the reduction in casualisation of labour in the country.

4. Media Campaigns

The Ministry was in the process of developing a media campaign strategy through which the public, workers and employers would be sensitised on the existing labour laws. Both the print and electronic media would be used so as to reach as many people as possible.

5. Labour Law Review

Government had since finalised the preparation of draft amendments to the Employment Act, Cap 268 of the Laws of Zambia and the Labour and Industrial Relations Act, Cap 269 of the Laws of Zambia. These draft amendments were before Cabinet. The amendments would seal the gaps in the laws that perpetuated casualisation of labour.

6. Open up New Field Labour Offices

There were currently only 20 labour field offices operating in the 72 districts of the country, meaning there were 52 districts with no labour offices. More labour offices would also be opened to widen the coverage of inspections to include those parts of the country not covered.

Statutory Instrument No 57 of 2006 – The Minimum Wages and Conditions of Employment (General) Order, 2006

Your previous Committee had observed that there was very little knowledge among Employers and Employees about the provisions of the Statutory Instrument and that there was need for the Ministry of Labour and Social Security, the Labour Movement and all stakeholders to carry out sensitisation programmes throughout the country.

It was reported in the Action-Taken Report that the Government appreciated the positive advice and would undertake the required sensitisation of both Employers and Employees on the provisions of Statutory Instrument No. 57 of 2006 similar to Statutory Instrument No. 56 with the measures outlined above.

The Permanent Secretary updated your Committee on his ministry's submission in the Action-Taken Report as follows:

- ✓ Development of a website: The Ministry had since operationalised its website www.mlss.gov.zm and the contents of Statutory Instruments No.s 56 and 57 of 2006 had been posted on the site.
- ✓ Media Campaigns: The Ministry was carrying out a number of media campaigns to sensitise the people. The two Statutory Instruments were published in the daily newspapers.
- ✓ Working with Tripartite Partners: The Tripartite Secretariat was based at the Ministry headquarters.
- ✓ Opening up of more Labour Offices: The Ministry had budgeted K200 million in the 2008/2009 budget for opening up of new labour offices.

The Permanent Secretary added that his Ministry would come up with a new Statutory Instrument for wages in the mining and quarrying sectors during the course of the year and was also revisiting employment contracts.

Asked on the way forward as regards the reported flouting of labour laws by most Chinese investors, the Permanent Secretary submitted that his ministry had held discussions with the Chairperson of the Chinese community in Zambia and the Chinese Ambassador to discuss the issue. A lot of ground was covered and Statutory Instrument No. 56 of 2006 had since been translated into Chinese.

Committee's Observations and Recommendations

Your Committee note the submission and close the matters.

8.4 MINISTRY OF WORKS AND SUPPLY

Statutory Instrument No. 28 of 2007 – The Public Roads (Maximum Weight of Vehicles) Regulations, 2007

Your previous Committee were of the view that there was need to introduce toll gates along major highways in order to increase Government revenue which could be used towards maintenance of roads.

It was reported in the Action-Taken Report that the Government appreciated the Committee's recommendation on toll gates. It was stated that the management of roads in the country had evolved from the construction and maintenance using Force Accounts to contract accounting and, presently, a

combination of the two. The National Road Fund Agency, which was the agency charged with the responsibility of mobilising funds for road maintenance, had commissioned a study: the Road User Charges Review and Implementation Study. This study was nearing completion. A draft report had since been submitted to the consultant of the Road Agency for review. Comments had been made but were yet to be integrated into the report.

The study had identified many ways through which the Road Agency could raise funds to support road management and one such way of raising funds was the introduction of tolls on some roads. However, implementation of tolling of roads required formulation of a legal framework under which it should operate. Currently, there was no law under which tolling of roads would operate. However, the Government would put legislation in place when the Road User Charges Review and Implementation Study was finalised.

The Permanent Secretary, in his update on the submission in the Action-Taken Report, informed your Committee that the draft final report by the Consultants (Swero & Africon) came out in 2007. This report was presented to the key stakeholders at a workshop that was held on 29th January 2008, but was rejected because the consultant had not consulted widely. They were thus given one extra month in which to include the comments of the other stakeholders up to the end of the first quarter of 2008.

Implementation of the tolling of roads required a legal framework under which it should operate. It was planned that financing of the toll gates and other infrastructure would be funded through Public Private Partnership arrangements. To facilitate this approach, the Ministry of Works and Supply submitted the draft Public Private Partnership Policy to Cabinet in November, 2007. Once this policy was cleared, a Public Private Partnership Policy legal framework would be put in place after the Public Private Partnership Policy bill, which had already been drafted, was enacted by Parliament and implemented there after.

The National Road Fund Agency (NRFA) performed a recent identification exercise for tolling of certain bridges in Zambia. The tolling of bridges had the advantage that the road user needed to cross a certain bridge and there were no alternative roads. The bridges identified by the National Road Fund Agency were as follows:

1. Luangwa River Bridge on Great East Road
2. Kafue River Hook Bridge on Lusaka-Mongu Road
3. Kafue River Bridge in Kafue
4. Tuta Bridge on Luapula River in Serenje
5. Katima Mulilo Bridge in Sesheke

Some investors had already expressed interest to construct some roads, toll gates and border infrastructure such as the toll gates on the Kitwe-Chingola Road and the Kasumbalesa Border Post facilities.

The draft Policy was already with Cabinet and monies for tolls would go directly to NRFA.

Committee's Observations and Recommendations

Your Committee note the submission and wish the ministry success in the introduction of toll gates.

9. CONCLUSION

Your Committee, Mr Speaker, would like to express their appreciation to you for the wise counsel and direction given to them during the past year.

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

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

Chifumu K B Banda, SC, MP
CHAIRPERSON

September, 2008
Lusaka