



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON DELEGATED LEGISLATION**

**FOR THE**

**FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY  
APPOINTED ON WEDNESDAY, 23<sup>RD</sup> SEPTEMBER, 2015**

*Printed by the National Assembly of Zambia*

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**REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION FOR THE FIFTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY APPOINTED ON WEDNESDAY, 23<sup>RD</sup> SEPTEMBER, 2015**

*Consisting of:*

Mr J J Mwiimbu, MP (Chairperson); Mr I K Banda, MP; Mr K Konga, MP; Mr A Sichula, MP; Mr M Mutelo, MP; Mr A D Mbewe, MP; Ms M Lubezhi, MP; and Mr M J Z Katambo, MP.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA**

Sir

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

**Functions of the Committee**

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

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

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

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

## **Meetings of the Committee**

3. Your Committee held a total of eighteen meetings during the period under review and considered a total of seventy-five statutory instruments. Of these, sixty-seven statutory instruments were issued in 2015 and eight were issued in January, 2016.

## **Arrangement of the Committee's Report**

4. Your Committee's Report is arranged in two parts: Part I deals with your Committee's consideration of various Statutory Instruments issued between January and December, 2015 and in January, 2016; while Part II deals with your Committee's consideration of the Action-Taken Report on the Report of your previous Committee for the Fourth Session of the Eleventh National Assembly.

## **PART I**

### **CONSIDERATION OF STATUTORY INSTRUMENTS**

#### **MINISTRY OF CHIEFS AND TRADITIONAL AFFAIRS**

**1. Statutory Instrument No. 28 of 2015 - The Chiefs (Recognition) (No. 2) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*, was to recognise Mr Ben Phiri as Chief Nduke of the Nsenga People of Nyimba District in Eastern Province.

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

Your Committee notes the issuance of the Statutory Instrument.

**2. Statutory Instrument No. 29 of 2015 - The Chiefs (Recognition) (No. 1) Order, 2015**

The objective of this Statutory Instrument was to withdraw the recognition of Mr Josiah Mubukwanu Lita Nyumbu as Chief Chiengele of the Lozi People of Mongu District in Western Province. The Statutory Instrument was issued in exercise of the powers granted in section 4 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**3. Statutory Instrument No. 43 of 2015 - The Chiefs (Recognition) (No. 3) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*, was to recognise Mr Isaac Muzokela as Chief Sikoongo of the Tonga People of Chirundu District in Lusaka Province.

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

Your Committee notes the issuance of the Statutory Instrument.

**4. Statutory Instrument No. 44 of 2015 - The Chiefs (Recognition) (No. 4) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Ignatius Mawala Kashoka as Chief Ngabwe of the Lenje/Lima People of Ngabwe District in Central Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**5. Statutory Instrument No. 45 of 2015 - The Chiefs (Recognition) (No. 5) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Benson Mukupa Kaoma as Senior Chief Tafuna of the Lungu people of Mpulungu District in Northern Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**6. Statutory Instrument No. 51 of 2015 - The Chiefs (Withdrawal of Recognition) (No. 2) Order, 2015**

The objective of this Statutory Instrument was to withdraw recognition of Mr Benson Mukupa Kaoma as Chief Mukupa Kaoma of the Lungu People of Mporokoso District in Northern Province. The Statutory Instrument was issued in exercise of the powers granted in section 4 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**7. Statutory Instrument No. 52 of 2015 - The Chiefs (Withdrawal of Recognition) (No. 3) Order, 2015**

The objective of this Statutory Instrument was to withdraw recognition of Mr Kafula Maxwell Mucheleka as Chief Chikwanda of the Bemba People of Mpika District in Muchinga Province. The Statutory Instrument was issued in exercise of the powers granted in section 4 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**8. Statutory Instrument No. 53 of 2015 - The Chiefs ( Recognition) (No. 6) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Geoffrey Kaoma as Senior Chief Mukupa-Kaoma of the Lungu people of Mporokoso District in Northern Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**9. Statutory Instrument No. 54 of 2015 - The Chiefs (Recognition) (No. 7) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Henry Bwalya as Chief Chikwanda of the Bemba People of Mpika District in Muchinga Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**10. Statutory Instrument No. 55 of 2015 - The Chiefs (Recognition) (No. 8) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*, was to recognise Mr Kafula Maxwell Mucheleka as Senior Chief Nkula of the Bemba people of Chinsali District in Muchinga Province.

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

Your Committee notes the issuance of the Statutory Instrument.

**11. Statutory Instrument No. 56 of 2015 - The Chiefs (Recognition) (No. 9) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Oscar Mwamba as Chief Munkonge of the Bemba People of Kasama District in Northern Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**12. Statutory Instrument No. 57 of 2015 - The Chiefs (Recognition) (No. 10) Order, 2015**

The objective of this Statutory Instrument was to recognise Mr Chipasha Washen Mubanga as Senior Chief Shimumbi of the Bemba People of Luwingu District in Northern Province. The Statutory Instrument was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**13. Statutory Instrument No. 58 of 2015 - The Chiefs (Recognition) (No. 11) Order, 2015**

The objective of the statutory Instrument, which was made pursuant to section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*, was to recognise Mr Joel Chiluba Ntalasha as Chief Matipa of the Bisa People of Chilubi District in Northern Province.

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

Your Committee notes the issuance of the Statutory Instrument.

**14. Statutory Instrument No. 59 of 2015 - The Chiefs (Recognition) (No. 12) Order, 2015**

The objective of this Statutory Instrument, which was issued in exercise of the powers granted in section 3 of the *Chiefs Act, Chapter 287 of the Laws of Zambia*, was to recognise Mr Donald Chushi as Chief Kasala-Lukangaba of the Ushi people of Mansa District in Luapula Province.

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

Your Committee notes the issuance of the Statutory Instrument.

## **MINISTRY OF FINANCE**

**15. Statutory Instrument No. 5 of 2015 - The Property Transfer Tax (Exemption) (No. 2) Order, 2015**

The Statutory Instrument was issued pursuant to section 6 of the *Property Transfer Act, Chapter 340 of the Laws of Zambia*, which empowers the Minister of Finance, by Statutory Order, to exempt from property transfer tax, the transfer of shares by the Government. It was in this vein that the transfer of shares in Kariba Minerals Limited

by Reserved Minerals Corporation to the Government and thereafter ZCCM-IH was exempted through this Statutory Order.

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

Your Committee notes the issuance of the Statutory Instrument.

**16. Statutory Instrument No. 19 of 2015 - The Income Tax (Double Taxation Relief) (Taxes on Income) (Government of the United Kingdom of Great Britain and Northern Ireland) Order, 2015**

The objective of this Statutory Instrument was to repeal and replace the previous Double Taxation Agreement with a new one so that mechanisms of avoiding double taxation of the same income between the two countries could be put in place. The Statutory Instrument was issued in exercise of the powers contained in section 74 of the *Income Tax Act, Chapter 323 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**17. Statutory Instrument No. 20 of 2015 - The Income Tax (Double Taxation Relief) (Taxes on Income) (Republic of Botswana) Order, 2015**

This Statutory Instrument was expected to help promote trade and investment and also encourage economic cooperation between Zambia and Botswana. The Statutory Instrument was issued in exercise of the powers contained in section 74 of the *Income Tax Act, Chapter 323 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**18. Statutory Instrument No. 22 of 2015 - The Loans and Guarantees (Authorisation) Act (Exemption) Notice, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 14 of the *Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia*, was to waive the condition stipulated under the *Loans and Guarantees (Authorisation) Act* for the payment of 2 per cent of the loan amount for ZESCO.

The Government, through the Minister of Finance issued a guarantee in favour of ZESCO Limited to facilitate the contraction of loan financing from four lenders, namely the African Development Bank (AfDB), Development Bank of Southern Africa Limited (DBSA), Nederlandse Financierings-Maatshappij Voor Ontwikkelingslanden (FOM) and Société de Promotion et Participation Pour La Cooperation Economique S.A (PROPACO). The financing from each of the lenders, amounting to US\$35,000,000; US\$35,000,000; US\$35,994,147.5 and US\$35,994,147.5, respectively, was earmarked for the development of the 120 megawatt hydropower generation project at Itezhi Tezhi dam.

The Government, through the Minister of Finance, consented to waive the condition stipulated under section 14 of *the Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia*, which required the payment of 2 per cent of the contracted loan amount, in order to allow ZESCO to obtain the required financing for the generation of hydro-power at Itezhi Tezhi dam. ZESCO had requested that these fees be waived in order to cushion the negative impact that these fees could have had on its financial position.

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

Your Committee notes the issuance of the Statutory Instrument.

**19. Statutory Instrument No. 23 of 2015 - The Customs and Excise (Customs Duty) (Suspension) (Wheat) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, was to suspend the customs duty on wheat up to the quantity of 150,000 metric tonnes when imported by a holder of an import permit issued by the Ministry responsible for agriculture for the period 17<sup>th</sup> March to 31<sup>st</sup> August, 2015.

This regulation was necessary in order to meet the shortfall in the supply of wheat on the local market and to allow millers to continue production in the face of low supply of the commodity before commencement of the harvesting season when national wheat stocks were expected to be sufficient.

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

Your Committee notes the issuance of the Statutory Instrument.

**20. Statutory Instrument No. 30 of 2015 - The Property Transfer Tax (Exemption) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 6 of the *Property Transfer Tax Act, Chapter 340 of the Laws of Zambia*, was to provide for the exemption from property transfer tax, the transfer of property by the Millennium Challenge Account (Zambia) and any person or individual eligible for exemption under the Compact. This was because pursuant to the *Millennium Challenge Compact Act, No. 6 of 2013*, all transactions under the Compact were exempt from tax. The United States Government, through the Millennium Challenge Corporation, a United States Government agency, and the Government of the Republic of Zambia, signed the Millennium Challenge Compact, a grant agreement for US\$354.8 million to finance the implementation of the Lusaka Water Supply, Sanitation and Drainage (LWSSD) project.

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

Your Committee notes the issuance of the Statutory Instrument.

**21. Statutory Instrument No. 31 of 2015 - The Property Transfer Tax (Approval and Exemption) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 6 of the *Property Transfer Tax Act, Chapter 340 of the Laws of Zambia*, was to provide for the exemption of the transfer of property from the Zambia National Oil Company (ZNOC) (in liquidation) to the Government from property transfer tax.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**22. Statutory Instrument No. 35 of 2015 - The Property Transfer Tax (Exemption) (No. 2) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 6 of the *Property Transfer Tax Act, Chapter 340 of the Laws of Zambia*, was to provide for the exemption of the transfer of shares from Reserved Minerals Corporation (in liquidation) to Kariba Minerals Limited and from Kariba Minerals Limited to ZCCM Investment Holdings Plc (ZCCM-IH) from property transfer tax.

In January, 2012, the Government of the Republic of Zambia (GRZ) and ZCCM-IH executed a sale and purchase agreement where ZCCM-IH acquired 50 per cent of GRZ's shares in Kariba Minerals Limited. However, at the time that the agreement was done, it was noted that the 50 per cent shares that the Government had in Kariba Minerals Limited were still held by Reserved Minerals Corporation (in liquidation). Therefore, to complete the transfer of shares smoothly among the three entities, it was deemed necessary to exempt the whole transaction from property transfer tax.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**23. Statutory Instrument No. 40 of 2015 - The Customs and Excise (Customs Duty) (Suspension) (Wheat) Regulations, 2015**

The objective of this Statutory Instrument was to make a provision for:

- (a) the importation of a total of 150,000 metric tonnes of wheat by holders of an import permit issued by the Ministry of Agriculture, with the initial quantity of 75,000 metric tonnes; and
- (b) a waiver on these importations of the 15 per cent duty chargeable on wheat imported from outside the SADC region.

The regulations, which stood to be revoked on 31<sup>st</sup> August, 2015, were intended to allow millers to continue production in the face of a shortage before commencement of the harvest when national wheat stocks were expected to be sufficient.



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

Your Committee notes the issuance of the Statutory Instrument.

**24. Statutory Instrument No. 41 of 2015 - The Fees and Fines (Fee and Penalty Value) (Amendment) Regulations**

This amendment to the Fees and Fines Regulations was necessitated by the need for the Government to raise additional revenues and cover all services for which members of the public are required to pay to Ministries, Provinces and Spending Agencies (MPSAs). This Statutory Instrument was issued pursuant to the provisions of section 9 of the *Fees and Fines Act, Chapter 45 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

**25. Statutory Instrument No. 46 - The Customs and Excise (Provisional Safeguard Measures) Order, 2015**

The objective of the Statutory Instrument was to make provisional safeguard measures of a 15 per cent tariff for products originating from the COMESA and SADC regions and 25 per cent when imported from any other state or territory. This Statutory Instrument was issued pursuant to the provisions of section 80B of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*.

The recommendations were motivated by the Government's commitment to industrialise, create jobs and wealth as enshrined in the Industrialisation and Job Creation Strategy. This was because manufacturing was identified as a key sector with the potential to significantly contribute towards job creation and poverty reduction.

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

Your Committee notes the issuance of the Statutory Instrument.

**26. Statutory Instrument No. 69 of 2015 - The Customs and Excise (Suspension) (Fuel) (No. 2) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, was to continue with the Government's relief mechanism of suspending customs and excise duties on petrol and diesel where these products were imported by the Ministry responsible for energy and were purchased from a bonded warehouse by an oil marketing company. Since 2009, the Government had been issuing statutory instruments to suspend customs and excise duties on petrol and diesel in order to cushion citizens from high fuel prices. These suspensions were done on annual basis, for the period 1<sup>st</sup> January to 31<sup>st</sup> December.

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

Your Committee notes the issuance of the Statutory Instrument.

**27. Statutory Instrument No. 70 of 2015 - The Income Tax (Double Taxation Relief) (Taxes on Income) (Ireland) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 74 of the *Income Tax Act, Chapter 323 of the Laws of Zambia*, was to legislate the Avoidance of Double Taxation Agreement between the Governments of Zambia and Ireland signed on 31<sup>st</sup> March, 2015.

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

Your Committee notes the issuance of the Statutory Instrument.

**28. Statutory Instrument No. 71 of 2015 - The Insurance (Minimum Paid-Up Share Capital) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to sections 41 and 132 of the *Insurance Act, 1997*, was to facilitate an increase in the minimum paid up share capital for insurance entities to internationally accepted levels, as the last adjustment was done in 1997. The increase was to ensure that the companies discharged their obligations towards policy holders and other beneficiaries when obligations fell due.

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

Your Committee notes the issuance of the Statutory Instrument.

**29. Statutory Instrument No. 75 of 2015 - The Loans and Guarantees (Authorisation) (Sinking Fund) (2022 and 2024 Sovereign Eurobonds) (Establishment and Management) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 28 of the *Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia*, was to ensure that funds were set aside for the repayment or redemption of the Sovereign Eurobonds of US\$750 million and US\$ 1 billion maturing in 2022 and 2024, respectively. The Act empowers the Minister of Finance to give directions in respect of the establishment, management and control of any sinking fund required to be established for the purpose of repayment or redeeming bonds or stocks at maturity.

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

Your Committee notes the issuance of the Statutory Instrument.

**30. Statutory Instrument No. 81 of 2015 - The Customs and Excise (Excise Duty) (Suspension) (Amendment) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, was to suspend duty on clear beer from 60 to 40 per cent.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**31. Statutory Instrument No. 82 of 2015 - The Customs and Excise (Suspension) (Transmission Apparatus) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, was to suspend duty on transmission apparatus from 5 and 15 per cent to zero. This was intended to reduce the cost of upgrading existing transmission infrastructure, particularly from analogue to digital forms, and to encourage investment in infrastructure for the establishment of community based television and radio stations, especially in unserved or poorly serviced rural areas. It was envisaged that this measure would assist in enhancing information dissemination to the public by various media houses.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**32. Statutory Instrument No. 88 of 2015 - The Value Added Tax (Zero Rating) (Amendment) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to sections 15 and 51 of the *Value Added Tax Act, Chapter 331 of the Laws of Zambia*, was to remove the duplication provisions and eliminate any possible conflict in the law relating to the entitlement for tourists to claim VAT refunds. This would now only be provided for under section 19 (3) of the *Value Added Tax Act*. Previously, under both the Value Added Tax Act as well as the Value Added Tax (Zero-Rating), Order, 2014, tourists were eligible to claim VAT refunds on eligible purchases done in Zambia upon exit from the country

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**33. Statutory Instrument No. 92 of 2015 - The Value Added Tax (General) (Amendment) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to sections 2, 18 and 51 of the *Value Added Tax Act, Chapter 331 of the Laws of Zambia*, was to increase the period for claiming input Value Added Tax as an intending trader, prior to commencement of business, for electricity power generation to four years from two

years. The reason for the increase was to support investment in the electricity sector. The Statutory Instrument also provided for a new definition of “electricity generation” for clarity purposes.

#### **Committee’s Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**34. Statutory Instrument No. 95 of 2015 - The Income Tax (Double Taxation Relief) (Taxes on Income) (Kingdom of The Netherlands) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 74 of the *Income Tax Act, Chapter 323 of the Laws of Zambia*, was to legislate the Avoidance of Double Taxation Agreement between the Governments of Zambia and the Kingdom of the Netherlands signed on 15<sup>th</sup> July, 2015.

#### **Committee’s Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**35. Statutory Instrument No 99 of 2015- The Public Private Partnership (Kasumbalesa Border Post) (User Fees) Regulations, 2015**

The objective of this Statutory Instrument was to amend the Public Private Partnership (Kasumbalesa Border Post) (User Fees) Regulations of 2014, in order to allow the reinstated Concessionaire to collect the user fees, as provided for under section 66 the *Public-Private Partnership Act of 2009* and in line with Government’s decision to reinstate the Concessionaire.

#### **Committee’s Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**36. Statutory Instrument No. 100 of 2015 - The Loans and Guarantees (Authorisation) (Exemption) (No. 3) Notice, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 14 of the *Loans and Guarantees (Authorisation) Act, Chapter 366 of the Laws of Zambia*, was to waive the condition stipulated under section 14 of the *Loans and Guarantees (Authorisation) Act*, for the payment of 2 per cent of the loan amount for the Development Bank of Zambia.

The Government, through the Minister of Finance, issued a guarantee in favour of the Development Bank of Zambia (DBZ) as a lien on the proposed US\$30 million line of credit from China Development Bank (CDB) to support Small and Medium Enterprises (SMEs). The funds were targeted at the development of small and medium enterprises as well as creation of employment in the country. However, the law required DBZ to pay a guarantee fee of 2 per cent of the loan amount unless the Minister of Finance, by statutory notice, exempted DBZ from doing so. In this regard, DBZ submitted a request for a waiver of these fees due to the adverse effects these

would have on their ability to provide affordable financing to the SMEs earmarked for this facility.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **37. Statutory Instrument No. 102 of 2015 - The Value Added Tax (Exemption) (Amendment) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 15 of the *Value Added Tax Act, Chapter 331 of the Laws of Zambia*, was to realign the provisions of the Value Added Tax (Exemption) Order, as it related to financial services and to ensure that only supplies of financial services and not mechanisms of these services were exempted from VAT. In this regard, the list of financial services had been deleted and replaced to provide clarity on the treatment of such services and products for VAT purposes.

The Statutory Instrument further sought to delete the word “wheat” from group 16 concerning agricultural supplies as wheat was currently zero rated in line with the Value Added Tax (Zero-Rating) Order, 2014. This was also meant to provide clarity on the VAT status of wheat, which was zero rated and not exempt.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **38. Statutory Instrument No. 1 of 2016 - The Customs and Excise (Excise Duty) (Suspension) (Amendment) Regulations, 2016**

The objective of this Statutory Instrument, which was made pursuant to section 89 of the *Customs and Excise Act, Chapter 322 of the Laws of Zambia*, was to suspend duty on ethyl alcohol strength by volume of 80 per cent volume or higher, where it was either imported or locally purchased.

In order to support the domestic industry in the manufacturing of spirituous beverages, the 2015 Budget introduced a measure, through Statutory Instrument No. 4 of 2015, to suspend the excise duty payable, at importation, on un-denatured ethyl alcohol of an alcoholic strength by volume of 80 per cent or higher when imported by licenced manufacturers of spirituous beverages. However, the suspension of the duty did not apply where un-denatured ethyl alcohol of an alcoholic strength by volume of 80 per cent or higher was purchased from within the country. This anomaly discouraged potential local investment in the manufacture of ethyl alcohol of an alcoholic strength by volume of 80 per cent or higher.

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

Your Committee notes the issuance of the Statutory Instrument.

**39. Statutory Instrument No. 9 of 2016 - The Financial Intelligence Centre (General) Regulations, 2015**

This Statutory Instrument was made pursuant to section 58 of *the Financial Intelligence Centre Act, 2010*, which empowers the Minister to make regulations for the better carrying out of the provisions of the Act.

The Act established the Financial Intelligence Centre (the Centre) under section 3 (1) as the sole designated agency responsible for the receipt, requesting, analysing and dissemination of the disclosure of suspicious transaction reports in relation to fighting money laundering, terrorist financing and other serious crimes.

The Centre started to implement the Act from October, 2013 upon commencement of its operations. In order to fully implement the Act, there was need to provide for detailed information on procedures and all matters required to be prescribed under the Act through regulations, hence the issuance of this Statutory Instrument.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**ELECTORAL COMMISSION OF ZAMBIA**

**40. Statutory Instrument No. 27 of 2015 - The Local Government by-Election (Election Dates and Times of Poll) (No. 3) Order, 2015**

The purpose of this Statutory Instrument was to stipulate the date and time of polls in respect of the wards contained in the schedule to the Statutory Instrument. The enabling provision for this order was section 12 of the *Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**41. Statutory Instrument No. 37 of 2015 - The National Assembly by-Elections (Bangweulu Constituency No. 067) (Election Date and Times of Poll) (No. 5) Order, 2015**

The purpose of this Statutory Instrument was to set the date and time of poll for the By-Election in Bangweulu Constituency, by reason of the death of Mr Chifita Matafwali, Member of Parliament for Bangweulu Constituency. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No. 12 of 2006*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**42. Statutory Instrument No. 38 of 2015 - The Local Government by Elections (Election Dates and Times of Poll)**

The objective of this Statutory Instrument was to stipulate the election dates and times of polls in respect of the wards contained in the schedule to the Statutory Instrument. The enabling section for this order is section 12 of the *Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**43. Statutory Instrument No. 49 of 2015 - The National Assembly by-Elections (Solwezi West Constituency No. 112) (Election Date and Times of Poll) (No. 6) Order, 2015**

The purpose of this Statutory Instrument was to set the date and time of poll for the By-Election in Solwezi West Constituency, by reason of the death of Mr Humphrey Mwanza, Member of Parliament for Solwezi West Constituency. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No. 12 of 2006*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**44. Statutory Instrument No. 50 of 2015 - The Local Government by-Election (Election Dates and Times of Poll) (No. 5) Order, 2015**

The purpose of this Statutory Instrument was to stipulate the date and time of polls in respect of the wards contained in the schedule to the Statutory Instrument. The enabling provision for this order was section 12 of the *Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**45. Statutory Instrument No. 60 of 2015 - The National Assembly by-Elections (Lubansenshi Constituency No. 93) (Election Date and Times of Poll) (No. 7) Order, 2015**

The purpose of this Statutory Instrument was to set the date and time of poll for the By-Election in Lubansenshi Constituency, by reason of the nullification by the Supreme Court of the election of Mr Patrick Mucheleka as Member of Parliament for Lubansenshi Constituency. The enabling legislation for this Statutory Instrument was section 108 of the *Electoral Act, No. 12 of 2006*. This order was also made pursuant to the powers contained in Regulation 8 of the *Electoral (General) Regulations, 2006*.

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

Your Committee notes the issuance of the Statutory Instrument.

**46. Statutory Instrument No. 61 of 2015 - The Local Government by-Election (Election Dates and Times of Poll) (No. 6) Order, 2015**

The purpose of this Statutory Instrument was to stipulate the date and time of polls in respect of the wards contained in the schedule to the Statutory Instrument. The enabling provision for this order was section 12 of the *Local Government Elections Act, Chapter 282 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

## **MINISTRY OF JUSTICE**

**47. Statutory Instrument No. 25 of 2015 - A Commission 2015**

The objective of this Statutory Instrument, which was made pursuant to section 2 of the *Inquiries Act, Chapter 41 of the Laws of Zambia*, was to establish a Commission comprising sixteen commissioners to inquire into matters relating to the Defence Force. The Commission was specifically directed to inquire into the:

- (i) status of holding equipment in the Defence Force and recommend solutions that will help resolve challenges the Defence Force is facing with regard to holding equipment;
- (ii) funding mechanisms of the Defence Force and recommend a financing model that would provide funds for infrastructure development, rehabilitation of equipment and acquisition of new equipment;
- (iii) manpower of the Defence Force and make recommendations for human resource recruitment, retention and development; and
- (iv) performance of three defence industries namely; Zamcapital, Mulungushi Textiles and Mupepetwe Engineering and to evaluate their performance and recommend accordingly.

For the purpose of the inquiry, the President appointed Dr Roland Msiska, Secretary to Cabinet as Chairperson; Mr Fredson Yamba, Secretary to the Treasury as Vice Chairperson. Further, the President appointed Mr Ranford Simumbwe and Mr Makelo Mulele to be Secretary and Vice Secretary respectively.

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

Your Committee notes the issuance of the Statutory Instrument.



**48. Statutory Instrument No. 64 of 2015 - The Constitution of Zambia Proclamation of 2015**

The proclamation of 2015 to prorogue of Parliament was made by the Republican President pursuant to the powers conferred by Article 88 (5) of the *Constitution of Zambia* which empowered the President to prorogue or suspend Parliament at any time.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**49. Statutory Instrument No. 65 of 2015 – The Constitution of Zambia Proclamation (No. 2) of 2015 (Summoning of Parliament)**

The objective of this Statutory Instrument was to summon Parliament to meet in line with the provisions of Article 88(1) of the *Constitution of Zambia* specifying that each session of Parliament shall be held at such place within Zambia, and should commence at such time as the President may appoint. Whereas it was expedient that Parliament should be summoned, under and by virtue of the powers vested in him, the President of the Republic of Zambia proclaimed through a statutory instrument and made known that the Fifth Session of the Eleventh Parliament should resume in Lusaka at 10:00 hours on the 18<sup>th</sup> day of September, 2015.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**50. Statutory Instrument No. 78 of 2015 - The Public Holiday (Declaration) Notice, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 3 of the *Public Holidays Act, Chapter 272 of the Laws of Zambia*, was to declare 18<sup>th</sup> October, 2015 and 18<sup>th</sup> October in every year as a public holiday for national prayer, fasting, repentance and reconciliation.

**Committee's Observations and Recommendations**

In noting the issuance of this Statutory Instrument, your Committee expresses concern that productivity in the country is being compromised owing to too many public holidays. However, your Committee notes that the Statutory Instrument has been issued in accordance with the enabling legislation.

**51. Statutory Instrument No. 86 of 2015 - The Zambia Institute of Advanced Legal Education (Accreditation of Legal Education Institutions) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 23 of the *Zambia Institute of Advanced Legal Education Act, Chapter 49 of the Laws of Zambia*, was to make regulations for the accreditation of legal education institutions.

These regulations include:

- (i) application for accreditation;
- (ii) evaluation of programme;
- (iii) certificate of accreditation;
- (iv) inspection;
- (v) publication of accredited legal education institutions;
- (vi) eligibility for admission to legal education programme; and
- (vii) recognition of academic awards.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **52. Statutory Instrument No. 87 of 2015 - The Diplomatic Immunities and Privileges (ZEP-RE PTA Reinsurance Company) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 4 of the *Diplomatic Immunities and Privileges Act, Chapter 20 of the Laws of Zambia*, was to extend the privileges and immunities granted to COMESA organs to the ZEP-RE PTA Reinsurance Company.

The ZEP-RE PTA Reinsurance Company was an institution under the auspices of the Common Market for East and Southern Africa (COMESA). It was a specialised agency that was charged with the task of promoting trade, development and integration within the COMESA region through trade of insurance and re-insurance business. The COMESA Secretariat was provided for in the Host Agreement and under Statutory Instrument No. 23 of 1984, the Diplomatic Immunities and Privileges (Common Market for East and Southern Africa (COMESA), Order. Under this 2015 Order, ZEP RE was recognised and designated as per Article 174 of the COMESA Treaty as an institution of COMESA.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **53. Statutory Instrument No. 96 of 2015 - The Laws of Zambia (Revised Edition) Act (Specified Date) Notice, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 9 of the *Laws of Zambia, (Revised Edition) Act, 1995*, was to specify 30<sup>th</sup> November, 2015, as the date for purposes of law revision. It also revoked the Laws of Zambia (Revised Edition) Act (Specified Date) Notice, 2014.

### **COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

Your Committee notes the issuance of the Statutory Instrument.

## MINISTRY OF WORKS AND SUPPLY

### 54. Statutory Instrument No. 39 of 2015 - The National Council for Construction (Registration of Projects) Regulations, 2015

The purpose of this Statutory Instrument was to actualise section 15 of the *National Council for Construction Act, No. 13 of 2003*, which mandates the National Council for Construction (NCC) to establish a register of Projects, for gathering information on the nature, value and distribution of projects and to provide for a Best Practice Project Assessment Scheme.

The Register would only contain information on projects of a tender value exceeding a specified threshold as determined by the Minister. The Register of Projects would enable the NCC to:

- ascertain the distribution of construction projects throughout the country;
- understand the amount of money being directed towards infrastructure development;
- establish the nature of the projects being undertaken in the country;
- establish which construction firms or companies were actively participating in the construction industry; and
- establish a Best Practice Project Assessment Scheme to be used to assess the performance of the projects.

The benefits to be accrued were:

- creation of a data base of projects taking place in Zambia;
- the NCC would have complete information regarding the nature, value, and distribution of construction projects;
- the Register would provide a basis for the Best Practice Project Assessment Scheme;
- funds raised through project registration would be channeled towards programmes meant for the enhancement of the capacity of local contractors;
- the information obtained would act as a tool to be used to inform Government on the performance of the industry and for policy guidance and formulation;
- to enhance monitoring of construction projects in Zambia; and
- to record success stories and challenges of the construction sector.

### Committee's Observations and Recommendations

Your Committee notes the issuance of the Statutory Instrument.

### 55. Statutory Instrument No. 76 of 2015 - The Public Roads (Maximum Weight of Vehicles) (Amendment) (No. 2) Regulations, 2015

The purpose of this Statutory Instrument was to amend the Public Roads (Maximum Weight of Vehicles) Regulations and it was issued pursuant to the provisions of section 63 the *Public Roads Act, 2002*. The issuance of the Statutory Instrument would ensure alignment and adoption of the provisions of the maximum weight regulations to those that Zambia, as a member of the COMESA and SADC regional

groupings, had subscribed to in order to ensure the effective and efficient transportation of goods and services across the country and along the international corridors that the country hosts. Various amendments had been undertaken, leading to movement from SI No. 28 of 2007, to SI No. 38 of 2014, SI No. 34 of 2015 and currently, SI No. 76 of 2015.

The reasons for the amendments are as set out below:

- (a) Zambia, being a landlocked country and centrally located, was a transit route for heavy goods vehicles coming from the East African Community (EAC), COMESA and SADC countries. Increased trade within these regional groupings had been encouraged by, inter alia, the improved road network and linking of borders around the country through the Link Zambia 8,000 road construction project that the Zambian Government embarked upon in the year 2011/12. This called for strengthening of the Maximum Weight Regulations so that there could be increased surveillance on maximum loading on the road asset built at a huge cost to Zambians. This was intended to preserve the asset so that it could last the designed life span.
- (b) The increased surveillance had led to the discovery that the configurations of the heavy goods vehicles were changing frequently to meet the carrying capacity of the kind of heavy goods that were being transported to the economic destinations such as North Western and Copperbelt Provinces, Democratic Republic of Congo, South Africa, among others. Some configurations were new and needed to be added from time to time, and if these adjustments were not done, the weighbridge software would fail to recognise these configurations, hence the need for the statutory adjustments.
- (c) There was need to harmonise the Zambian Axle Load Control provisions to those agreed upon with other member countries of the tripartite regional bodies. This was done in a phased manner because there was need to take care of the design specifications of the existing road infrastructure which could only be adjusted at full rehabilitation stage. The harmonisation process was done in consultation with relevant stakeholders.
- (d) The inefficient rail system had contributed to the abnormal loading of the road asset, hence the need to keep up with these developments legally as well.

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

Your Committee notes the issuance of the Statutory Instrument.

## **MINISTRY OF TRANSPORT AND COMMUNICATIONS**

### **56. Statutory Instrument No. 32 of 2015 - The Zambia Chartered Institute of Logistics and Transport Act (Commencement) Order, 2015**

The objective of this Statutory Instrument was to operationalise *the Zambia Chartered Institute of Logistics and Transport Act, 2014* and was made pursuant to section 1 of *the Zambia Chartered Institute of Logistics and Transport Act, No 4 of 2014*.

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

Your Committee notes the issuance of the Statutory Instrument.

**57. Statutory Instrument No. 33 of 2015 - The Road Traffic (Certificates of Security and Insurance) (Display) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to sections 89, 94 and 233 of the *Road Traffic Act, 2002*, was to make regulations for the mandatory issuance and display of motor vehicle insurance and security discs.

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

Your Committee notes the issuance of the Statutory Instrument.

**58. Statutory Instrument No. 34 of 2015 - The Public Roads (Maximum Weight of Vehicles)(Amendment) Regulations 2015**

The purpose of this Statutory Instrument was to amend the regulation on maximum weight of vehicles pursuant to the provisions of section 63 of the *Public Roads Act, 2002*. This would ensure alignment and adoption of the provisions of the maximum weight regulations to those that Zambia, as a member of the COMESA and SADC regional groupings, had subscribed to in order to ensure the effective and efficient transportation of goods and services across the country and along the international corridors that the country hosts. Various amendments had been undertaken, leading to movement from SI No. 28 of 2007, to SI No. 38 of 2014, SI No. 34 of 2015 and currently, SI No. 76 of 2015.

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

Your Committee notes the issuance of the Statutory Instrument.

**59. Statutory Instrument No. 77 of 2015 - The Aviation (Emergency Powers) (Aircraft Navigation Control) (Amendment) Notice, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 5 of the *Aviation Act, Chapter 444 of the Laws of Zambia*, was to amend the Aviation (Emergency Powers) (Aircraft Navigation Control) Notice by the removal of Prohibited Area No. 3 in the second Schedule.

This was in order to declassify the Protected Area 3 (P3) which was Mbala Airfield and the surrounding area into a fly zone open to commercial and privately owned aircrafts. This was necessary to actualise the President's proclamation that the ZAF Samora Airfield should be turned into a commercial/public airport so as to boost the socio-economic development of Northern and Luapula circuit by promoting tourism and other related economic activities.

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

Your Committee notes the issuance of the Statutory Instrument.

**60. Statutory Instrument No. 80 of 2015 - The Information and Communication Technologies (Telecommunication Traffic Monitoring) Regulation, 2015**

The objective of this Statutory Instrument, which was made pursuant to sections 6 and 91 of the *Information and Communication Technologies Act, 2009*, was to issue regulations for the better carrying out of the provisions of the Act.

These regulations provides for:-

- (i) the introduction of a prescribed revenue collection mechanism on international incoming traffic;
- (ii) the establishment of the telecommunication traffic monitoring system;
- (iii) provision of correct declaration;
- (iv) provision of vital statistics for mobile financial services; and
- (v) the detection of counterfeit mobile access devices.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument, but observes that the construction of cellular phone towers of lower capacity by mobile phone companies has continued. This has resulted in certain communities, especially those in rural areas, being unable to access some basic cellular phone services. In this regard, your Committee implores the Government, through the relevant Ministry, to address the issue.

**MINISTRY OF AGRICULTURE**

**61. Statutory Instrument No. 93 of 2015 - The Food Reserve (Designated Commodities) Regulations, 2015**

The objective of this Statutory Instrument was to designate white maize; orange maize; rice; sorghum; sunflower; groundnuts; soya beans and beans as essential commodities for food security. The Statutory Instrument was made pursuant to sections 6 and 27 of the *Food Reserve Act, Chapter 225 of the Laws of Zambia*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument. However, your Committee recommends that the Government should be committed to securing markets for the commodities listed in the Statutory Instrument as this is necessary for food security and for support to crop diversification.

**MINISTRY OF LANDS, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**

**62. Statutory Instrument No. 63 of 2015 - The Forest Act (Commencement) Order 2015**

The objective of this Statutory Instrument was to operationalise *the Forest Act, No. 7 of 1999*, so that it could be repealed. The *Forest Act, No. 7 of 1999*, was enacted to

usher in the Zambia Forestry Commission, whose mandate was to spearhead the management of forest resources. However, the *Forest Act, 1999*, could not be operationalised due to the financial implications associated with the establishment of the Zambia Forestry Commission, even though the Act was enacted into law and published accordingly. Subsequently, following the decision to reorganise the sector, coupled with emerging issues such as climate change, the need to involve communities and the private sector in sustainable forest management, necessitated the repeal of the *Forest Act, No. 7 of 1999*, before the new statute, the *Forests Act, No. 4 of 2015*, became law. However, before the *Forest Act, 1999*, could be repealed, it needed to be operationalised in line with its provisions at section 1.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **63. Statutory Instrument No. 73 of 2015 - The Lands (Ground Rent, Fees and Charges) Regulations, 2015**

The objective of this Statutory Instrument was to amend consideration, consent and preparation fees upwards as outlined in Statutory Instrument No. 44 of 2006. In this regard, the Statutory Instrument increased fees for land acquisition by non-Zambians as well as for high cost residential, commercial and industrial plots offered to Zambians relative to market value in line with section 31 of the *Lands Act, Chapter 184 of the Laws of Zambia*.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **64. Statutory Instrument No. 74 of 2015 - The Lands (Customary Tenure) (Conversion) (Amendment) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 31 of the *Lands Act, Chapter 184 of the Laws of Zambia* was to ensure that all parcels of land were subject to payment of consideration and ground rent once alienated. This was to ensure fairness and to increase revenue for the Government.

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

Your Committee notes the issuance of the Statutory Instrument.

#### **65. Statutory Instrument No. 90 of 2015 - The National Forest No. F6; Mwekera (Alteration of Boundaries) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 10 (i) of the *Forestry Act, No. 4 of 2015*, was to excise 6,348.78 hectares out of the 17,857.74 hectares of Mwekera National Forest No. F6. This was being done as a social safety net in order to accommodate miners who had been retrenched.

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

Your Committee notes the issuance of the Statutory Instrument.

**66. Statutory Instrument No. 91 of 2015 - The Local Forest No. 320; Mpande Hills (Alteration of Boundaries) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 17 of the *Forestry Act, No. 4 of 2015*, was to excise 2,000 hectares out of the 6,290 hectares of Mpande Local Forest No. 320. This was to accommodate communities that had been moved in the wake of the development of the Lusaka South Multi-Facility Economic Zone industrial centre.

### **MINISTRY OF GENERAL EDUCATION**

**67. Statutory Instrument No. 85 of 2015 - The Education (Teacher Training College Boards) (Establishment) Order, 2015**

This Statutory Instrument was made pursuant to the powers contained in section 44 of the *Education Act, 2011* in order to establish a Teacher Training College Board at St. Mary's College of Education in Mbala District, Northern Province.

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

Your Committee notes the issuance of the Statutory Instrument.

**68. Statutory Instrument No. 2 of 2016 - Teaching Profession (Registration and Accreditation) Regulations**

This Statutory Instrument was made pursuant to the powers contained in section 59 of the *Teaching Profession Act, No. 5 of 2013*. The Statutory Instrument promulgated the Teaching Profession (Registration and Accreditation) Regulations, 2016.

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

Your Committee notes the issuance of the Statutory Instrument.

### **MINISTRY OF TOURISM AND ART**

**69. Statutory Instrument No. 83 of 2015 - The Tourism and Hospitality Act (Commencement) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 1 of the *Tourism and Hospitality Act, 2015*, was to operationalise the *Tourism and Hospitality Act, 2015*.

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

Your Committee notes the issuance of the Statutory Instrument.



**70. Statutory Instrument No. 84 of 2015 - The Wildlife Act (Commencement) Order, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 1 of the *Wildlife Act, 2015*, was to operationalise the *Wildlife Act, 2015*.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**THE JUDICIARY**

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

The objective of this Statutory Instrument, which was made pursuant to section 40 of the *Anti Gender Based Violence Act, No. 1 of 2011*, was to make provision with respect to the procedure on applications to any court and in particular as to:

- (a) the manner and form for the commencement of an action under this Act;
- (b) the giving of notice to persons affected by an application under this Act;
- (c) the joinder of the persons referred to under paragraph (b) as parties to the proceedings;
- (d) the discharge of an order issued pursuant to this Act; and
- (e) the forms necessary for the purposes of the Act.

The Rules of court were developed in order to provide for the commencement of an action under civil litigation such as psychological, mental and economic abuse. The Rules also provide for an applicant in a case involving gender based violence to be availed easy and flexible methods of commencing an action in the Subordinate and the Fast Track Courts.

**Committee's Observations and Recommendations**

Your Committee notes the issuance of the Statutory Instrument.

**MINISTRY OF HOME AFFAIRS**

**72. Statutory Instrument No. 103 of 2015 - The Anti-Terrorism (Implementation of the United Nations Security Council Resolution on The Prevention and Suppression of Terrorism) Regulations, 2015**

The objective of this Statutory Instrument, which was made pursuant to section 50 of the *Anti-Terrorism Act, 2007*, was to make regulations for the better carrying out of the provisions of the *Anti-Terrorism (Amendment) Act, No. 2 of 2015* and the *Anti-Terrorism (Amendment) Act, No. 21 of 2007* in relation to a framework for countering terrorism in Zambia.

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

Your Committee notes the issuance of the Statutory Instrument.

## **MINISTRY OF LOCAL GOVERNMENT AND HOUSING**

### **73. Statutory Instrument No. 3 of 2016 - The Real Estate Agents (General) Regulations, 2016**

The objective of this Statutory Instrument, which was made pursuant to sections 12 and 43 of the *Real Estate Agents, Act, 2000*, was to specify regulations on the management and administration of estate agencies. This was in line with the powers vested in the Minister under the Act to regulate the operations of estate agencies.

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

Your Committee notes the issuance of the Statutory Instrument.

### **74. Statutory Instrument No. 4 of 2016 - The Local Government (Appointment of Local Government Administrator) (Kitwe City Council) Order, 2016**

The objective of this Statutory Instrument, which was made pursuant to section 88 of the *Local Government Act, Chapter 281 of the Laws of Zambia*, was to appoint Mr Chazya Musukuma as Local Government Administrator for Kitwe City Council following the suspension of the Council.

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

Your Committee notes the issuance of the Statutory Instrument.

### **75. Statutory Instrument No. 5 of 2016 - The Local Government (Appointment of Local Government Administrator) (Livingstone City Council) Order, 2016**

The objective of this Statutory Instrument, which was made pursuant to section 88 of the *Local Government Act, Chapter 281 of the Laws of Zambia*, was to appoint Mr Charlstone Hamulyata as Local Government Administrator for Livingstone City Council following the suspension of Livingstone City Council.

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

Your Committee notes the issuance of the Statutory Instrument.

### **76. Statutory Instrument No. 6 of 2016 - The Local Government (Appointment of Local Government Administrator) (Ndola City Council) Order, 2016**

The objective of this Statutory Instrument, which was made pursuant to section 88 of the *Local Government Act, Chapter 281 of the Laws of Zambia*, was to appoint Mr Macloud Nyirenda as Local Government Administrator for Ndola City Council following the suspension of that Council.

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

Your Committee notes the issuance of the Statutory Instrument.

### **CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE COMMITTEE'S REPORT FOR THE FOURTH SESSION OF THE ELEVENTH NATIONAL ASSEMBLY**

#### **PART I**

#### **MINISTRY OF LABOUR AND SOCIAL SECURITY**

#### **Statutory Instrument No. 63 of 2014 – The Public Service (Retirement Age) Regulations, 2014**

- i) Your previous Committee had not agreed that it was the Government's duty to manage retirees' pension benefits and, in any case, the previous Committee had been of the view that this could not be used as a justification for such radical changes in the manner of paying pension benefits.

In response, it was stated in the Action taken Report that rather than retirees' pension benefits, Government's intention was to restructure the manner in which these benefits were paid. The reason for this was to ensure social security to its people so that the people could live a decent life in retirement/old age, when they were not able to fend for themselves or engage in economic activities. If this was not done, the country may have high levels of old age poverty, which would require Government's intervention.

- ii) Your previous Committee had noted that the proposed amendments would seek to provide, among other things, that an officer "retiring at fifty-five years would be paid about 66 per cent of their pension and would be entitled to a small monthly annuity till death, while an officer who would opt to retire at sixty years would be entitled to about 10 per cent of their pension and would be paid a handsome annuity till death."

Your Committee was informed through the Action-Taken Report that the implication of retiring at 55 years was that the retiree commuted 66 per cent of the accrued or accumulated pension benefits in form of a lump sum leaving the 33 per cent to be spread across the remainder of the life of the pensioner. However, retiring at 60 or 65 years meant that the retiree commuted 10 per cent of the accrued or accumulated pension benefits in form of a lump sum leaving the 90 per cent to be spread across the remainder of the life of the pensioner.

- iii) Your previous Committee had been concerned that it appeared that an officer who opted to retire at 60 years would be disadvantaged as such an officer would only receive 10 per cent of their pension. Your previous Committee was particularly worried over the fact that the remainder of the pension (90 per cent) which was to be paid as annuity to such a retiree was not transferrable and could not be claimed by the heirs of such a retiree in the event of his/her death. This meant that a person who retired at the age of 60 years and received 10 per cent of his/her pension as a lump sum and died soon thereafter would have lost most of his/her pension earnings. Your

previous Committee had felt that this was unfair to the retiree and strongly recommended that this provision be removed from the proposed Regulations.

In response, it was indicated in the Action taken Report that the reform proposal was that when a member died shortly after receiving the 10 per cent lump, the 90 per cent pension would then go to the spouse and the eligible children until the spouse died or the children reached 18 years or 21 years if they were in school.

- iv) Your previous Committee had been concerned as regards the fact that it was apparent that many public service workers did not fully understand the implications of the proposed pension reforms. Therefore, your Committee had doubted whether the public service unions had undertaken adequate sensitisation of their members on these matters. In this regard, your previous Committee had recommended that prior to the implementation of the pension reforms, the Government should carry out countrywide sensitisation campaigns among all public service workers (not just the unions) as regards the proposed provisions so that there could be full understanding and acceptance of the implications of the reforms by public service workers.

In response, it was indicated in the Action Taken Report that in order to create awareness and garner public support and participation in the pension reform process, the Government had developed a communication strategy and part of the activities in the communication strategy had since been funded. Therefore, information dissemination would begin soon.

It was further explained to your Committee that the purpose of the Statutory Instrument was to improve the financial sustainability of the scheme and enhance pension benefits by revising the retirement age upwards. The revision of retirement age was only one strategy amongst the other parametric changes identified under the pension reforms. From the onset, it was important to note that the revision of retirement age did not imply alteration of any other pension parameters such as the level of commutation of pension benefits into lump sum.

### **Rationale behind removing lump sum**

The Public Service Pension Fund (PSPF) and Local Authorities Superannuation Fund (LASF) scheme designs provide for an option to take either one third (33%) or two thirds (66%) of the calculated accrued pension in the form of a lump sum at retirement, this reduced the value of future monthly payments (the annuity). The low value of the monthly income exposes retirees to the risk of old-age poverty. While in theory the lump sum could be invested to secure an adequate return during retirement, bearing inflation and survival risks, in practice it was often used for consumption purposes (including purchasing land or a house). As a result, most pensioners relied on the monthly pension in retirement, which in many cases was inadequate to prevent poverty and mitigate vulnerability to shocks.

For members of the legacy schemes, a new dual-benefit pension formula was proposed which would take into account the possibility to opt for a lump sum based, on current PSPF/LASF rules. This, however, would only apply to the share of benefits calculated under the old system, which would gradually be phased out over time.

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

Your Committee notes the issuance of the Statutory Instrument.

### **PART III**

#### **CONSIDERATION OF THE ACTION-TAKEN REPORT ON THE REPORT OF THE COMMITTEE FOR THE THIRD SESSION OF THE ELEVENTH NATIONAL ASSEMBLY**

#### **MINISTRY OF EDUCATION, SCIENCE, VOCATIONAL TRAINING AND EARLY EDUCATION**

##### **Statutory Instrument No. 108 of 2013: The Mukuba University (Declaration) Order, 2013**

Your previous Committee had urged the Ministry to pursue the matter vigorously and had noted that this was not a matter on which PACRA would be helpful, given that the Mukuba University was created by Statutory Instrument rather than by registration at PACRA. Therefore, your previous Committee had been of the view that the Government ought to seek a legal opinion from the Attorney General on how to proceed with this matter.

In response, it was stated in the Action taken Report that the Government appreciated your previous Committee's observations concerning the use of the same name by two institutions in the same line of business. The use of the name 'The Mukuba University' as created by a Statutory Instrument had so far not raised any conflict. However, as recommended by your previous Committee, the Ministry would seek a legal opinion from the Ministry of Justice.

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

Your Committee requests a progress report on the legal opinion from Ministry of Justice.

#### **MINISTRY OF TRANSPORT, WORKS, SUPPLY AND COMMUNICATIONS**

##### **Statutory Instrument No. 73 of 2013 - The Tolls Regulations**

Your previous Committee had requested for an update on the matter.

In response, it was stated in the Action taken Report that the Government, through the Road Development Agency (RDA), launched Phase I of the National Road Tolling Programme (NRTP) on 1<sup>st</sup> November, 2013. In this phase of the NRTP, the RDA commenced collecting toll fees from road users (class of Heavy Goods Vehicles HGVs) via the eight Weighbridges located on various trunk roads on the Core Road Network (CRN) and also entry and exit tolls at all gazetted Ports of Entry. As per provisions of the *Tolls Act, No. 14 of 2011*, all collected tolls formed part of the Road Fund meant for financing maintenance and rehabilitation of public roads.

Phase II of the NRTP would target a broader section of road users, including all vehicular classifications through special toll collection points or toll plazas which would be constructed

on selected toll sites on the CRN. Phase II of the implementation plan of the National Road Tolling Programme (NRTP) was underway.

Phase II of the programme also included the development and introduction of various innovative toll payment methods including toll cards, electronic cash, among others, in order to offer efficient services to road users. RDA had, in this regard, engaged the Zambia National Commercial Bank Plc (ZANACO) and NECOR (Z) Limited to develop cashless solutions for the road tolling system. The programme was at development stage and prototype cards and systems had been developed and were being reviewed.

Your Committee was further informed that the purpose of the Statutory Instrument was to facilitate the creation of sustainable funding for maintenance of public roads over the years. The international standards required that toll gates were placed about 100km apart. Further, all the Toll Gates as per the Tolls Regulation No. 73 of 2013 were positioned to collect tolls for use on highways, that is, roads connecting one major town to another. This implied that the toll regime currently in force in Zambia was not targeted at collecting tolls for urban roads. The funds collected from toll collection points were primarily intended at keeping highways in a maintainable state at all times.

In this vein, it was explained to your Committee that there were four toll gates between Lusaka and Ndola, as follows:

- (i) Katuba Toll Gate, situated 15 miles from Lusaka, was meant for collection of tolls from traffic coming from Lusaka into the Lusaka-Kabwe carriageway; traffic from the Kabwe direction would only pay at this toll gate only if they did not produce proof of payment of tolls at the ZNS Kabwe Toll Gate;
- (ii) ZNS Kabwe Toll Gate was meant for collection of tolls from traffic coming from Kabwe into the Kabwe-Lusaka carriageway; traffic from Lusaka would only pay at this toll gate only if they did not produce proof of payment of tolls at the Katuba toll gate;
- (iii) Manyumbi Toll Gate, situated near Mulungushi University, was meant for collection of tolls from traffic to and from Kabwe on the Kabwe-Kapiri Mposhi carriageway; and
- (iv) Kafulafuta Toll Gate, situated before the Ndola-Luanshya turn off, was meant for collection of tolls from traffic to and from Ndola on the Kapiri Mposhi-Ndola carriageway.

On the Copperbelt, there were three Toll Gate, as follows:

- (i) Levy Mwanawasa Stadium Toll Gate, situated near the turn off to Dag Hammarskjöld Heritage Site, was meant for collection of tolls from traffic coming from Ndola into the Ndola-Kitwe dual carriageway; traffic from the Ndola direction would only pay at this toll gate if they did not produce proof of payment of tolls at the Kamfinsa Toll Gate;
- (ii) Kamfinsa Toll Gate, situated near the turn off to Kamfinsa, was meant for collection of tolls from traffic coming from Kitwe into the Kitwe-Ndola carriageway; traffic

from the Ndola direction would only pay at this toll gate if they did not produce proof of payment of tolls at the Levy Mwanawasa Toll Gate; and

- (iii) Garneton Toll Gate, situated near the turn off to Mufulira at Sabina, was meant for collection of tolls from traffic coming from both Kitwe and Chingola directions into the Kitwe-Chingola carriageway.

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

Your Committee notes the issuance of the Statutory Instrument. Your Committee urges the Government to ensure that the revenue derived from the Toll fees is used for the intended purpose. Your Committee further urges the Government to ensure that a system is put in place to ensure that road users are not charged repetitively in the case that one passed through a tollgate more than once in a day. Further, there is need for alternatives routes on roads that had toll gates. Furthermore, Members of the legislature and officials of the National Assembly should be exempted. Public buses should also be exempted.

### **Conclusion**

Your Committee wishes to pay tribute to all the stakeholders who appeared before it and made both oral and written submissions. It also wishes to thank you, Mr Speaker for your invaluable guidance throughout the Session. Your Committee also appreciates the services rendered to it by the Office of the Clerk of the National Assembly. Your Committee is confident that the observations and recommendations contained in this report will be favourably considered and fully implemented by the Executive in the interest of the Zambian public.

J J Mwiimbu, MP  
**CHAIRPERSON**

April, 2016  
**LUSAKA**

## **APPENDIX I**

### **List of Officials**

Mr S C Kawimbe, Principal Clerk of Committees  
Ms M K Sampa, Deputy Principal Clerk of Committees  
Ms C Musonda, Committee Clerk (FC)  
Ms S Sianga, Assistant Committee Clerk  
Mrs R T Mwila, Stenographer  
Mr R Mumba, Committee Assistant  
Mr C Bulaya, Committee Assistant  
Mr M Chikome, Parliamentary Messenger