



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON LEGISLATION AND INTERNATIONAL AGREEMENTS

ON THE

BENEFITS OF FORMER CHIEF JUSTICE BILL, N.A.B. NO. 67 OF 2026

FOR THE

FIFTH SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY

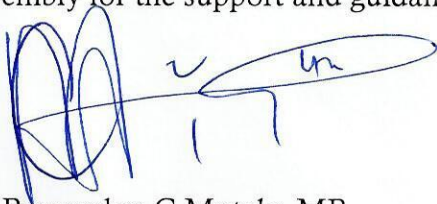
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FOREWORD

Honourable Madam Speaker, the Committee on Legislation and International Agreements has the honour to present its Report on the Benefits of Former Chief Justice Bill, N.A.B. No. 67 of 2026. The functions of the Committee are set out under Standing Orders 206(a) and 204 (2) (iv) of the National Assembly of Zambia Standing Orders, 2024

In order to acquaint itself with the ramifications of the Bill, the Committee held eight meetings and sought both written and oral submissions from stakeholders. Stakeholders, who appeared before the Committee, are listed at Appendix II of the Report. The Report is organised in three parts. Part I provides a background and summary of the provisions of the Bill. Part II presents the summary of submissions from stakeholders, while Part III constitutes the Committee's observations and recommendations.

The Committee is grateful to stakeholders who tendered both written and oral submissions. The Committee further wishes to thank you, Madam Speaker, for affording it the opportunity to scrutinise the Benefits of Former Chief Justice Bill, N.A.B. No. 67 of 2026. The Committee's appreciation is further extended to the Office of the Clerk of the National Assembly for the support and guidance rendered throughout its deliberations.

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Mr Remember C Mutale, MP
CHAIRPERSON

May, 2026
LUSAKA

TABLE OF CONTENTS

| | |
|---|---|
| Foreword..... | i |
| 1.0 Membership of the Committee..... | 1 |
| 2.0 Background..... | 1 |
| 3.0 Objectives of the Bill | 1 |
| 4.0 Summary of the Provisions of the Bill..... | 1 |
| 5.0 Summary of Submissions from Stakeholders..... | 2 |
| 6.0 Committee’s Observations and Recommendations..... | 5 |
| 7.0 Conclusion | 7 |
| Appendix I-List of National Assembly Officials..... | 8 |
| Appendix II-List of Witnesses..... | 9 |

1.0 MEMBERSHIP OF THE COMMITTEE

The Committee consisted of Mr Remember C Mutale, MP (Chairperson); Mr Charles Abel Mulenga, (Vice-Chairperson); Mr Chonde Saka, MP; Mr Francis Kapyanga, MP; Rev Given Katuta, MP; Mr Wesley Kolala, MP; Mr Kenny Siachisumo, MP; Mr Menyani Zulu, MP; Mr Sipho Hlazo, MP; and Mr Phillimon Twasa, MP.

PART I

2.0 BACKGROUND

The Bill seeks to provide for a comprehensive legal framework on the retirement benefits of a former Chief justice. This is in recognition that currently, there is no stand-alone Act of Parliament providing specifically for the benefits of a former Chief Justice.

Currently, the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia, provides for both the conditions of service and retirement benefits for judges, which includes the Chief Justice. However, the existing legislation does not adequately address the retirement benefits for the highest office of the Judiciary.

The Bill, once, enacted, will provide a clear and comprehensive legal framework on the retirement benefits of a former Chief Justice which will invariably result in the integrity, judicial independence and efficiency of the judiciary.

3.0 OBJECT OF THE BILL

The object of the Bill is to:

- (a) provide for the retirement benefits of a former Chief Justice; and
- (b) provide for matters connected with, or incidental to, the foregoing.

4.0 SUMMARY OF THE PROVISIONS OF THE BILL

The summarised provisions of the Bill are as set out below.

Part One

Clause 2–Application

The clause provides that the Act will apply to a person serving as Chief Justice from the commencement of the Act.

Clause 4 – Benefits of former Chief Justice

The clause provides for the retirement benefits of a former Chief Justice, which include, a tax-free monthly salary at the rate of 80 per cent of the emoluments of the incumbent Chief Justice and a house built or bought in the Republic by the Government or in lieu of the house, a one-off cash payment.

Further, the clause provides for the benefits that a surviving spouse and a child of the family of a former Chief Justice shall be entitled to where the former Chief Justice dies while in, or after vacating, office and specifies the benefits that will form part of the estate and those that will not form part of the estate of a former Chief Justice.

Clause 5 – Benefits of former Chief Justice on remarriage of surviving spouse

The clause seeks to exclude a surviving spouse from being entitled to the benefits of a former Chief Justice where the surviving spouse remarries.

Clause 6 – Circumstances when benefits not payable or provided

The clause provides for the circumstances under which benefits shall not be payable or provided to a former Chief Justice which include, where a former Chief Justice is in receipt of a salary from the Government, is engaged in active politics or vacates office on grounds of a violation of the Constitution or misconduct.

Further, the clause provides for circumstances under which the benefits not payable or provided shall become payable or provided to a former Chief Justice, which include, where the former Chief Justice ceases to be in receipt of a salary from the Government. In addition, the clause permits a former Chief Justice to retain the house that forms part of the benefits under the Act where the former Chief Justice engages in active politics or ceases to be engaged in active politics.

PART II

5.0 SUBMISSIONS AND CONCERNS BY STAKEHOLDERS

Most stakeholders who appeared before the Committee were in support of the Benefits of Former Chief Justice Bill, N.A.B. No. 67 of 2026. In this regard, they submitted as outlined below.

Stakeholders submitted that in relation to the office of Chief Justice, retirement benefits were closely connected to the principle of judicial independence. The *Constitution, Chapter 1 of the Laws of Zambia* vested judicial authority in the courts and provided that, in the exercise of that authority, the Judiciary was subject only to the Constitution and the law, and is not subject to the control or direction of any person or authority. International standards also recognise that appropriate remuneration, pensions and conditions of service are part of the safeguards that support judicial independence.

In supporting the Bill, stakeholders submitted the underlisted.

(i) Need for a Separate Law on the Benefits of a Former Chief Justice Finding

The Committee was informed that the Bill seeks to create a separate law for former Chief Justice, instead of leaving the office to be dealt with under the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia. This was in recognition that in principle, the Chief Justice was not only a judge, but the head of the Judiciary, and carried constitutional responsibilities that went beyond those of other judges.

Stakeholders submitted that comparative practice also showed that countries such as South Africa and Botswana dealt retirement benefits of the Chief Justice within the general law on judges, while Namibia had included the Chief Justice in a broader judicial pension arrangement. However, what was important was that the law clearly recognised the office and provided certainty on the benefits attached to it.

In this regard, most stakeholders supported the creation of a separate law on the retirement benefits of a former Chief Justice in recognition of the status of the office as the head of the Judiciary. This would place the office closer, in post service recognition, to other heads of arms of Government, like the President and Speaker.

(ii) Application to Former Chief Justices Who Served Before Commencement

The Committee was informed that clause 2, relating to application, limited the Act to individuals serving as Chief Justice from the date of commencement. This created unequal treatment between former Chief Justices who served before and after commencement and might undermine fairness and consistency in public service benefits. It was therefore recommended that the clause be amended to ensure uniform applicability, subject to appropriate transitional provisions, so that the Act applied to all persons who had served as Chief Justice.

In this regard, it was recommended that to promote consistency in drafting of legislation applicable to the heads of the three organs of Government, there was a need to amend the application clause to be similar to the clause in the Benefits of Former Presidents and Former Vice-Presidents Bill, N.A.B. No. 5 of 2026. This would, therefore, ensure uniform applicability, subject to appropriate transitional provisions, so that the Act applied to all persons who had served as Chief Justice.

Therefore, it was further recommended that clause 2 be amended to read “This Act shall apply to all persons who have held the office of Chief Justice of the Judiciary, whether before or after the commencement of this Act.”

(iii) Clarity on Preserved Benefits under Clause 8

Stakeholders further submitted that clause 8 preserved benefits due to former Chief Justices who served before commencement, but did not clearly state the law under which those benefits arose. This might create uncertainty, particularly because the likely source of those benefits was the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia.

In this regard, stakeholders recommended that clause 8 should be redrafted to clearly state the law under which preserved benefits arose.

Additionally, stakeholders submitted that there was need for clarity whether or not the intention was that former Chief Justices who served before commencement of the Act should continue to receive benefits under the *Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia*.

(iv) Remarriage of a Surviving Spouse

Some stakeholders raised concern over clause 5, which removed benefits from a surviving spouse upon remarriage. They were of the view that a surviving spouse should not lose benefits merely because they chose to remarry.

This position was fortified by comparative practice, where in South Africa, a surviving spouse or partner benefits under the Judges’ Remuneration and Conditions of Employment Act, 2001 were payable until death. They submitted that studies undertaken showed that remarriage was not a ground for loss of that benefit.

In this regard, they called for the deletion of clause 5 so that benefits to a surviving spouse should not be lost merely because the spouse remarries.

However, other stakeholders submitted that it was trite law in Zambia that spousal benefits were contingent upon the status of survivorship and dependency. In this regard, the clause should be maintained.

(v) Alignment with Article 143 of the Constitution

The Committee was informed that clause 6(1)(c) refers to a former Chief Justice who vacates office on the grounds of a violation of the Constitution or misconduct. However, Article 143 of the Constitution refers to “gross misconduct” and also includes incompetence as a ground for removal of a judge.

The clause should therefore be aligned with Article 143 to the extent that it deals with fault based or performance related grounds.

In this regard, stakeholders recommended the redrafting of clause 6(1)(c) by replacing “misconduct” with “gross misconduct” and adding “incompetence” as a ground to align it with Article 143.

(vi) Removal from office on Fault-based Grounds

Stakeholders submitted that removal from office on fault-based grounds, such as violation of the Constitution, incompetence or gross misconduct, might justify consequences in relation to retirement benefits. However, the automatic loss of all benefits might be too broad, especially where some benefits were linked to service already rendered. The current Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia takes a more specific approach by reducing the benefit payable where a judge vacates office on disciplinary grounds, rather than creating a general loss of all benefits.

Stakeholders were of the view that clause 6 should be revised to clarify the effect of removal from office on fault-based grounds. If the intention is to withhold benefits where a former Chief Justice vacates office on the grounds of violation of the Constitution, incompetence or gross misconduct, the Bill should distinguish between earned pension or salary benefits and additional State provided benefits.

In this regard, there was need to provide for the suspension, reduction or withdrawal of additional State provided benefits, while clearly stating the extent to which any earned pension or salary benefit was affected.

(vii) Active Politics as a Ground for Loss of Benefits

The Committee was further informed that the reference to active politics was broad and might restrict a former Chief Justice from participating in public life after leaving office. While the non-partisan character of the Judiciary was important, a former Chief Justice was no longer exercising judicial functions. Stakeholders submitted that a comparative study did not show a common approach of removing earned judicial retirement benefits merely because a former judge participated in politics after leaving office.

In this regard, some stakeholders recommended the removal of active politics as a ground for loss of benefits. They further recommended that the Bill provide that State provided ancillary benefits should not be used for political party activities as a restriction.

(viii) Conviction after Retirement

The Committee was informed that the ground relating to conviction after retirement should be reconsidered. Pension benefits are generally linked to service already rendered. Stakeholders submitted that the current Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia and the comparative laws reviewed did not show a common approach of completely withdrawing earned pension benefits for an offence committed after retirement.

In this regard, stakeholders recommended that the Bill reconsiders the effect of conviction after retirement. Additionally, stakeholders submitted that a distinction should be made between earned pension benefits and additional State provided benefits.

Therefore, stakeholders recommended that the pension component remains payable, while suspending or withdrawing additional benefits such as travel, transport, security or other privileges in the event of conviction for a serious offence.

(ix) Fiscal and Budgetary Implication

Some stakeholders submitted that while the State might legitimately provide reasonable retirement protections for former constitutional office holders like the Chief Justice, such benefits had to be considered within Zambia's broader socio-economic context. They submitted that Zambia remained one of the most unequal countries in the world, with significant levels of poverty, unemployment, and economic inequality affecting ordinary citizens across the country.

In this context, proposals to establish expansive, tax-free lifetime benefit schemes for senior public office holders raised serious questions about distributive justice, fiscal priorities, and the equitable allocation of national resources. These concerns were particularly significant where the proposed benefits were charged directly on the Consolidated Fund.

In this regard, they recommended careful reconsideration of the scale and structure of the proposed benefits and take a broader assessment of their sustainability, necessity and proportionality in light of prevailing socio-economic realities and competing public expenditure priorities.

However, other stakeholders submitted that notwithstanding the expected expenses to be incurred by the Treasury, the number of eligible beneficiaries was predictable and the Treasury would be able to budget for the same. In this vein, the fiscal impact would be limited and will be accommodated within the normal budgetary process.

PART III

6.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

After scrutinising the Bill, and taking into consideration the submissions from various stakeholders, the Committee supports the enactment of the Benefits of the Former Chief Justice, Bill N.A.B. No. 67. In doing so, the Committee makes the observations and recommendations set out below.

(i) Clarity on clauses 2 and 8

The Committee observes, with concern, that clause 2, relating to application, limited the Act to individuals serving as Chief Justice from the date of commencement and does not apply to people who were already Chief Justice before the Act comes into effect.

In this regard, the Committee recommends the amendment of clause 2 to extend the Bill to all former Chief Justices.

(ii) Alignment with Article 143 of the Constitution

The Committee observes, with concern, that the grounds for vacation of office of Chief Justice in clause 6(1)(c) refers to a former Chief Justice who vacates office for violation of the Constitution or misconduct. However, Article 143 of the Constitution refers to “gross misconduct” and also includes incompetence as a ground for removal of a judge.

In this regard, the Committee recommends the redrafting of clause 6(1)(c) by replacing “misconduct” with “gross misconduct” and adding “incompetence” as a ground to align it with Article 143.

(iii) Removal from office on Fault-based Grounds

The Committee observes that while removal from office on fault-based grounds, such as violation of the Constitution, incompetence or gross misconduct, might justify consequences in relation to retirement benefits, however, the automatic loss of all benefits might be too broad, especially where some benefits were linked to service already rendered.

In this regard, the Committee recommends that provisions in the Judges (Conditions of Service) Act, Chapter 277 of the Laws of Zambia, which provide a more specific approach by reducing the benefit payable where a judge vacates office on disciplinary grounds, rather than creating a general loss of all benefits, be maintained.

In addition, there was need to provide for the suspension, reduction or withdrawal of additional State provided benefits, while clearly stating the extent to which any earned pension or salary benefit was affected.

(vii) Active Politics as a Ground for Loss of Benefits

The Committee observes, with concern, that the definition of “active politics” was broad and might restrict a former Chief Justice from participating in public life after leaving office. Additionally, the Committee observes that a former Chief Justice was no longer exercising judicial functions and therefore should not be restricted from participating in politics and exercising their right to assemble and associate.

In this regard, the Committee recommends the removal of active politics as a ground for loss of benefits. Further, the Committee recommends that the Bill provides a clause that the State provides ancillary benefits such as security, should not be used for political party activities as a restriction.

(viii) Conviction after Retirement

The Committee observes, with concern, that clause 6(10)(d) provides as a ground for loss of benefits the conviction of a former Chief Justice of an offence under a written law and

sentence to imprisonment for a term exceeding six months without an option of a fine. This is notwithstanding that pension benefits are generally linked to service already rendered.

In this regard, the Committee recommends that the Bill reconsiders the effect of conviction after retirement. Additionally, the Committee recommends that a distinction should be made between earned pension benefits and additional State provided benefits, of which the latter can be suspended or withdrawn.

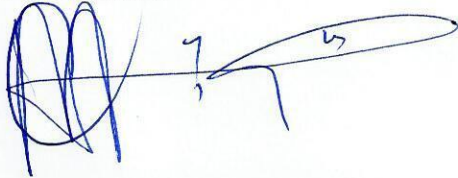
7.0 CONCLUSION

In conclusion, the Benefits of the Former Chief Justice Bill, N.A.B. No. 67 of 2026 presents a significant reform of the existing legal framework governing retirement benefits for the Chief Justice.

The creation of a separate law for a former Chief Justice is progressive in that the Chief Justice is the head of the Judiciary, an important wing of the three organs of the Government. Once, enacted, the Bill is expected to improve the welfare of a former Chief justice, provide legal clarity and promote dignity even after retirement.

However, to achieve this, the Committee urges the Government to consider the recommendations contained in this Report.

We have the honour to be, Madam, the Committee on Legislation and International Agreements, mandated to scrutinise the Benefits of the Former Chief Justice Bill, N.A.B. No. 67 of 2026.

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Mr Remember C Mutale, MP
CHAIRPERSON

May, 2026
LUSAKA

APPENDIX I – List of National Assembly Officials

Mr Charles Haambote, Director – Social Committees
Mr Geoffrey Zulu, Deputy Director – Financial Committees
Ms Chitalu R Mulenga, Senior Committee Clerk (FC2)
Mr Timothy C Lumba, Committee Clerk
Ms Ruth Nambule, Administrative Assistant
Mr Daniel Lupiya, Senior Committee Assistant
Mr Muyembi Kantumoya, Committee Assistant
Ms Taona Chabinga, Committee Assistant
Ms Dorothy Kapanji Daka, Intern

APPENDIX II – List of Witnesses

His Lordship Justice Ernest Sakala

Chapter One Foundation

Emoluments Commission

Judicial Service Commission

Ministry of Justice

Ministry of Finance and national Planning

The Judiciary

Zambia Law Development Commission