BILL WATCH 65/2019

[1st December 2019]

In the National Assembly 26th to 28th November
Both Houses will be in Session this Week

Last week, only the National Assembly was in session. The House concentrated on:

- the Zimbabwe Investment and Development Agency Bill
- the Money Laundering and Proceeds of Crime Amendment Bill
- Veterans of the Liberation Struggle Bill

But no progress was made on 2020 National Budget Business.

This coming week, both the Senate and the National Assembly are due to sit. The National Assembly, having been productive on Bills last week *[see below]*, will face an Order Paper headed by the Coroner's Office Bill, followed by six international agreements for approval, leaving the continuation of the 2020 Budget debate way down the list as item 8. The Senate will have at least one Bill to consider, probably more *[see below]*.

It is beginning to look as if Parliament will have to reassemble after the ZANU PF Annual Conference *[Tuesday 10th to Sunday 15th December]* if the National Assembly is expected to complete its part of Budget business before the Christmas break. There will be four potential sitting days after the Conference – Tuesday 17th to Friday 20th December – and there is ample precedent for MPs having to work on the Budget the week before Christmas. In December last year, for example, the National Assembly completed Budget work on the 2019 Budget at 1 am on Friday 21st December, leaving it to the Senate to rubber-stamp it when Parliament resumed at the end of January.

Last Week in the National Assembly

Motion for Fast-Tracking Bills and for Budget Business Passed

On Tuesday 26th November an attempt by the Minister of Justice, Legal and Parliamentary Affairs to move his fast-tracking motion without having given prior notice [i.e., without the motion appearing on the Order Paper] was frustrated by an objection from the Opposition ranks. The next day his motion was on the Order Paper for consideration after Question Time and Private Members' business, but putting it to the vote was prevented by the adjournment of the House at 5.27 pm in the disorder that erupted when the Minister of Minister of Health and Child Care abruptly left the chamber before MPs had finished questioning him on his Ministerial Statement on the Status of the Health Care System *[see below]*.

In the calmer circumstances that prevailed on Thursday 28th November the House approved the fast-tracking motion without further ado. The motion suspends the Standing Orders normally applicable to sitting hours [6.55 pm for

afternoon sittings on Tuesdays, Wednesdays and Thursdays, and 1.25 pm for Friday morning sittings], stages of Bills being on separate days, Question Time and Private Members' business having priority on Wednesdays, and time-limits for reporting on Bills by the Parliamentary Legal Committee [PLC]. It applies not only to the Budget debate, the consideration of the Estimates of Expenditure and the related Finance and Appropriation Bills for 2020, but also to the Zimbabwe Investment and Development Agency Bill, the Money Laundering and Proceeds of Crime Amendment Bill and the Coroner's Office Bill.

Progress on Bills

Zimbabwe Investment and Development Agency [ZIDA] Bill

Tuesday 26th November Following its restoration to the Order Paper on 12th November, consideration of the Bill resumed at the beginning of the Committee Stage – the stage it had reached in early August in the last session of Parliament. The debate lasted until the automatic adjournment at 6.55 pm. At the start of proceedings the Minister of Justice, Legal and Parliamentary Affairs made a surprise announcement that may throw light on the hitherto unexplained delay to which the Bill had been subjected in the previous session. Referring to the proposed amendments to the Bill appearing on the day's Order Paper, the Minister said they would be replaced by the amendments he would be proposing – which had been distributed separately to MPs only that morning. As the amendments on the Order Paper were from the joint report of two Portfolio Committees who had examined the Bill and conducted countrywide public hearings on it, opposition MPs protested mightily and suggested referring the new amendments to these committees for examination. The Committee Stage proceeded, however, with onlookers being treated to the spectacle of the committee chairpersons [both of ZANU PF] proposing their amendments only for them to rejected by their own party colleagues. On the only occasion it was necessary to take a vote, Hon Paradza, chair of the Foreign Affairs and International Trade Committee, actually voted against the amendment he had just put forward. The Minister's amendments on the other hand were approved *[they were radical amendment – see below for more detail on their effect*]. By the end of the sitting only four clauses and the four Schedules to the Bill remained for consideration.

Thursday 28th November Further amendments were made and the Bill, as amended, was referred to the PLC for its report on the constitutionality of the amendments. As the fast-tracking motion was now operative, the PLC met immediately and promptly produced a non-adverse report, clearing the way for the final vote passing the Bill and its immediate transfer to the Senate for consideration on or after 3rd December.

Changes made to the ZIDA Bill

The amended Bill as sent to the Senate differs substantially from the original Bill. Senators will need a reprint of the Bill incorporating the many

amendments. The differences include:

1. The ZIDA Board is downgraded to a mere Advisory Board advising an all-powerful Chief Executive Officer [CEO] appointed by Government. The original Bill provided for a Board that would oversee and control the operations of ZIDA, appoint staff below the CEO, and generally make important decisions for the Agency. The amendments give the Board's functions to the CEO. Minister Ziyambi explained:

> *"We are envisaging a board that will advise the CEO who reports to the President. … As regards an advisory board and an actual board, they are very different. An advisory is advisory in nature and a board that is not advisory has power to make certain decisions. What we are saying is as of now, because of the urgency and the need to be aggressive in promoting investment, the ZIDA Agency will be housed in the Office of the President. That way, we believe that we will also be able to deal with some of the corruption that has been happening because the President will have direct oversight on it."*

2. The Bill now provides explicitly for the situation in which the President chooses to reserve the administration of the Act to himself [he is entitled to do this under section 104 of the Constitution – "the President may reserve to himself or herself the administration of an Act"].

3. There is a new clause between clauses 5 and 6 of the original Bill. It requires statutory bodies and local authorities to prioritise consideration of applications to them by holders of ZIDA investment licences for other permits, licences or authorisations they may require for their operations [for example, trading licences, permission from the Environmental Management Authority].

4. The President will appoint the CEO either "on his own authority" [i.e., without having to consult anyone] if he has reserved the administration of the Act to himself/herself or, where he has entrusted the administration of the Act to a Minister, after consultation with that Minister. MPs complained about CEO and Board appointments not requiring Parliamentary input.

Money Laundering and Proceeds of Crime Amendment Bill Amended

This is the Bill to provide for Unexplained Wealth Orders. It replaces the now lapsed temporary provision under the Presidential Powers (Temporary Measures) Act. The Bill was fast-tracked through two stages on Thursday 28th November. The Second Reading stage resumed with the presentation of the report on the Bill and the public hearings on it, by the Portfolio Committee on Budget, Finance and Economic Development; it recommended a few amendments. Hon Biti, Hon Misihairabwi-Mushonga and Hon Phulu made thoughtful contributions to the debate, suggesting changes. In response Minister Ziyambi said some suggestions could be accommodated during the Committee Stage. The Committee Stage followed immediately and ended with the Bill being amended in several respects and referred to the PLC for its report

on the constitutionality of the amendments.

A noteworthy change is that the Zimbabwe Anti-Corruption Commission [ZACC] and the National Prosecuting Authority will no longer be able to apply to the High Court for Unexplained Wealth Orders [UWOs]. This leaves the Commissioner of Police and the Zimbabwe Revenue Authority [ZIMRA] as the only authorities with power to apply for UWOs. When the PLC report – expected to be non-adverse – is received next week, the House will be able to approve it and transmit it to the Senate.

Veterans of the Liberation Struggle Bill

This Bill was also tabled on the 28th November, given its First Reading and referred to the PLC for its report on the Bill's constitutionality.

Ministerial Statement on the Status of the Health Care System in Zimbabwe

Question Time on Wednesday 27th November was followed by a Ministerial Statement *[link]* by the Minister of Minister of Health and Child Care, which MPs have been expecting for some time. MPs sought clarification on a number of points, to which the Minister responded. He then left the Chamber – before a second group of MPs waiting to put more requests for clarification could do so. This caused Opposition MPs to rise to their feet in protest, causing the disorder that led to an early adjournment.

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