REPUBLIC OF THE GAMBIA

National Assembly, New Assembly Building, Reg . Pye Lane
Banjul, The Gambia

REPORT

OF

THE PUBLIC ENTERPRISES COMMITTEE

ON

THE STATE-OWNED ENTERPRISES BILL, 2022

FEBRUARY 2023

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COMPOSITION OF THE COMMITTEE

HONOURABLE MEMBERS

1. Honourable Lamin J Sanneh	Chairperson
2. Honourable Billay G Tunkara	Vice Chairperson
3. Honourable Almameh Gibba	Member
4. Honourable Lamin Ceesay	Member
5. Honourable Samba Jallow	Member
6. Honourable Salifu Jawo	Member
7. Honourable Sheriff Sarr	Member
8. Honourable Abdoulie Njai	Member
9. Honourable Ebrima Jaiteh	Member

SUBJECT MATTER SPECIALIST

1. Alhaji Omar Taal

SUPPORT STAFF

1. Mr Marabi S Hydara	Director of Committees
2. Mr Ebrima Jawo	Ass. Senior Committee Clerk
3. Ms Halimatou Tamba	Ass. Senior Committee Clerk
4. Ms Fatoumata Keita	Committee Clerk
5. Ms Fatoumata K Sisawo	Research Officer

WITNESSES

1. Abdoulie Jallow - Permanent Secretary (MoFEA)
2. Bai Madi Ceesay - Director of DSOE (MoFEA)
3. Anta Taal - Project Manager (GFMDP- MoFEA)
4. Mariama Jeng - Principal Finance Analyst DSOE
5. Tunde E. Riley - Legal(GFMDP –MoFEA)
6. Ousman M. Nji - Corporate Governance Specialist (GFMDP-MoFEA
7. Modou B. NJie - Directorate of SOE(Consult)
8. Baboucarr Sarr - Board Chair (GPA/GFSC)
9. Ousman Jobarteh - Managing Director (GPA)
10. Sulayman Sumbundu - House Council (GPA)
11. Salieu Jack - Board Chair (GAMTEL/GAMCEL)
12. Lamin A. Tunkara - Managing Director (GAMTEL/GAMCEL)
13. Fatou Fatty - Acting General Manager (GAMCEL)
14. Mustapha Conteh - Finance Director (GAMCEL)
15. Kebba Kinteh - Chief Finance Officer (GAMTEL)
16. Momodou Jammeh - Director of Human Resources
17. Yaya S. Jallow - Chairman (AMRC)
18. Ansuman Sanneh - Managing Director (AMRC)
19. Saikou Kujabi - Deputy Managing Director
20. Saloum Malang - Managing Director (SSHFC)
21. Edward Gomez - Director Operations (SSHFC)
22. Haddy Sallah - Director of Finance and Investment (SSHFC)
23. Abdou Sillah - Director of Housing
24. Falalo M. Touray - Board Chair (GGC)
25. Muhammed Njie - Managing Director (GGC)
26. Lamin L. Sanyang - Deputy Managing Director (GGC)
27. Alagie Jarly - Legal Manager (GGC)
28. Lamin Bojang - Chairman (GCAA)
29. Sulayman Jatta - Deputy Director General (GCAA)
30. Dembo Fatty - Company Secretary (GCAA)
31. Neneh M. Gayi - Board Chairman (GRTS)
32. Malick Jeng - Director General (GRTS)

33. Yamundow Gai	-	Director of Finance (GRTS)
34. Kawsu K. Darboe	-	Board Chairman (GPPC)
35. Momodou Ceesay	-	Managing Director (GPPC)
36. Sainey Trawally	-	Acting Director of Finance (GPPC)
37. Crispin G. Johnson	-	Vice-Board Chairperson (NAWEC)
38. Nani Juwara	-	Managing Director (NAWEC)
39. Gumbo N. Touray	-	Board Member (NAWEC)
40. Dodou S. Gaye	-	Board Member (NAWEC)
41. Tijan A. Williams	-	Director of Internal Audit (NAWEC)
42. Edrisa B. Jarju	-	Deputy Managing Director(NAWEC)
43. Bakary L.M. Kanteh	-	Director of Group Projects & Planning (NAWEC)
44. Ousman Ngum	-	Board Chairman (GIA)
45. Lamin Cham	-	Managing Director (GIA)
46. Diday M. Sanneh	-	Board Secretary (GIA)
47. Suaibu Keita	-	Director of Finance (GIA)
48. Abdoulie Trawally	-	Director of Human Resources(GIA)
49. Abdoulie Tambedou	-	Managing Director (GAMPOST)
50. Samba Ceesay	-	Financial Controller (GAMPOST)
51. Fatou Jagne	-	General Manger (GNPC)
52. Ousman Gaye	-	HR &Admin Director (GNPC)

ACRONYMS

PEC	Public Enterprises Committee
SOE	State Owned Enterprises
PSC	Public Service Commission
CEO	Chief Executive Officer
GPPA	Gambia Public Procurement Authority
NAO	National Audit Office
MoFEA	Ministry of Finance and Economic Affairs
NAWEC	National Water and Electricity Company Limited
SSHFC	Social Security and Housing Finance Corporation
GPA	Gambia Ports Authority
GFSC	Gambia Ferry Service Company
GAMTEL	Gambia Telecommunications Company Limited
GAMCEL	Gambia Cellular Company Limited
GIA	Gambia International Airlines
GCAA	Gambia Civil Aviation Authority
AMRC	Assets Management and Recovery Corporation
NFSP&MC	National Food Security Processing and Marketing Corporation
GNPC	Gambia National Petroleum Corporation
GPPC	Gambia Printing and Publishing Corporation
GAMPOST	Gambia Postal Services Corporation
GRTS	Gambia Radio and Television Services

ACKNOWLEDGEMENT

The Public Enterprises Committee of the Sixth Legislature wishes to register its appreciation to the Office of the Clerk of the National Assembly for providing the support staff who gave their best during the entire review process of the bill and preparing the draft report of the Committee.

The Committee extends its appreciation to the Permanent Secretary, Ministry of Finance and Economic Affairs and his team from the Directorate of State Owned Enterprises for displaying tremendous commitment, consistency, humility and professionalism in guiding the process of the scrutiny, and acknowledging all gaps marched by options proposed by the Committee, Sector Experts and other witnesses.

Similarly, the Committee is appreciative to all the witnesses who took their valuable time to scrutinize the Bill, part by part and clause-by-clause and appearing before the Committee to give their opinions and recommendations. They satisfactorily demonstrated their competence, enthusiasm, professionalism, forthrightness, and objectivity in giving valuable evidence which enriched the report and content of the Bill.

Finally, the Committee wishes to commend all the Honourable Members for demonstrating a high sense of commitment and dedication throughout the process.

INTRODUCTION

The Bill entitled "State Owned Enterprises Bill 2022" was introduced to the Sixth Legislature of the Second Republic, during the Fourth Ordinary Session of the 2022 Legislative Year.

As enshrined in the Standing Orders of the National Assembly, on the second reading of the Bill dated 19th December, 2022, Honourable Members debated on the merits and principles of the Bill. After the debate, the Bill was read a second time and it was referred to the Assembly Business Committee for Committal to the relevant Committee/Committees as dictated by Standing Order 68. The Assembly Business Committee referred the Bill to PEC for scrutiny and report back on its findings to the Assembly.

The Committee convened its initial meeting on 16th January, 2022 to strategize and identify the way forward to fulfil its mandate as prescribed by Standing Order 69 which provide the procedural guidelines on scrutinizing a Bill referred to a Committee.

As a matter of best practice, the Committee considered it prudent to call the mover of the Bill and team as the first witnesses to provide evidence and clarify issues raised on the Bill. The Committee together with the Ministry also identified sector experts who also reviewed and gave their views and opinions on the Bill. The Committee also took note of Acts governing SOEs in other jurisdictions for comparative analysis. Finally, the Committee invited all the commercial oriented SOEs before it to give evidence and provide position papers on the subject matter.

This report indicates the mandate of the Committee and provides a summary of the evidence gathered from the witnesses and indicates all the proposals for amendments clause by clause for approval or otherwise, at the Consideration Stage of the Assembly.

MANDATE OF THE COMMITTEE

In accordance with Standing Order 69 the mandate of the committee is as follows:

a) Identify witnesses, hold proceedings and gather evidence on the clauses of the Bill;
b) Record the opinion of the Committee on each clause of the Bill focusing on any proposed amendment;
c) Present amendments in the order in which they stand in the Bill;
d) Present a report comprising a summary of the evidence gathered from the witnesses, the opinion of the committee on the clauses of the Bill and the amendments proposed as incorporated.

METHODOLOGY

The Committee adopted the following methods to gather evidence.

a) Called witnesses to testify;
b) Called for submission of written evidence/position papers;
c) Convened meetings to rationalize and harmonize proposal for amendments;
d) Convened meetings to validate the Bill with its proposed amendments

PROCEEDINGS

The Committee relied on the testimonies of witnesses to review the details of the Bill, clause by clause, taking due notice of any input aimed at adding value to the content of the Bill. Cross references were made to ensure that the content of the Bill was brought in conformity with the 1997 Constitution of the Republic, The Public Enterprises Act 1993 and The Public Finance Act 2014.

SUMMARY OF EVIDENCE

The SOE Bill has Eight Parts and One Hundred and twenty-five Clauses.

The Object of the Bill is **"**to enhance the performance of the State-Owned Enterprises through improved corporate governance and financial oversight. It's objective is to establish the State Owned Enterprise Commission, to enable the establishment of state owned enterprises, to make provision for the efficient governance of state owned enterprises and the monitoring of their performances; to make provision for the restructuring of state owned enterprises; to provide for the appointment of boards of state owned enterprises to define their powers, duties and functions; improve efficiency and profitability; and to make provision for connected matters".

The Bill has taken cognizance of the fact that SOEs in The Gambia have been characterized by major weaknesses in the areas of governance, lack of profitability, low quality service delivery, inefficient internal structures, and inadequate oversight.

In light of the above, the Bill seeks to improve the performance of the SOEs to improve their financial viability by reducing fiscal risk; strengthen the monitoring and oversight of SOE and enforce effective corporate governance and accountability mechanisms".

The factors which necessitated the proposed establishment of an SOE Commission have been fully explored and deliberated on as incorporated in part two and three of the Bill. The monitoring and regulatory role of the Commission as well as the policy implications and desired outcome are clearly embedded in part two of the Bill which define the powers and functions of the Commission. Part four and five covers the establishment and the composition of SOEs and their Boards respectively.

The Committee and sector experts deliberated on the management architecture and emphasised the necessity for the Boards and managements to manifest competence and professionalism in all their undertakings in their activities. Concerns on how to prevent political interference and probable ways of protecting the Commission members and the various Boards of the SOEs from undue political interference in the performance of their duties was highly discussed.

Finally, the Commission is intended to be a monitoring and regulatory body overseeing the proper operations of the SOEs through improved corporate governance and financial oversight.

SCRUTINY, EVIDENCE, CONSIDERATION AND ADVICE OR RECOMMENDATIONS

PART I PRELIMINARY

Clause 2

Evidence

The Committee noticed the absence of the following key concepts connected to the bill under the interpretation clause.

- Commercial SOEs
- Public Service Obligation

Consideration

The Ministry concurred and undertook to include the interpretation of the above-mentioned terms in the Bill incorporating the proposed amendments as recommendation for adoption by the Assembly.

Advice

It is proposed that clause 2 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 3

Evidence

Both the Committee and the Ministry agreed that the bill would be regulating the "Thirteen Commercial SOEs" and does not cover the rest of the Public Enterprises.

Consideration

The Ministry agreed that it is more appropriate for the application to be amended to cover only the Commercial SOEs.

Advice

It is proposed that Clause 3 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

PART II ESTABLISHMENT AND COMPOSITION OF THE STATE-OWNED ENTERPRISES COMMISSION

Clause 6(1)

Evidence

In line with the 1997 Constitution of the Republic of the Gambia, the President shall appoint the members of the Board of Directors or other governing body in consultation with the Public Service Commission.

Consideration

The opinion of the Committee in this regard was agreed by the Ministry on this clause and the 'Minister of Finance' to be deleted and be replaced with 'Public Service Commission'.

Advice

It is proposed that Clause 6(1) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 8(b)

Evidence

The Committee recommended that there should be an addition of 'proven by a competent authority' to be added to this subclause to make it legitimate and in line with other laws.

Consideration

The Ministry agreed with the proposal for incorporation into the Bill.

Advice

It is proposed that Clause 8(b)with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 9

Evidence

It was recommended to the Committee to replace Clause 9 i.e. "removal as a member of the commission" with "Vacation of Office". The reason being, under the clause both the removal and resignation of commission members are covered and the later catered for all that. The Committee further recommended for the addition of "in consultation with the PSC" in subclause 9(1), the deletion of "or from any other cause" in subclause 9(1)(a) and the addition of "gross" to subclause 9(1)(c).

Consideration

The Ministry agreed with the proposals for incorporation into the Bill.

Advice

It is proposed that clause 9 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 9(2)

Evidence

The Committee observed that there is no timeframe stated for a Commissioner to tender a resignation to the President and a period of forty-five days is recommended. The Committee is convinced that there is a need so that the President will have time to appoint another Commissioner within the period.

Consideration

The Ministry agreed to the proposed amendment for incorporation into the Bill.

Advice

It is proposed that Clause 9(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 10(3)

Evidence

One of the sector experts suggested for the addition of “an extraordinary” and “in consultation with the Chairman” to this Clause. The reason being that the Commission is mandated to meet quarterly, and any other meeting will be an extraordinary one.

Consideration

The Ministry agreed to the suggestion for incorporation into the bill.

Advice

It is proposed that Clause 10(3) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 12(2)(a)(b)

Evidence

The Committee recommended for the replacement of “board” with “commission” under the clause. This Clause covers the Commission and not the boards of SOEs.

Consideration

The Ministry agreed to the suggestion for incorporation into the bill.

Advice
It is proposed that Clause 12 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

PART III FUNCTIONS AND POWERS OF THE STATE-OWNED ENTERPRISES COMMISSION

Clause 13(2)(l)

Evidence
It was received in evidence that this clause might be asking the Commission to be performing tasks that are out of its domain. It was argued that some issues require an enquiry before they are referred to the Courts. In such instances, the Commission cannot just refer the issue to the Courts. It is recommended that the phrase "it is brought before the Court or other appropriate body under this Act" to be replaced with "to be referred to the relevant authority".
Consideration
The Ministry concurred with the recommendation.
Advice
It is proposed that Clause 13(2)(1) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 16(2)
Evidence
It was recommended that the phrase "Minister responsible for Finance" be removed from the Clause for consistency.
Consideration
The suggestion was accepted by the Ministry for incorporation into the Bill.
Advice
It is proposed that Clause 16(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 19(2) Committee recommended to the drafters from the Ministry of Justice to redraft this subclause.

PART IV ESTABLISHMENT, COMPOSITION AND FUNCTIONS STATE-OWNED ENTERPRISES

Clause 27(1)

Evidence

It is recommended that the Clause be amended to read as "The Commission may, with the approval of Cabinet, require the State-Owned Enterprise to provide a public service that may not be in line with the financial objectives of the State-Owned Enterprises provided that such Public service falls within the mandate of that SOE".

Consideration

The Ministry was in agreement with the proposed amendment.

Advice

It is proposed that clause 27(1) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 31

Evidence

It was recommended to the Committee for this clause to be redrafted as follows.

1) A State-Owned Enterprise may acquire any land, or any interest in any land, for any legitimate purpose of the State-Owned Enterprise;
2) A land or the interest in any land shall be deemed to be required for a public purpose and may be acquired under the law for the time being making provision for the compulsory acquisition of such land.

Consideration

The Committee agreed with the proposal for incorporation into the Bill to clear any ambiguity on the clause.

Advice

It is proposed that clause 31 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 33(1)(c)

Evidence

It was recommended that this Clause be deleted as it is adequately covered under the performance contract.

Consideration

The Ministry agreed with the recommendation.

Advice
It is proposed that clause 33(1)(c) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 33(2)
Evidence
The Committee proposed the word "Shall" be replaced with "may" and add "at a time" after three years in the clause. This will avail the Management of SOEs and the Commission the option of reviewing their Memoranda's if there is a need after every year.
Consideration
The Ministry agreed with the suggestion to amend the word "Shall" to "May" in the Clause.
Advice
It is proposed that clause 33(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

PART V BOARD OF DIRECTORS OF THE STATE-OWNED ENTERPRISES

Clause 35
Evidence
The Committee recommended that the 'three women representatives in the boards of SOEs to be replace with "two women representatives" for consistency with Clause 5. Furthermore, the Committee recommended for the replacement of Sub Clauses 35(b)(c) with "Permanent Secretary of the Ministry" and Permanent Secretary of the Ministry of Finance" respectively.
Consideration
The Ministry agreed with the suggestion in order to be in line with other legislations regulating SOEs.
Advice
It is proposed that clause 35(b)(c) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 37

The Committee recommended to add "within or outside" in this clause to cater for both the database and those who are qualified by applying. It further suggested to the Committee for the addition of or "equivalent of fifteen years' experience" to subclause 37(c) to cater for those with experience in their respective fields.

Consideration

The Ministry agreed with the suggestion to be incorporated in the Bill.

Advice

It is proposed that clause 37 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 39

Evidence

The Committee proposed that the word "reappointed" to be replaced with "reappointment".

Consideration

The Ministry agreed with the proposal and indicated that it was a typographical error.

Advice

It is proposed that clause 39 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 41

Evidence

The Committee recommended that the "Minister" be replaced with the "President" under this Clause and Sub Clause 41(2)(b). The fact that the President appoints these Directors, their resignation should equally be addressed to the President.

Consideration

The Ministry agreed with the proposal for amendments in these Clauses.

Advice

It is proposed that Clause 41 and 41(2)(b) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 42(2)(c)

Evidence

The Committee recommended that the sentence should be reframed as "uses any income generated from the SOEs to cover its operations".

Consideration

The Ministry concurred with the recommendation to be incorporated in the Bill.

Advice

It is proposed that Clause 42(2)(c) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 43

Evidence

The Ministry recommended to expunge the clause and subclause to continue under clause 42 as subclauses 42(4) and 42(5).

Clause 44

Evidence

It was received in evidence that the phrase "or any other cause" in this clause is vague. It was further recommended that the phrase be deleted and the addition of "in consultation with PSC".

Consideration

The Ministry agreed with the proposal for amendments.

Advice

It is proposed that Clause 44 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 55

The Committee recommended to the legal team from MoJ to add a subclause to address the issue of quorum and voting for a conflicted Director under the clause.

PART VI FINANCIAL PROVISIONS

Clause 60(1)(a)

Evidence

It was received in evidence that the term "governance" is more commonly used than "by-law". In this regard, it was recommended that the term "by-law" to be replaced with "governance".

Consideration

The Ministry was in agreement with the suggestion for amendment.

Advice

It is proposed that Clause 60(1)(a) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 66

Evidence

Both the Committee and the Ministry agreed to expunge this clause. This is due to the fact that the CEO is part of the composition of the Board.

Advice

It is proposed that Clause 66 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 73(2)

Evidence

The Committee together with the Ministry both agreed to delete the word "Commission" and replace it with "the Auditor General". This is in line with the 1997 Constitution of the Republic of the Gambia.

Advice

It is proposed that Clause 73(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 74

Evidence

The Committee recommended that "National Assembly" should be deleted from the clause, and the word "and" be replaced with "through".

Consideration

It was agreed by the Ministry.

Advice
It is proposed that Clause 74 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 75
Evidence
In line with Section 175 of the 1997 Constitution of the Republic of The Gambia, the Committee recommended for the replacement of "before" with "after" and "and" with "through" in the clause.
Consideration
The Ministry agreed with the proposal for consistency with the Constitution.
Advice
It is proposed that Clause 75 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 77
Evidence
The Committee proposed for the inclusion of "GPPA procurement compliance report" for the assessment of procurement compliance.
Consideration
This was agreed by the Ministry for incorporation in the Bill.
Advice
It is proposed that Clause 77 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 79(1)
Evidence
The Committee recommend for the replacement of the phrase "without the prior approval of the Commission" in the clause with the phrase "by the Commission".
Consideration
The suggestion was agreed by the Ministry for amendment in the Bill.
Advice
It is proposed that Clause 79(1) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 81

Evidence

The Committee recommended for the definition of "recapitalization" under the clause.

Consideration

The Ministry agreed with the recommendation.

Advice

It is proposed that Clause 81 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 84

The Committee recommended for the addition of "and public" to subclause 84(4)(a) as SOEs are mandated to provide public services to the populace.

Consideration

The Ministry agreed with the recommendation.

Advice

It is proposed that Clause 84 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 83(2)

Evidence

The Committee and Ministry agreed to add a sub-clause under this Clause, and it reads "(c) the Commission shall within fourteen days review and give feedback on the draft Business Plan to the Board".

Advice

It is proposed that Clause 83(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 85(1)

Evidence

The Committee recommended for the deletion of the phrase "approved by the NAO" in this Clause. This is due to the fact that the NAO is not mandated to approve the National Auditing and Accounting Standards.

Consideration

The Ministry agreed with the recommendation for amendments.

Advice
It is proposed that Clause 85(1) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 86
Evidence
It is proposed for the replacement of "approving" with conveying" in subclause 86(3 for consistency, as the Commission do not have approving authority.
Consideration
The Ministry agreed with the recommendation.
Advice
It is proposed that Clause 86 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 93(2)(a)
Evidence
The Committee and the Ministry agreed that this sub-clause be deleted from the Bill. The fact that the Profit and Loss account is contained in the Financial Statements will suffice.
Advice
It is proposed that Clause 93(2)(a) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 93(3)
Evidence
The Committee proposed for the replacement of "Profit and Loss" with "Financial Statements". The financial statement accounts contain the profit and loss and other accounts.
Consideration
The Ministry agreed with the proposal for amendment in the Bill.
Advice
It is proposed that Clause 93(3) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 96(1)(a)

Evidence

The Committee recommended the clause to be restructured as "before the beginning of the financial year, an estimate updating the budget for the current year".

Consideration

The Ministry was in agreement with the recommendation for amendment in the Bill.

Advice

It is proposed that Clause 96(1)(a) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 96(4)

Evidence

The Committee recommended for the deletion of "Economic Affairs" and maintain the "Ministry responsible for finance" for consistency.

Consideration

The Ministry was in agreement with the proposed amendment.

Advice

It is proposed that Clause 96(4) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 100

Evidence

The Committee recommended that "97" in this Clause to be replaced with "99" as Clause 100 refers to Clause 99 and not Clause 97.

Consideration

The Ministry was in agreement with the proposed amendment.

Advice

It is proposed that Clause 100 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 102

It was recommended to change clause 102, the word "objects" to "objectives" under the act.

Consideration
The Ministry was in agreement with the proposed amendment.
Advice
It is proposed that Clause 102 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

PART VII PROHIBITED ACTIVITIES

Clause 109(2)
Evidence
It was agreed by both the Committee and the Ministry to restructure this clause to read as "A person shall hold not serve as a member of more than one board at any given time".
Consideration
The Committee agreed with the proposal for amendment into the Bill.
Advice
It is proposed that Clause 109(2) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 110
Evidence
The Ministry recommended to the Committee to rephrase clause 110 as "A director of a board shall not accept in respect of any transaction involving the state-owned enterprise" to apply to subclauses 110(a)(b).
Consideration
The Committee agreed with the proposal for amendment into the Bill.
Advice
It is proposed that Clause 110 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 112 recommended for redrafting of this clause by the MoJ.

Clause 115(1)(a)(iv)

Evidence

It was recommended by one of the sector experts that the phrase "any reasonable belief" in the clause to be replaced by the word "verifying". He argued that "verifying" is more substantive than the phrase "any reasonable belief" in this context.

Consideration

The Ministry was in agreement with the recommendation.

Advice

It is proposed that Clause 115(1)(a)(iv) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 116

Evidence

It was agreed by both the Committee and the Ministry to amend the clause to read as "The Public Enterprises Committee established under section 175(4) of the Constitution shall continue to monitor the operations of the State-Owned Enterprises". It was further recommended that this Clause to be moved to clause 125.

Consideration

The Ministry was in agreement with the recommendation.

Advice

It is proposed that Clause 116 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 121

Evidence

It was recommended to the Committee to replace the words "order" and "appoint" the word "recommend" in subclauses 121(1)(e)(g)(i)(j) in these subclauses, the power given to the Commission are Executive powers. The Commission can only recommend.

Consideration

The Committee was in agreement with the recommendation.

Advice

It is proposed that Clause 121 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

PART VIII MISCELLANEOUS PROVISIONS

Clauses 117
Evidence
The Committee proposed for the replacement of "is guilty of" with "commits" as the law provides that a person is innocent unless proven guilty by a court.
Consideration
The Ministry agreed with the proposal for incorporation into the Bill.
Advice
It is proposed that Clause 117 with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 121(3)
Evidence
For consistency with this Act, the Committee recommended the addition of the phrase "subject to or in addition to section 44", to this Clause. It was further recommended to move this clause to clause 44.
Consideration
The Ministry agreed to the recommendation for incorporation into the Bill.
Advice
It is proposed that Clause 121(3) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 122(1)(g)
Evidence
The Committee recommended for the deletion of this subclause.
Consideration
The Ministry with the proposal for incorporation into the Bill.
Advice
It is proposed that Clause 122(1)(g) with amendment, as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Clause 124 The Committee recommended to the legal team to redraft this clause.

Clause 125

Evidence

The Ministry recommends to expunge Subclauses 125(1) and 125(3) as the bill only cover the Commercial SOEs, therefore, it cannot repeal the Public Enterprises Act and the Finance Regulations 2016.

Consideration

The Committee agreed with the proposal for the clauses to be expunged from the Bill

Advice

It is proposed that Clause 125(1) and 125(3) with amendments as presented in the clean copy of the Bill incorporating all the amendments, stands part of the Bill.

Hon. Speaker, I beg to move.

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Honourable Lamin J Sanneh

Chairperson - Public Enterprises Committee