



PARLIAMENT OF UGANDA

REPORT OF THE COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON NATIONAL LOCAL CONTENT BILL, 2019

OFFICE OF THE CLERK TO PARLIAMENT
KAMPALA,
UGANDA

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REPORT OF COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT ON THE NATIONAL LOCAL CONTENT BILL, 2019

1.0 Introduction

The National Local Content Bill, 2019 was read for the first time on 30th January 2019 and referred to the Committee on Legal and Parliamentary Affairs in accordance with Rule 118 of the Rules of Procedure of Parliament. The Rt. Hon. Speaker withdrew the Bill on 26th February 2019 from the Committee on Legal and Parliamentary Affairs and referred it to the Committee on Finance, Planning and Economic Development.

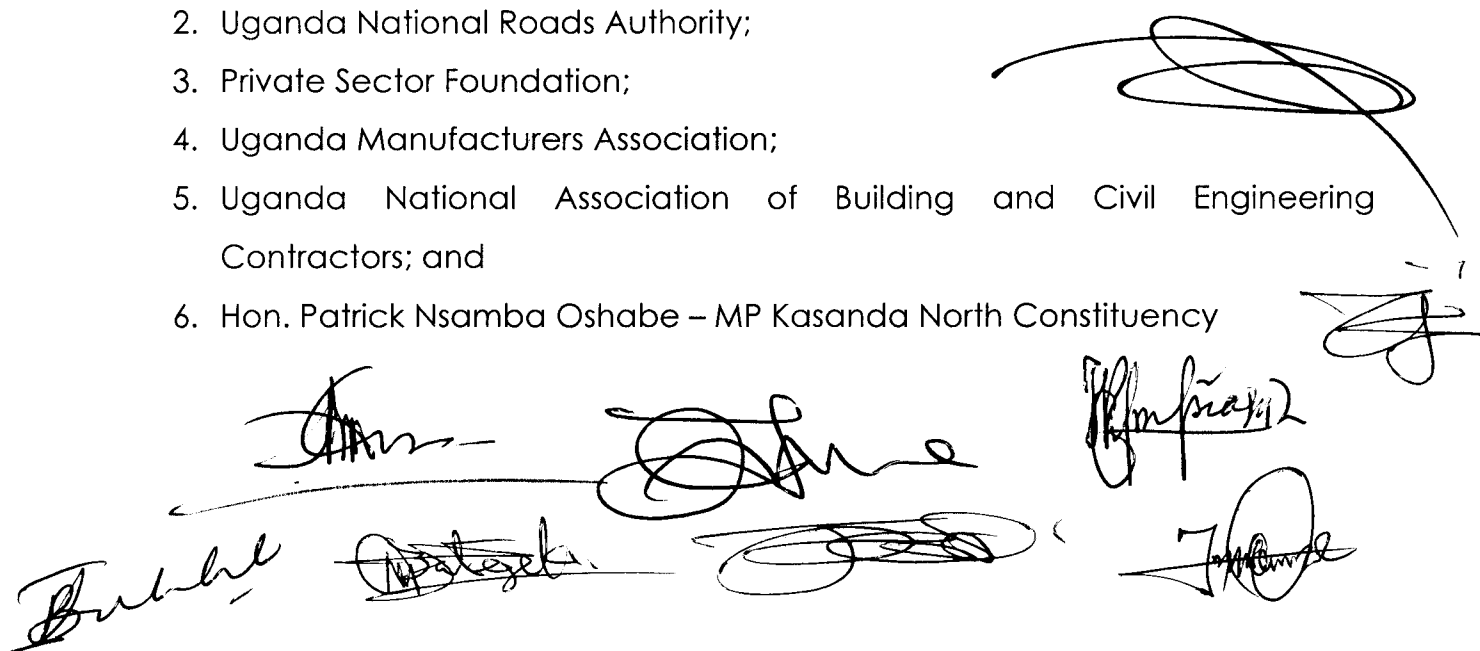
2.0 Object of the Bill

The object of the bill is to impose local content obligations on a person using public money or utilizing Uganda's natural resources or carrying on an activity requiring a license; to prioritize Uganda citizens, Ugandan and Resident companies in public procurement; to ensure skills and technology transfer to Ugandans; to provide for the development of local content plans; to provide for the supervision, coordination, monitoring and implementation of local content in Uganda; and for related matters.

3.0 Methodology

The Committee held meetings and received memoranda from the following:

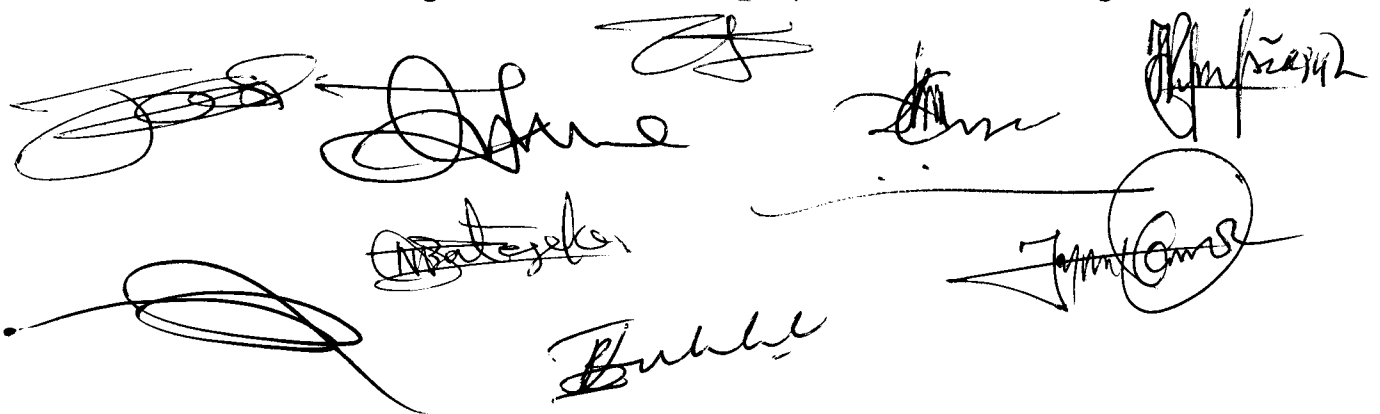
1. Ministry of Finance, Planning and Economic Development;
2. Uganda National Roads Authority;
3. Private Sector Foundation;
4. Uganda Manufacturers Association;
5. Uganda National Association of Building and Civil Engineering Contractors; and
6. Hon. Patrick Nsamba Oshabe – MP Kasanda North Constituency

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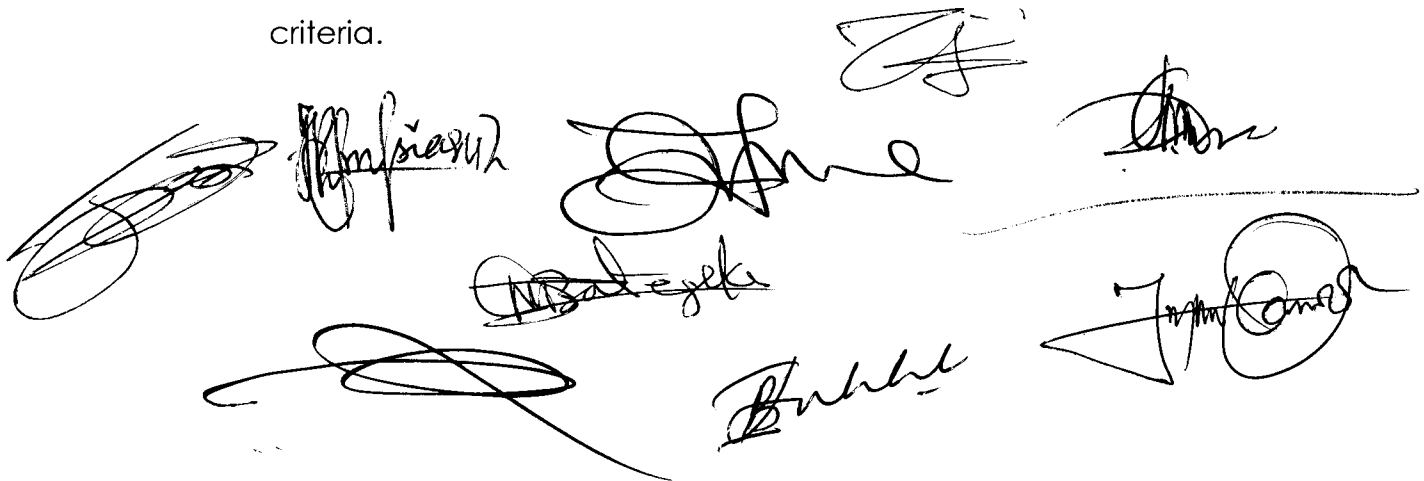
4.0 Observations by members

The Committee observed that:

1. The bill seeks to establish a department within the Ministry of Finance which shall be responsible for the implementation of the provisions of the Bill. The Bill applies to several activities not limited to only procurement. It applies to local content entities that are in possession of an investment license or being an entity or individual being a beneficiary of a tax remission or any such similar incentives; applies to public private partnership agreements; applies to those activities which are financed through public borrowing or any such similar arrangement. Implementation of the bill will therefore best be handled by the Ministry since it can easily coordinate with other implementing agencies.
2. In several clauses of the bill, the terms "Ugandan company, Ugandan entity and resident entities" are used interchangeably. These may confuse readers and implementers of the bill leading to inefficiencies in implementation if they are not well aligned. There is need to align these terminologies to avoid ambiguities in the law which may lead to misinterpretation of the Act.
3. The bill proposes that goods shall be taken to be manufactured in Uganda where the production, manufacture, processing, assembling or making of such a good is carried out wholly or partly in Uganda. The word manufactured is consistently used in the bill but seems to be limiting the non-manufactured goods like agricultural and tourism products. The word "manufactured" might exclude the critical non-manufactured goods.

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4. The bill seeks to provide for the application of the rules of origin for East African Community in determining where goods are manufactured. However, local content laws for other EAC member states do not consider or use the rules of origin for EAC but their own rules. If this clause is maintained, it will open the Uganda market to other EAC companies without giving the local companies priority. The clause should be used on reciprocal basis and opportunity given to EAC countries where the goods or services are not available in Uganda.
5. The bill provides for negotiation of prices where the manufacturer or the service provider is a Ugandan Citizen. However, negotiation of prices is not allowed under the Public Procurement and Disposal of Public Assets Act. This may also disadvantage other bidders and affect the principle of competitiveness and transparency during the procurement process. There is need to harmonize the bill and the Public Procurement and Disposal of Public Assets Act, 2003.
6. Whereas the Public Procurement and Disposal of Public Assets Act, 2003 contains provisions relating to local content, the provisions are limited only to the creation of preference and reservation schemes. Furthermore, local content in the Public Procurement and Disposal of Public Assets Act is not only applicable to public procurements but is only considered at the tail end of the procurement process after all other evaluation criteria have been considered. This means that the persons it is intended to target at the time local content is considered, most of them have been eliminated or are no longer competitive by the application of the other evaluation criteria.



7. PPDA issued guidelines for reservation schemes to promote local content. Guidelines do not have the force of law as Acts of Parliament do and are therefore not binding as Acts. The guidelines are limited in scope as preference is given to procurement of army uniforms, electrical cables and conductors, medicines and medical supplies and not all goods and services manufactured or available in Uganda.
8. The "Buy Uganda Build Uganda (BUBU) Policy" which seeks to increase consumption and utilization of local products and increasing participation of the locally established firms in domestic trade has not been fully operationalized due to lack of an enabling law, nonexistence of implementation modalities and lack of sanctions for non-compliance.

5.0 Recommendations

The Committee recommends that the National Local Content Bill, 2019 be passed into law subject to the proposed amendments.



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PROPOSED AMENDMENTS TO THE NATIONAL LOCAL CONTENT BILL, 2019

1. Clause 2: Interpretation

Clause 2 is amended-

(a) by substituting for the definition of the word "foreign investor", the following;

"foreign investor" has the meaning assigned to it under the Investment Code Act, 2019"

(b) by deleting the word "and" In the definition of the word "Ugandan company"

Justification

To correct the reference to the Investment Code Act, 2019 since Cap. 92 was repealed by the Investment Code Act, 2019.

2. Clause 3. Designation of a Department

Clause 3 is amended-

- (i) in sub clause 3 (c) by inserting the words "subject to Article 119 of the Constitution" immediately before the word "review"; and
- (ii) Deleting paragraph (d)

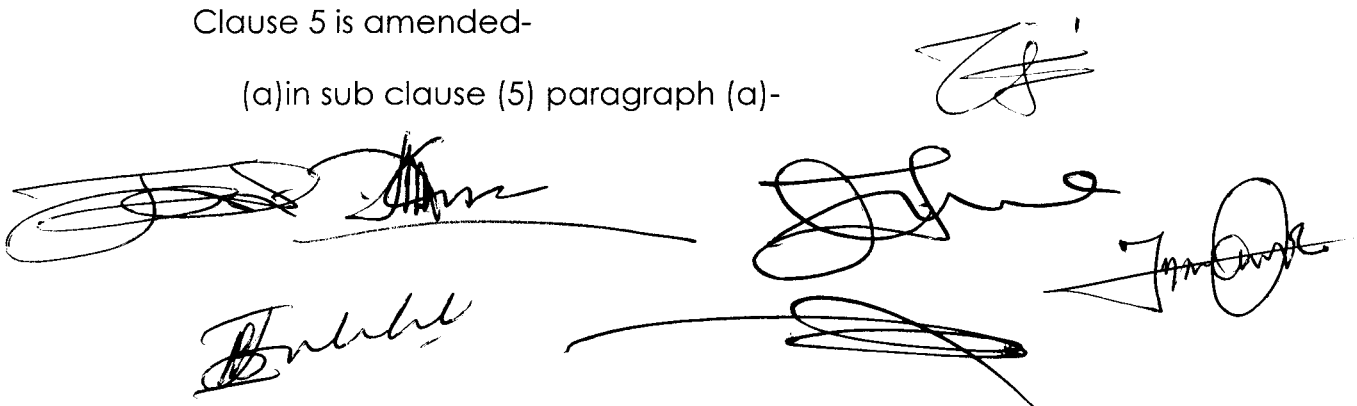
Justification

- (i) To subject the review of contracts under this Act under article 119 of the Constitution; and
- (ii) To remove an illegality where the department, not being a party to the contract being mandated to terminate a contract.

3. Clause 5: Rejection of Ugandan goods and services during procurement

Clause 5 is amended-

(a) in sub clause (5) paragraph (a)-

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(i) by inserting the words "or through an international standards agency" ; and

(ii) by deleting the word "service"

(b) in sub clause (5) paragraph (b)-

(i) by deleting sub paragraph (ii);

(ii) in sub paragraph (iii) by inserting the words "within five percent" immediately after the word "competitive"

(b) in sub clause (5) paragraph (c), by inserting the words "through irrevocable bank guarantee or alternative security" immediately after the word "demonstrated"

Justification

1. To provide a percentage range within which the competitive prices may be compared; and
2. To cater for the certification of goods by an international standards agency
3. To remove the aspect of negotiation in public procurement

4. Clause 6. Reservation of goods to be exclusively procured from Uganda

Clause 6 is amended-

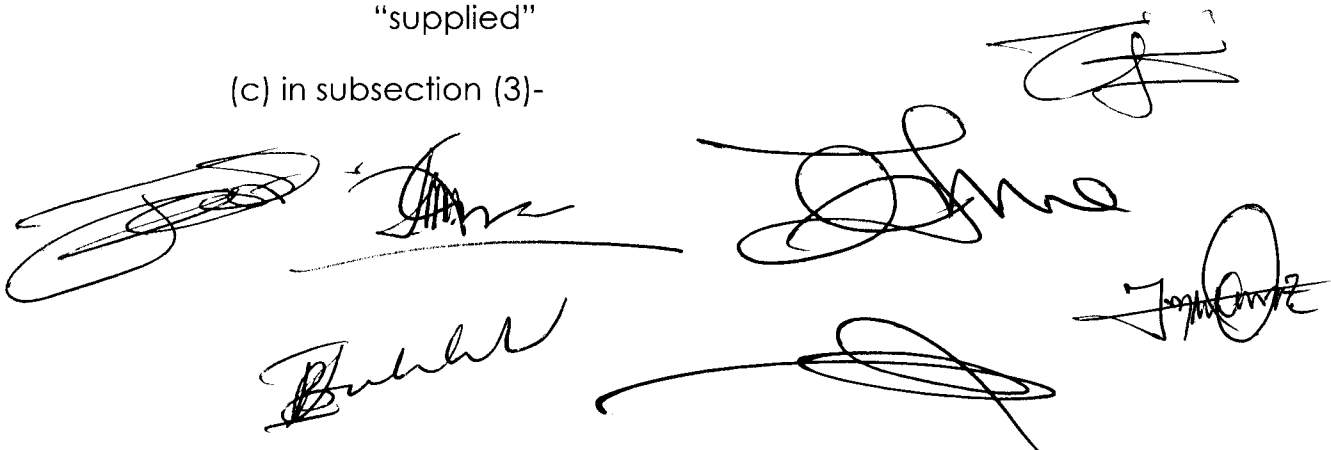
(a) in the headnote by inserting the words "or services" immediately after the word "goods"

(b) in subsection 2-

(i) by inserting the words "or service" immediately after the word "good"; and

(ii) by inserting the words "or provided" immediately after the word "supplied"

(c) in subsection (3)-



- (i) by inserting the word "entity or" immediately after the word "Ugandan"; and
- (ii) deleting the words "or entities"

Justification

- 1. To provide for reservation of services to be exclusively procured from Uganda and further, the Bill defines who a Ugandan entity is in the definition clause;
- 2. To correct a drafting error.

5. Clause 7. Preference of goods readily available on Ugandan market

Clause 7 is amended-

- (a) in the headnote by inserting the words "or services" immediately after the word "goods"
- (b) in sub clause (4) by inserting the words "and services" immediately after the word "goods"

Justification

To provide for the preference of services readily available on Ugandan market.

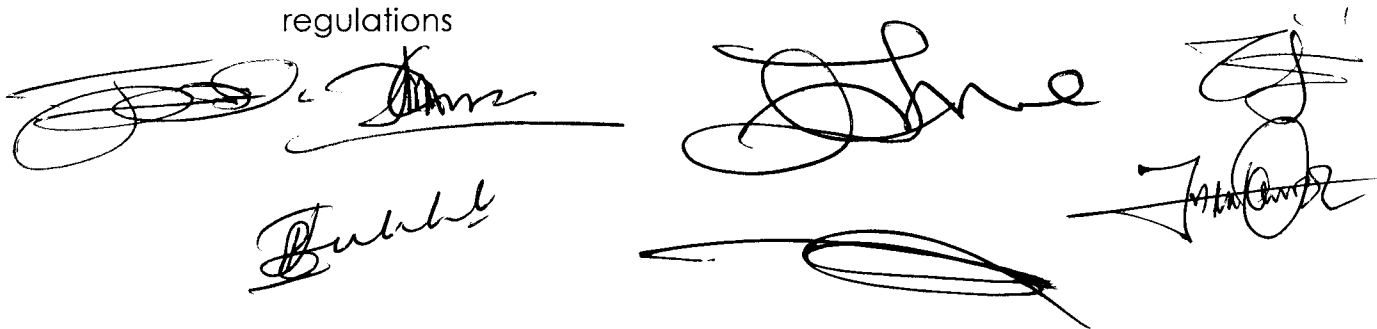
6. Clause 8. Employment of Ugandan citizens

Clause 8 is amended-

- (a) in sub clause (1) by deleting the word "Ministry" and substituting the word "Department"; and
- (b) in sub clause (2) by deleting the words "except that the difference in salary between the Ugandan citizens and the non-citizens employed in a similar job shall not exceed ten percent."

Justification

- 1. To provide consistency with clause 9 which provides for authorization by the department; and
- 2. The details of the percentages to be paid should be put in the regulations



7. Clause 9: Employment of non-citizens

Clause 9 is amended by deleting sub clause (4)

Justification

The clause may be very difficult to implement.

8. Clause 14. Requirement to subcontract public works contracts or activities

Clause 14 is amended-

(a) in sub clause (1)-

- (i) by substituting for the word "entity" appearing in the last line of the sub clause, the word "company"; and
- (ii) by adding the words "subject to fulfilling the eligibility requirements under section 16 of this Act".

(a) in sub clause (2) by substituting for the words "A person", the words "An individual or entity"

Justification

1. For consistency since the sub clause refers to a 'Ugandan company'
2. To ensure that the Ugandan entity being subcontracted meets the eligibility criteria under section 16 of the Act.
3. For consistency since sub clause (1) refers to 'an individual or entity'

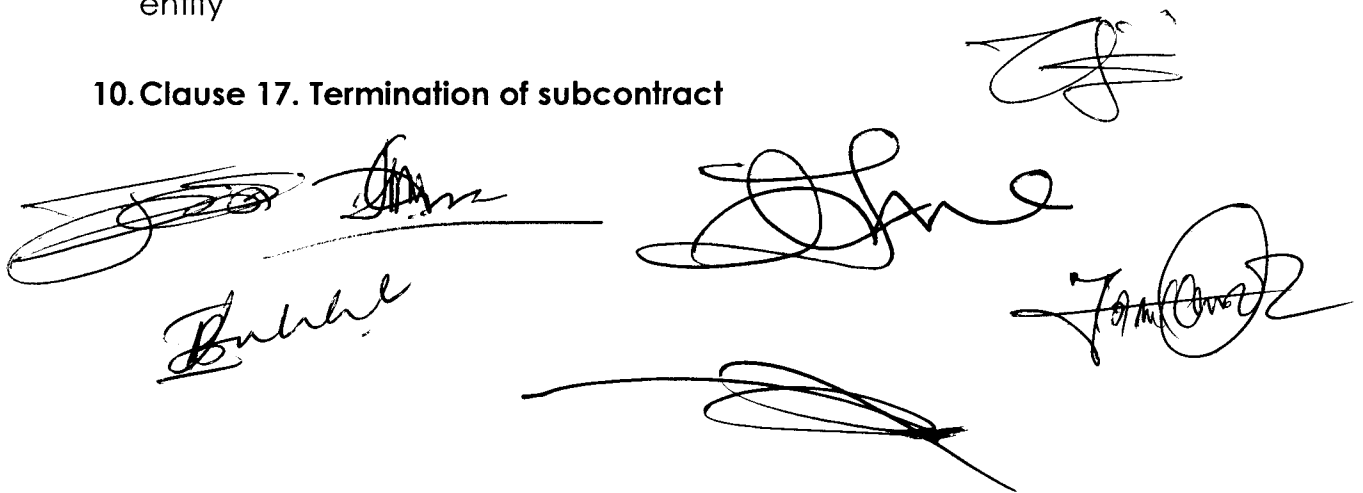
9. Clause 15: Liability for subcontracted works

Clause 15 is amended by substituting for the words "A person" the words "an individual or entity"

Justification

For consistency since clause 14 makes reference to 'an individual or entity'

10. Clause 17. Termination of subcontract

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Clause 17 is amended-

- (a) In sub clause (1) by substituting for the word "terminated" the words "recommended for termination"
- (b) in sub clause (2) by adding the words "or individual" immediately after the word "entity";
- (c) by substituting for sub clause (3), the following:
"(3) Where a subcontractor has been recommended for termination under subsection (2), the Ugandan entity or individual shall be barred from doing business with the Government for a period of five years"
- (d) in sub clause (4) by substituting for the word "terminated" the words "recommended for termination"
- (e) in sub clause (5) by substituting for the word "terminated" the words "recommended for termination"

Justification

- (i) To provide for 'recommendation for termination' of the sub contract by the Department since the Department cannot legally terminate the subcontract, aware that it is not privy to the contract.
- (ii) To have the grounds of termination of a subcontract also apply to an individual
- (iii) To reduce the period for which an entity or an individual may be barred from doing business with Government

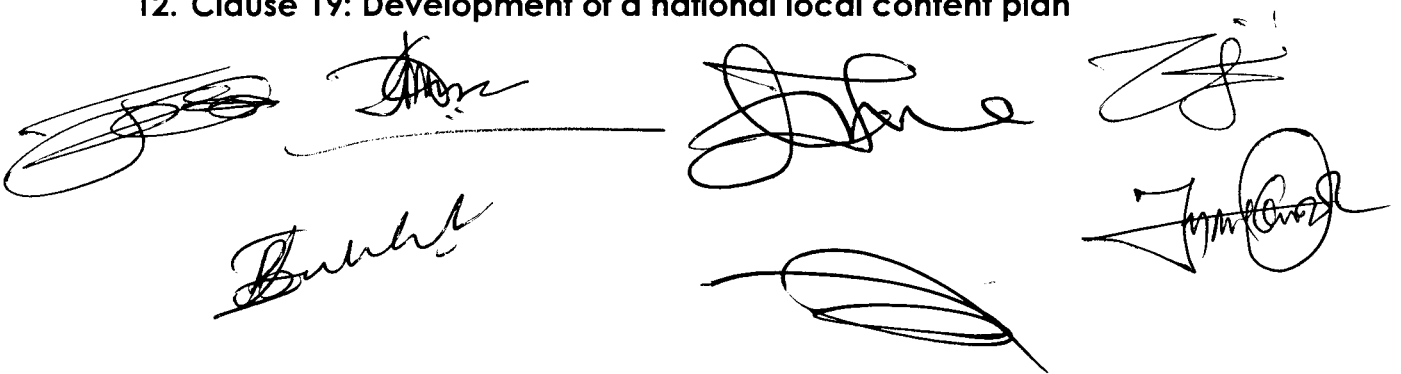
11. Clause 18: Certificate of completion

Clause 18 is amended in sub clause (1), by inserting the words "or individual" immediately after the word "entity"

Justification

To enable an individual obtain a certificate of completion upon successfully executing the contracted works and for consistency.

12. Clause 19: Development of a national local content plan



Clause 19 is amended in sub clause (1) by deleting the words "in consultation with the Minister"

Justification

Under sub clause (2), the Minister is mandated to approve the national local content plan which makes the Minister a participant in the development of the national local content plan.

13. Clause 24: Procurement planning

Clause 24 is amended in sub clause (4) by inserting the words "by regulations" immediately after the word "determine"

Justification

To specifically provide for the determination of the thresholds by the Minister to be by regulations.

14. Clause 26: Local content for public works funded through loans

Clause 26 is amended-

- (a) in sub clause (3)(d) by deleting the words "eighty" and substituting the word "sixty"; and
- (b) in sub section (3)(e) by deleting the words "contractors and" immediately after the word "its"
- (c) in sub clause (5)(b), by inserting the word "Consolidated" immediately after the words "into the"

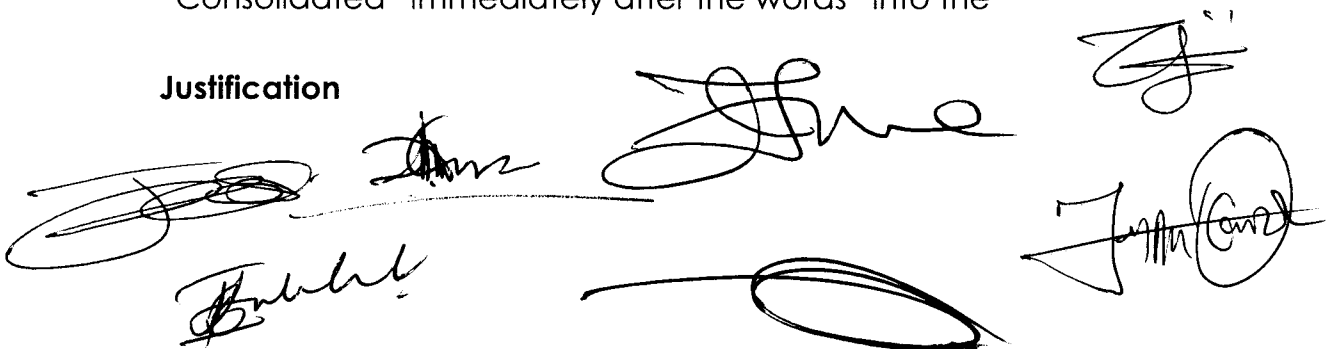
Justification

- (i) To harmonise the percentages of Ugandan citizens to be employed by a supplier, provider or contractor with those already existing in the Investment Code Act, 2019;
- (ii) To delete the reference to a contractor in the sub clause; and
- (iii) To provide for clarity that the reference is to the Consolidated Fund

15. Clause 28: Administrative measures for compliance

Clause 28 is amended in sub clause (1) (d), by inserting the word "Consolidated" immediately after the words "into the"

Justification

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To provide for clarity that the reference is to the Consolidated Fund

16. Clause 30: Incentives

Clause 30 is amended-

- (a) by renumbering the current clause as (1); and
- (b) by inserting a new clause (2) to read as follows:

“(2). The incentives under sub section (1) shall be spelt out in the Regulations made by the Minister.”

Justification

To provide for incentives to be spelt out in the regulations

17. Clause 31: Offences and penalties

Clause 31 is amended-

- (a) in sub clause (1)(i) by deleting the word “deviation” and substituting the word “diversion”;

Justification

To provide for the offence of ‘benefit diversion’ and not ‘benefit deviation’.

18. Clause 35: National supplier database for Ugandan entities and citizen

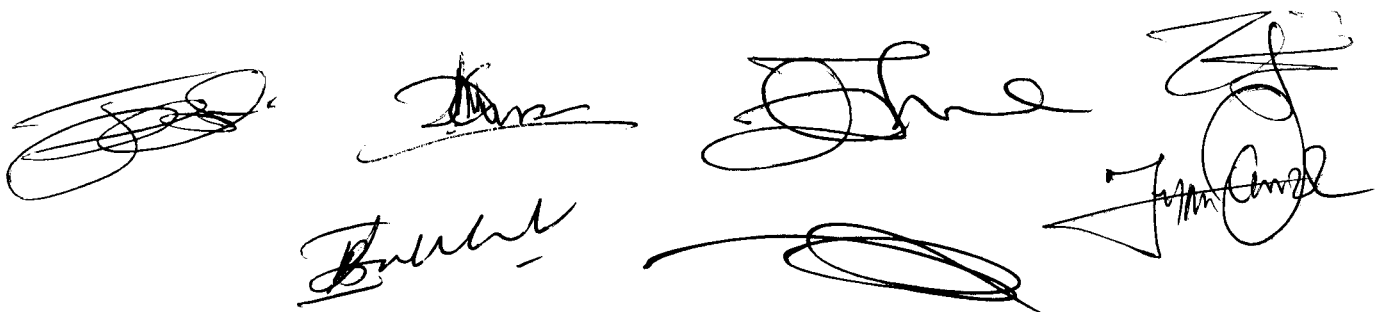
Clause 35 is amended in sub clause (3) by deleting the word “designated”

Justification

There is only one department being referred to under sub clause (1) of clause 35

19. Clause 36: Requirements to keep records

Clause 36 is amended by substituting sub clause(1) with the following:



"(1). A local content entity shall maintain records relating to the local content entity's compliance with this Act"

Justification

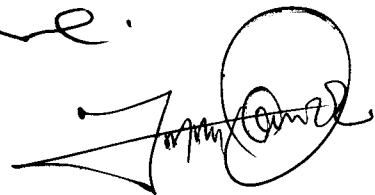
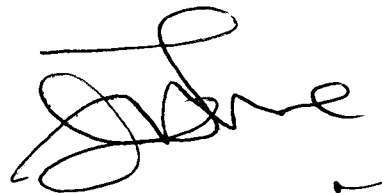
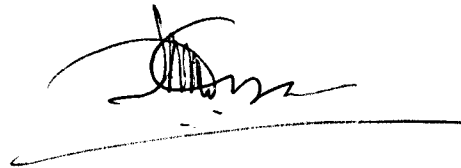
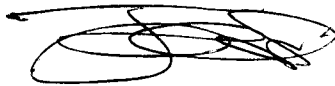
To better draft the sub clause

20. Clause 45: Regulations

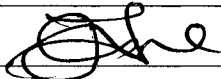
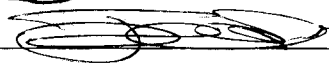

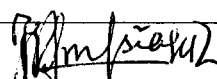
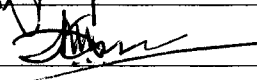
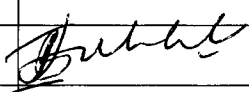
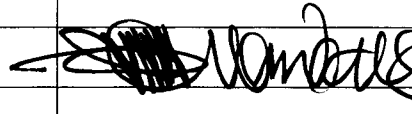
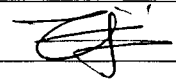
Clause 45 is amended by deleting the words "and for its due administration"

Justification

They are not necessary.



**REPORT OF COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT
ON THE NATIONAL LOCAL CONTENT BILL, 2019**

No	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Musasizi Henry, CP	Rubanda East	
2	Hon. Avur Jane Pacuto	DWR Pakwach	
3	Hon. Lugolobi Amos	Ntenjeru North	
4	Hon. Asiku Elly Elias	Koboko North	
5	Hon. Bategeka Lawrence N	Hoima Municipality	
6	Hon. Abala David	Ngora County	
7	Hon. Katoto Hatwib	Katerera County	
8	Hon. Opolot Isiagi Patrick	Kachumbala County	
9	Hon. Tumuramyie Genensio	Kashongi County	
10	Hon. Stella Kiiza	Kyegegwa District	
11	Hon. Ilukor Charles	Kumi county	
12	Hon. Lokii John Baptist	Matheniko County	
13	Hon. Walyomu Muwanika Moses	Kagoma County	
14	Hon. Mulindwa Isaac Ssozi	Lugazi Municipality	
15	Hon. Odur Jack Lutanywa	Kibanda South	
16	Hon. Achia Remigio	Pian County	
17	Hon. Mukula Francis	Agule Pallisa	
18	Hon. Kakooza James	Kabule County	
19	Hon. Ayepa Michael	Labwor County	
20	Hon. Nathan Nandala-Mafabi	Budadiri West	
21	Hon. Akol Anthony	Kilak North	
22	Hon. Mukoda Julie Zabwe	DWR Mayuge	
23	Hon. Luttamaguzi Semakula	Nakaseke South	
24	Hon. Akello Judith Franca	Agago District	
25	Hon. Ochan Patrick	Apac Munucipality	