

PARLIAMENT OF UGANDA

REPORT OF THE COMMITTEE ON GENDER, LABOUR AND SOCIAL DEVELOPMENT ON THE EMPLOYMENT (AMENDMENT) BILL, 2023, AS RETURNED BY THE PRESIDENT

OFFICE OF THE CLERK TO PARLIAMENT  
PARLIAMENTARY BUILDINGS  
KAMPALA  
UGANDA

FEBRUARY 2025

Nawukwa

## 1.0. INTRODUCTION

The Employment (Amendment) (No.2) Bill, 2022 was presented for first Reading on 6<sup>th</sup> December 2022, by the Minister for Gender Labour and Social Development. The Bill was subsequently referred to the Committee on Gender, Labour and Social Development for consideration in accordance with Rule 129 of the Rules of Procedure of Parliament.

On 21<sup>st</sup> September 2022, Hon Agnes Kunihira, Workers' Representative had also moved a Private Member's Bill titled the Employment (Amendment) Bill, 2022, and the Rt. Hon. Speaker referred the bill to the same Committee. The Committee, following the guidance of the Rt. Hon. Speaker, took into consideration Employment (Amendment) Bill, 2022 and harmonized it with the Government Bill.

On 25<sup>th</sup> May 2023, Parliament considered and passed the Bill. Subsequently H.E the President returned the Bill to Parliament in accordance with Article 91(3) (b) of the 1995 Constitution with a request that Parliament reconsiders some provisions of the Bill.

The President in a letter addressed to the Rt. Hon. Speaker dated 13<sup>th</sup> November 2023, requested for the reconsideration of the Bill on the following grounds;

### i. Definition of Foreign Recruitment Agency

*Clause 1(e) of the Bill, defines a "foreign recruitment agency" to mean an agency based outside Uganda which is accredited by the Ministry of Gender Labour and Social Development to recruit Ugandans to work abroad.*

According to H E, the President, accreditation of foreign recruitment agencies should be handled by Ugandan missions abroad instead of the MoGLSD since

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the Ministry does not have offices abroad to effectively implement the provision.

The President therefore proposes that the definition of a foreign recruitment agency be amended as follows;

*"foreign recruitment agency "means an agency based outside Uganda which is accredited by a Ugandan Mission responsible for the country of the agency"*

**ii. The Amendment Act removes the powers of adjudication from a Labour Officer**

*Clause 4 of the Amendment Bill amends Section 13 of the principal Act in subsection (1) (a) by repealing the words, "arbitration, adjudication".*

According to H.E, the President, the section will have the implication of removing from a labour officer the powers of adjudication which is provided for under section 13(1)(a). H.E, the President recommends that labour officers should retain their powers to adjudicate over labour dispute.

He further noted that whereas the word "adjudication" is understood in the legal profession as the power to decide a matter by a judicial officer, the Employment (Amendment) Act should allow labour Officers to adjudicate but define the word adjudication "within the context of the Act.

*H.E, the President proposes the following definition for the word "Adjudication";*

**"Adjudication"** *means a form of dispute settlement in which a labour officer considers the evidence and arguments of both parties to a labour dispute upon which he or she makes a decision binding on the parties to the dispute."*

**iii. Insertion of new section 34A on casual employment**

Clause 6 is an insertion of a new section 34A which provides under section 34A (2) that after six months of continuous employment, a casual employee shall be deemed to have entered a contract of service with the employer.

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H.E, the President noted that the implication of the clause would be that a person working as a casual employee continuously for more than (six) 6 months will automatically have a contract of service which will attract legal obligations on the part of the employer that had not been anticipated and are more likely to increase unemployment as employers will shun persons willing to be employed on casual basis.

*H E, the President proposes that this amendment should not be carried forward in the Bill as it may cause more harm than good.*

**iv. Issuing of licenses to recruitment agencies**

*Clause 39B of the Amendment Bill provides that **“the Minister may issue a licence to a person to transact the business of a recruitment agency in Uganda.”***

According to His Excellency the President, the role of issuing licenses should lie with the Permanent Secretary and not the Minister so as to allow the Minister to concentrate on policy issues. The President proposes that the Committee reconsiders the technical team of the Ministry to handle the matter and make recommendations to the Minister.

**v. Amendment of section 55(1) (a) on sick pay**

*Clause 10 proposed an amendment of the Employment Act by substituting in subsection 55 (1)(a) for the words “first month”, the words, “two months”*

H E, the President proposes that the word “first” be inserted before “two months” to allow the amendment read as follows;

*“(a) for the first two months’ absence from work he or she is entitled to full wages and every other benefit whether for his or her family or himself or herself as stipulated in the contract of service”*

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## **2.0. ROLE OF A COMMITTEE IN CONSIDERATION OF A BILL RETURNED BY H.E THE PRESIDENT**

H. E. the President returned the Employment (Amendment) (No.2) Bill 2022 under Article 91 (3) (b) of the Constitution with a request that some provisions of the Bill be reconsidered by Parliament. The Article provides that the President shall, within thirty days after a Bill is presented to him or her, if not assented to under Article 91 (3) (a), return the Bill to Parliament with a request that the Bill or a particular provision of it be considered by Parliament.

Article 91(4) of the Constitution provides that where a Bill has been returned to Parliament, Parliament is required to reconsider the Bill and if passed again, it is presented for a second time to the President for assent.

In accordance with Rule 143 of the Rules of Procedure of Parliament, which provide on the procedure for the reconsideration returned bills by the President, the Rt. Hon. Speaker referred the returned Bill to the Committee on Gender, Labour and Social Development for reconsideration of the matters raised in the President letter.

### **3.0 METHODOLOGY**

During the reconsideration of the returned Bill, the committee held meetings and received written submission from the following;

- 1) The Hon. Attorney General
- 2) The Ministry of Gender, Labour and Social Development
- 3) The National Organisation of trade Union (NOTU)

### **4.0 CONSIDERATION OF THE MATTERS REFERRED TO THE PRESIDENT'S LETTER**

In the reconsideration of the returned Employment (Amendment) (No. 2) Bill, 2022, the committee observed that the bill that was presented for first reading was drafted following the old version of the laws of Uganda (6<sup>th</sup> Edition), the amendments to the bill were therefore drafted following the Employment Act, 2006.

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Therefore, on the basis of section 8(2) of the Act of Parliament Act, the Committee requests that the provisions in the bill be aligned with their correct references in the revised Employment Act, Cap 226.

The Committee has examined the provisions returned for consideration by H.E, the President and reports as follows;

**4.1 Clause 1: Definition of Foreign Recruitment Agency**

*Clause 1(e) of the Bill, defines a “foreign recruitment agency” to mean an agency based outside Uganda which is accredited by the Ministry of Gender, Labour and Social Development to recruit Ugandans to work abroad.*

H.E. the President proposed that the definition of a foreign recruitment agency should be amended as follows;

*“foreign recruitment agency “means an agency based outside Uganda which is accredited by a Ugandan Mission responsible for the country of the agency”*

According to H.E. the President, accreditation of foreign recruitment agencies should be handled by Ugandan missions abroad, instead of the MoGLSD as proposed in the returned Bill since the Ministry does not have offices abroad to effectively implement the provision.

The Attorney General and the MoGLSD agreed with the President’s proposal on the grounds that the proposal aligns with the current practice and that the MoGLSD does not have offices abroad to effectively implement accreditation of the foreign recruitment agencies and relies on the Missions abroad to handle this function. NOTU proposed an amendment to the President’s proposed definition with an insertion that accreditation be done by Ugandan missions in consultation with the Ministry on the basis that issues of migrant workers are best handled by the line Ministry.

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**Committee's Observations**

The Committee on the basis of the review of both the definitions from the returned Bill and the President's proposal made the following observations;

- i. the President's proposal is in alignment with the current practice where foreign recruitment agencies are being accredited by the Missions abroad.
- ii. upon review of the entire definition of a foreign recruitment agency, the Committee established that the definition is silent about what an "agency" is, and this can encourage unrecognized persons to operate as foreign recruitment agencies. Secondly, the definition states that a foreign recruitment agency is accredited to "recruit migrant workers abroad".
- iii. the foreign recruitment agencies are only being accredited and not being licensed, as required under *Regulation 7 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations 2021 and hence in contravention of the law.*
- iv. as a result of the contravention in (ii), an avenue has been created for intermediaries to recruit migrant labour, human trafficking, lack of accountability for missing migrant workers, abuse of the rights of migrant workers and in most cases creating a burden for government in terms of repatriations costs for distressed migrant workers.
- v. as submitted by NOTU, the line Ministry should be involved on issues of foreign recruitment agencies since it's the one mandated with the regulation of recruitment of migrant workers abroad under the Employment Act Cap 226.

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**Recommendation;**

**The Committee recommends that in addition to adopting the President's proposal, the entire definition of a foreign recruitment agency is amended to align it with the law.**

**4.2 The Amendment Act removes the powers of adjudication from a Labour Officer**

H E, the President noted that the amendment repealed the powers of a Labour Officer to adjudicate labour disputes which are granted under section 13 (1) (a) of the Employment Act 2006. He further noted that whereas the word "Adjudication" is understood in the legal profession as the power to decide a matter by a judicial officer, the Employment (Amendment) Act should allow Labour Officers to adjudicate but define the word adjudication "within the context of that Act.

*H.E, the President proposes the word Adjudication to be defined as below,*

*"Adjudication" means a form of dispute settlement in which a Labour Officer considers the evidence and arguments of both parties to a labour dispute upon which he or she makes a decision binding on the parties to the dispute."*

The Committee noted that Section 4 of the Employment (Amendment) Bill, 2022 is aimed at amending section 13 (1) (a) of the principal Act.

*Section 13 (1) (a) provides as follows; -*

*1). A Labour Officers to whom a complaint has been made under this Act shall have power to;*

- a) to investigate the complaint and any defense put forward for such a complaint and to settle or attempt to settle any complaint made, by way of conciliation, arbitration, adjudication or such procedure as he or she thinks appropriate and acceptable to the parties to the complaint with the involvement of any labour union present at the place of work of the complainant*

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The Attorney General and the MoGLSD agreed with the proposal of H.E, the President and stated that the definition of adjudication as proposed would bring clarity within the context of the Act.

The MoGLSD submitted further that it is only through adjudication that the Labour Officers will have power to determine employment complaints by the parties involved.


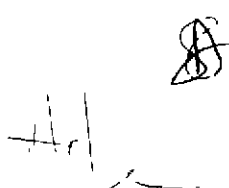
NOTU also agreed with the views of the President except for the definition of "adjudication". NOTU noted that the definition as proposed by the President which suggested that the decision of a Labour Officer in a complaint was binding on the parties, removed the right of appeal of an aggrieved party.

The Committee's observations are as follows,

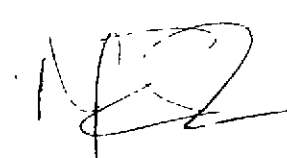
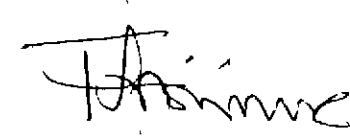
1. that adjudicating complaints at the level of the labour officer ensures that fewer matters are referred to the Industrial Court under section 4 of the Labour Disputes (Arbitration and Settlement) Act Cap 227 and this contributes to reducing case backlog at the Industrial court.
- ii. *the definition as proposed by the President that a decision of the labour officer is "binding on the parties to the dispute" is not legally tenable because it contravenes section 4(1) of the Labour Disputes (Arbitration and Settlement) Act Cap 227 which guarantees the right of an aggrieved party to have a labour dispute referred to the Industrial Court where he or she is dissatisfied by the report of the labour officer.*

**Recommendation;**

- i. **The proposal by H.E the President to repeal the word adjudication be adopted.**
- ii. **The definition of the word "adjudication" be amended by deleting the word binding.**



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- i. the proposal is in line with Objective XIV of the National Objectives and Directive Principles of State Policy of the 1995 Constitution which impose a duty on the State to ensure that all Ugandans enjoy rights, opportunities and access to work, pension and retirement benefits and international Instruments such as International Convention on Economic, Social and Cultural Rights and ILO Convention on the requirement for just and decent conditions of work for all employees.
- ii. the proposal does not contradict the definition of a casual employee under Section 2 of the Employment Act and neither does it deter investors from employing Ugandans as casual employees.
- iii. the proposal is already in force according to the Employment Act (Regulations) 2011 under Regulation 39 (1) and (2) which state that, "a person shall not be employed as a casual employee for a period exceeding four months and a casual employee engaged continuously for four months shall be entitled to a written contract and shall cease to be a casual employee and all rights and benefits enjoyed by other employees shall apply to him or her. Therefore, the Committee sought to provide for the same in the principal Act.
- iv. the proposal is intended to address the issue of disguising employment being given to Ugandans as casual employment when in actual sense, the people being employed as casual employers work continuously but are paid at the end of the month and in most cases for years.
- v. According to the Employment Skills and Status Report 2022 that was made by the National Planning Authority, 85% of the labour force in Uganda was employed under casual employment and this is a high number that remains potentially unemployed due to the absence of guarantee of a formal employment arrangement.

*Alexis*

**The Committee recommends that Clause 6 is maintained and stands part of the Bill.**

*Mandate*

#### 4.4 Issuing of Licenses to recruitment agencies

H.E the President noted that the role of issuing licenses should lie with the Permanent Secretary and not the Minister as proposed in *clause 39B of the returned Bill* so as to allow the Minister to concentrate on policy issues.

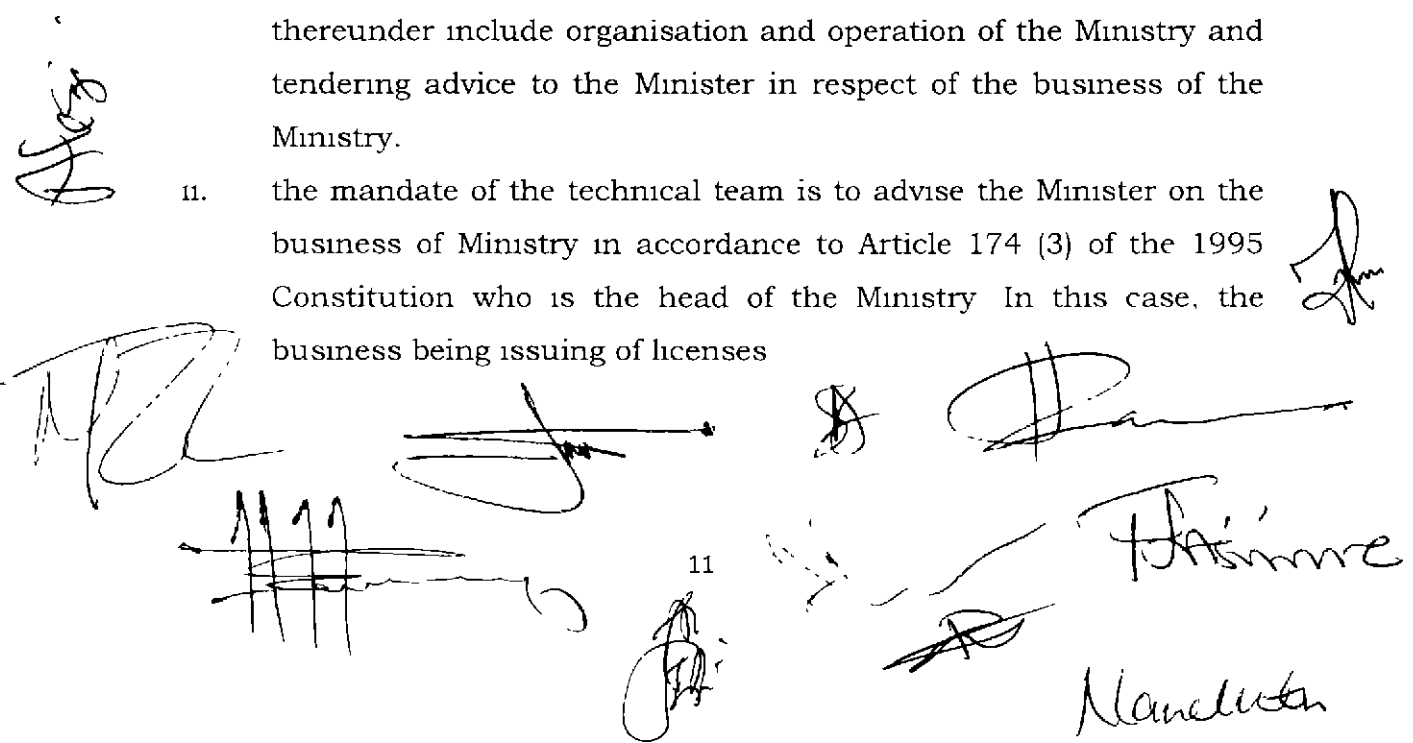
The Attorney General's in his submission was cognizant of the fact that Parliament had strongly recommended that the Minister should be responsible for the function of issuing licenses to recruitment agencies and not technical persons since it is the Minister that is answerable to Parliament and not technical persons.

The Attorney General however recommended that Parliament reconsiders that the technical team of the Ministry handles this matter and make recommendations to the Minister.

The Ministry and NOTU also proposed a similar view to that of the Attorney General that the technical team of the Ministry should handle the matter and make recommendations to the Minister and in this case, the responsible officer should be the Commissioner, employment services.

#### The Committee observed that;

- i. Article 174(1) (3) of the 1995 Constitution states that a Ministry shall be under the supervision of a Permanent Secretary and the functions thereunder include organisation and operation of the Ministry and tendering advice to the Minister in respect of the business of the Ministry.
- ii. the mandate of the technical team is to advise the Minister on the business of Ministry in accordance to Article 174 (3) of the 1995 Constitution who is the head of the Ministry In this case, the business being issuing of licenses



- iii. there is a gap in the current Employment (Recruitment of Uganda Migrant Workers) Regulations 2021 in that Regulation 4 which requires a person who wishes to operate as a recruitment agency to apply for a license to the Ministry, is silent about the responsible person to issue the license which creates an accountability challenge.

**Recommendation;**

**The Committee proposes that the provision is amended in accordance with the advice of H.E. the President to enable the Permanent Secretary to make recommendations to the Minister.**

**4.5 Clause 10 Amendment of section 55(1) (a) on sick pay**

Clause 10 proposed an amendment of the Employment Act by substituting in subclause 55 (1)(a) for the words "first month", the words, "two months"

H.E, the President proposes that the word "first" be inserted before "two months" to allow the amendment read as follows;

*"(a) for the first two months' absence from work he or she is entitled to full wages and every other benefit whether for his or her family or himself or herself as stipulated in the contract of service"*

**The Committee observes that the amendment will enhance clarity in the bill and recommends that the proposal be adopted.**

**5.0 CONCLUSION**

The Committee recommends that the Employment (Amendment) Bill as returned by H.E the President be passed into law subject to the attached proposed amendments.

*I beg to report*

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**PROPOSED AMENDMENTS TO THE EMPLOYMENT (AMENDMENT) BILL  
2023 AS RETURNED BY H.E, THE PRESIDENT**

**CLAUSE 1: INTERPRETATION**

Clause 1 is amended—

(a) by inserting the following new definition in its appropriate alphabetical order—

“adjudication” means a form of dispute settlement in which a labour officer considers the evidence and arguments of both parties to a labour dispute upon which he or she makes a decision.”;

(b) by substituting for paragraph (e), the following—

“(e) A foreign recruitment agency means a legal entity registered under the laws of a country other than Uganda which is accredited by a Ugandan mission abroad and licensed by the Ministry to recruit Ugandans to work abroad.”

**Justification**

- *The amendment is in alignment with the President's proposals to reinstate the power of adjudication to labour officers and to define the word in the context of the Act.*
- *To ensure that the foreign recruitment agency has legal recognition in the laws of its country*
- *The proposal is in line with the current practice where foreign recruitment agencies are being accredited by Ugandan missions abroad.*
- *To ensure that the definition of a foreign recruitment agency, that it's an agency accredited to "recruit migrant workers abroad", is in accordance with Regulation 7 of the Employment (Recruitment of Ugandan Migrant Workers) Regulations 2021, which requires a person that intends to transact recruitment business has a license issued by the Ministry*

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- To ensure that Ugandan migrant workers are lawfully recruit to work abroad.
- To ensure that the line Ministry remains involved in issues of foreign recruitment agencies since it's the one mandated with the regulation of recruitment of labour business under the Employment Act Cap 226.

**CLAUSE 4: AMENDMENT OF SECTION 13 OF PRINCIPAL ACT**

Clause 4 is substituted with the following—

**“4. Amendment of section 13 of principal Act**

Section 13 of the Principal Act is amended in subsection (1) (a), by repealing the word, “arbitration”

**Justification**

- To reinstate adjudication as one of the methods that a labour officer, who is the first point of contact in a labour to apply in settling a labour dispute.
- To ensure proper case management of matters in the Industrial Court by reducing on the referrals made to it under section 4(1) of the Labour (Arbitration and Settlement) Act 227.
- The amendment is in line with the recommendation of H E. the President.

**CLAUSE 9: AMENDMENT OF SECTION 9 OF PRINCIPAL ACT**

The bill is amended Clause 9, in the proposed subsection 39B (1), by inserting immediately after the word “may”, insert the words, “on the recommendation of the Permanent Secretary”

**Justification**

- The mandate of the technical team is to advise the Minister on the business of Ministry in accordance to Article 174 (3) of the 1995 Constitution and yet there is need to hold someone accountable for the licenses issued by the Ministry and so it should be the Minister who is the head of the Ministry

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- To ensure that Parliament is able to hold the Minister answerable directly on the prevalent issues pertaining allegations of abuse of migrant workers by recruitment agencies
- The proposal is in line with the submissions of the Attorney General and the Ministry which stated that Parliament reconsiders that the technical team handles the matter and make recommendations to the Minister and in this case the line technical person is the Commissioner.

**CLAUSE 10: AMENDMENT OF SECTION 55 OF PRINCIPAL ACT**

Clause 10 is amended by substituting for paragraph (a), the following—

“(a) in subsection (1) (a), by substituting for the words, “first month’s”, the words “first two months”.

**Justification**

- The proposal is in line with the recommendation of H.E. the President.
- To remove ambiguity.

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**SIGNATURE FOR MEMBERS OF COMMITTEE ON GENDER, LABOUR AND SOCIAL DEVELOPMENT ON THE EMPLOYMENT (AMENDMENT) BILL, 2023, AS RETURNED BY THE PRESIDENT**

NO.	NAME	CONSTITUENCY	PARTY	SIGNATURE
1	Hon. Kunihira Agnes Abwoli - C/person	Workers Rep	NRM	
2	Hon Kanushu Laura, Deputy C/person	PWD	NRM	
3	Hon Waako Peggy Joy	OPs National	NRM	
4	Hon Kitanywa Sowedi	Busongora North	NRM	
5	Hon Dr. Asiimwe Florence Akiiki	DWR Masindi	NRM	
6	Hon. Bakkabulindi Charles	Workers Rep	NRM	
7	Hon Arinaitwe Rwakajara	Workers Rep	NRM	
8	Hon. Afoyochan Esther	DWR Zombo	NRM	
9	Hon. Grace Kassande	Rubirizi	NRM	
10	Hon Alex Ndeezi	PWD National	NRM	
11	Hon Nyakikongoro Rosemary	DWR Sheema	NRM	
12	Hon Chemonges William	Kween County	NRM	
13	Hon. Chemutai Phyllis	Kapchorwa	NRM	
14	Hon Wokorach Simon	Aswa	NRM	
15	Hon Taban Sharifah Aate	DWR Koboko	NRM	
16	Hon Atwakire Catherine Ndamira	DWR Kabale	NRM	
17	Hon. Aloni Yorke Odria	Aringa South	NRM	
18	Hon. Nantongo Fortunate Rose	DWR Kyotera	DP	
19	Hon Mayanja Allan	Nakaseke Central	NUP	
20	Hon Kiyaga Hillary	Mawokota North	NUP	
21	Hon Kabuye Frank	Kassanda South	NUP	
22	Hon Muhindo Harold	Bukonzo East County	FDC	
23	Hon Businge Joab	Masindi Municipality	FDC	
24	Hon Nandutu Agnes	DWR Bududa	Indep.	
25	Hon Abeja Susan Jolly	Otuke	Indep	
26	Hon Rwabushaija Margaret Namubiru	Workers	Indep	
27	Hon. Kayanga Baroda	DWR Iganga	Indep	