



PARLIAMENT OF UGANDA

**REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY
AFFAIRS ON THE ADMINISTRATOR GENERAL'S (AMENDMENT) BILL, 2019**

OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDINGS, KAMPALA

February, 2021

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1.0. Introduction

On 12th August, 2019, Government introduced in Parliament, the Administrator General's (Amendment) Bill, 2019 and the Bill was accordingly referred to the Committee on Legal and Parliamentary Affairs pursuant to Rule 128 of the Rules of Procedure of Parliament.

2.0. Methodology

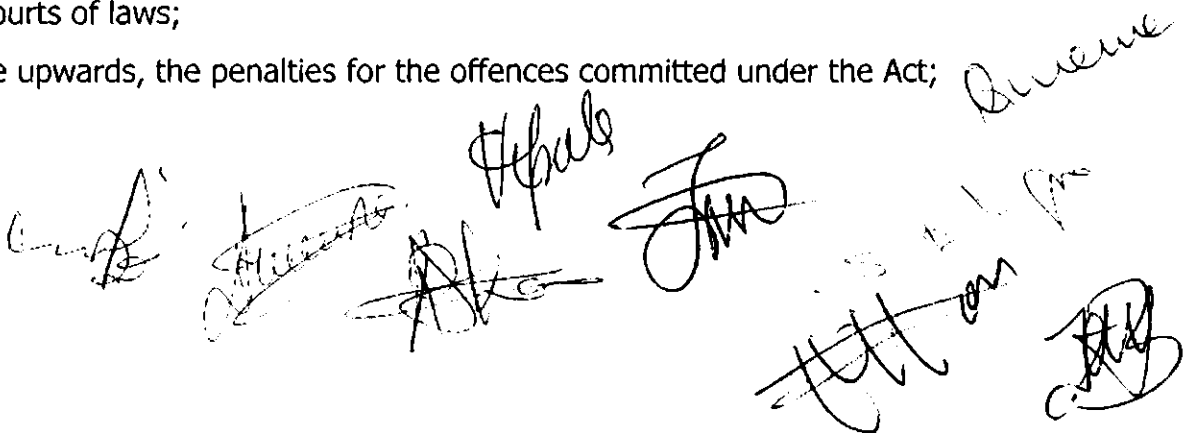
The Committee was guided by the provisions of Rule 128 of the Rules of Procedure and examined the Bill in detail by making inquiries in relation to it and received views and memoranda from the following;

- a) The Attorney General- Mover of the Bill
- b) The Uganda Law Reform Commission
- c) The Association of Uganda Women's Lawyers
- d) The Equal Opportunity Commission
- e) The Justice Centre Uganda
- f) Foundation for Human Rights Initiative

3.0. Object of the bill

The Committee discerned that the Bill mainly seeks to amend the Administrator General's Act, Cap. 157 to-

- (a) revise the mandate of the Administrator General's office by prescribing the estates that can be administered by the Administrator General without recourse to courts of laws;
- (b) scale upwards, the penalties for the offences committed under the Act;



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- (c) align the Administrator General's Act to Article 32 (affirmative action in favour of marginalised groups) and Article 33 (Rights of women) of the Constitution of the Republic of Uganda;
- (d) increase the jurisdiction of the Administrator General from twenty thousand shillings to fifteen million shillings;
- (e) provide for the requirement for notice of application for letters of administration by widowers or widows to be given to the Administrator General before applying to the High Court for grants to administer their deceased spouses estates;
- (f) provide a penalty for intermeddling in estates of deceased persons; and
- (g) exempt the bank accounts of the Administrator General from attachment proceedings

4.0. ADMINISTRATION OF ESTATES BY THE ADMINISTRATOR GENERAL AND NEED FOR LEGAL REFORM

The office of the Administrator General is established under the Administrator Generals Act Cap 157 as a corporation sole, with perpetual succession.

The Administrator General oversees administration of estates of declared persons and in some situations, administers estates of deceased persons through the Public Trustees Act, as a Public Trustee. In performance of the duties of that office, the Administrator General is assisted by agents who are appointed by the Minister or the Administrator General.

The Administrator General's Act grants the Administrator General the right to apply to court to administer the estate of a deceased person where-

- (a) a deceased person appoints the Administrator General as the sole probate;
- (b) the deceased did not appoint an administrator or probate;
- (c) a person appointed in the will of a deceased predeceases the deceased person or renounces probate of the will;
- (d) letters or probate have not been obtained within two months from the death of deceased person; or
- (e) where the deceased person died without leaving a valid will;

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Owing to the broad functions of the Administrator General, section 4 of the Administrator General's Act empowers and administrator general to be notified of the death of a deceased person and may apply for letters of probate. The administrator General is also granted priority to the grant of letters of administration over a creditor, legatee, other than a universal legatee and a friend of a deceased person.

The Committee however notes that the Administrator General's Act is need of amendment to bring it in line with the Constitution, changes to Government policy and to deal to inflation that has eroded the Administrator General's jurisdiction.

The Committee notes that the Administrator General's Act was commenced on the 15th of August 1933 and has not been amended since then to bring it in line with the Constitution, changes to Government policy and to deal to inflation that has eroded the Administrator General's jurisdiction.

For instance the Committee notes that the Administrator General can administer estates ranking from a value of twenty thousand shillings to a value of fifteen million shillings (in the form of cash, cash in the bank or death gratuity) or estates with only household assets, vehicles and other movable property without court order. These are really small estates for which the cost of obtaining letters of administration or probate might exhaust the estate, making their administration of no value to the beneficiaries.

Similarly, the Committee further notes that the Administrator General is empowered to delegate to an agent the administration of estates of a value not exceeding UGX 2000 Shillings. The Committee finds that these estates are really small and do not reflect the current economic situation and unreasonably burden the Administrator General with the administration of micro estates where the cost of administration exceeds the value of the estate.

The Committee also notes that the penalties prescribed in the Administrator General's Act are not deterrent enough and have affected the administration of estates by the Administrator General. For instance, section 12 of the succession Act prescribes a penalty of UGX 200 shillings for intermeddling in the estate of a deceased person, a matter that affects the effectiveness of the provision.

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5.0. GENERAL ANALYSIS, OBSERVATION, FINDINGS AND RECOMMENDATIONS

The Committee examined the amendment proposed made by the Bill, its legality, effect and effectiveness in light of the Constitution, existing public policy, court decisions, other laws and the mischief it intends to cure and has offered recommendation(s), its adoption, deletion or amendment.

5.1. SHORT TITLE AND COMMENCEMENT

The Bill proposes in clause 1 to provide for the short title and commencement of the Bill once enacted into law. The Bill proposes that the Bill once enacted into law is to be cited as the Administrator General (Amendment) Act, 2019 and it will come into force on the date of publication in the gazette. The Committee finds this provision to be redundant in light of section 3, 14 and 15 of the Acts of Parliament Act.

Section 3 of the Acts of Parliament Act, Cap 2, requires every Act to bear at the head, a short title immediately followed by a long title describing the leading provisions of the Act. Furthermore, section 15 of the Acts of Parliament requires that the citation of the short title to an Act shall be sufficient to identify the Act.

On commencement of the Bill, section 14 of the Acts of Parliament Act requires that an Act commences on the date as is provided in or under the Act, or where no date is provided, the date of its publication as notified in the Gazette.

From the foregoing, it is evident that clause 1 is redundant since it proposes to provide for the citation of the Act which is already provided for in section 15 of the Acts of Parliament Act as well as prescribing the commencement of the Act on publication, yet the same is already prescribed in section 14 of the Acts of Parliament Act. Since clause

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1 does not introduce anything new beyond what is provided for in the Acts of Parliament Act, then the Committee sees no need for it to be included in the Bill.

Secondly, the Committee is also aware that for a long time, Acts of Parliament have not prescribed a citation section in any Act. Citations clauses are only used in the statutory instruments and not in Acts of Parliament. Unless this is a new policy that Parliament should be aware of, the Committee sees no need of having a citation clause in the Bill.

Recommendation

In light of the above, the Committee recommends that clause 1 is deleted with the justification that it is redundant in light of section 14 and 15 of the Acts of Parliament Act, Cap 2.

5.2. INTERPRETATION

The Bill proposes to amend section 1 of the principal Act by making changes to the definition of the word "assets or property, by inserting a new paragraph defining currency points and by repealing the definition of the words "next of kin".

The Committee has reviewed the proposed amendment and it supports the proposals since it is intended to not only modernise the principal Act but is also intended to bring it in line with the succession Act.

For instance, the Committee notes that the deletion of the words "next of kin" is intended to specifically align the terminology used in the principal Act with the succession Act wherein, the persons who may benefit from the estate of deceased person are not referred to as the "next of kin" but are referred to as persons who are entitled to share in the estate of a deceased person."

In light of the above, the Committee supports the amendments proposed in the Bill.

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Recommendation

- *In light of the above, the Committee recommends for the adoption of clause 2 of the Bill.*

5.3. Power to administer estates by agents appointed by the Administrator General or the Minister

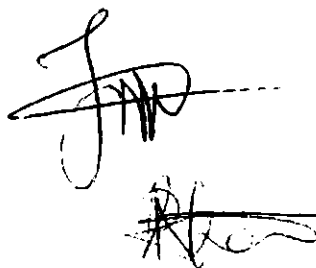
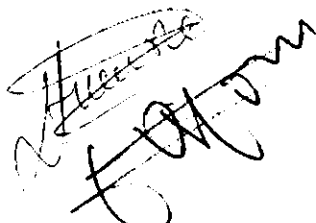
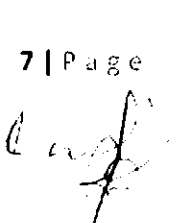
Clause 3 of the Bill is amended in section 2(5) by changing the value for which an agent of the Administrator General can exercise summary powers of the Administrator General from two thousand shillings to fifteen Million, where the property is cash, cash in the bank or death gratuity or where the property is in the form of house hold assets, vehicles or any other movable property.

The Committee notes that Section 2 (5) of the Administrator General's Act is to the effect that

"The Administrator General may, at his or her discretion, delegate to an agent any or all of the powers and duties conferred or imposed upon him or her by this Act but, in default of any directions by the Administrator General to the contrary, every agent appointed by the Minister may, in the administration of estates of persons dying intestate and leaving property within his or her area which does not appear to exceed two thousand shillings in gross value, exercise all the summary powers of the Administrator General under this Act."

The above provision empowers an agent appointed by the Minister or delegated powers by the Administrator General to exercise the summary powers of the Administrator over estates of a value not exceeding UGX 2000 shillings.

The summary powers of the Administrator General are those listed in section 4 (5) (b). this provision empowers an agent of the Administrator General to, without court proceedings or notice, take possession of the estate and realize the same by sale or



otherwise and pay there out any debts or charges and pay, remit or deliver any surplus to such person as may appear to him or her to be entitled to it.

The committee notes that the effect of the amendment proposed in clause 3 is to expand the jurisdiction of agents appointed by the Minister to summarily exercise the powers of the Administrator General and administer estates of a value of UGX 15 million shillings if property is in form of cash, cash in the bank or death gratuity or where the property is in the form of house hold assets, vehicles or any other movable property.

The Committee notes that whereas there is need to amend this provision in light of inflationary pressures that has affected the monetary jurisdiction of the agents appointed by the Minister which has rendered this provision redundant, the provision is ambiguous and may have the effect of granting the agents unlimited jurisdiction over estates that would ordinarily be the preserve of the Administrator General.

The proposed amendment, in granting the agent jurisdiction over "property which is in the form of household assets, vehicles or any other movable property" without prescribing a maximum value for which the agents may exercise the summary powers of the Administrator General will create confusion since a person will not know which estates can be directly administered by the agents without recourse to court or the Administrator General.

The Committee is concerned that the failure to specify the maximum limit of the estate that can be administered by the agents will mean that the Administrator General will have delegated all the powers granted to it by Parliament, contrary to one of the pivotal principles of administrative law which states that "a delegate cannot delegate."

This might create confusion as to which estates are to be administered by agents and those to be administered by the Administrator General, thereby creating forum shopping and perpetuating corruption, abuse of power and conflicts between the agents, the Administrator General and the beneficiaries in those estates.

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The Committee is also further concerned that the provision is not shielded from inflationary pressures and changes in the value of the Uganda shillings. The Committee observes that the proposal to express that value of the estate for which the agent can administer in Uganda shillings exposes the jurisdiction of agents to changes in the value of the Uganda Shilling which is affected by inflation and loses value over time. The Committee prefers that in order to shield the jurisdiction of agents from inflation, the value should be expressed in currency points since currency points are not affected by changes in the value of the Uganda shillings or inflation.

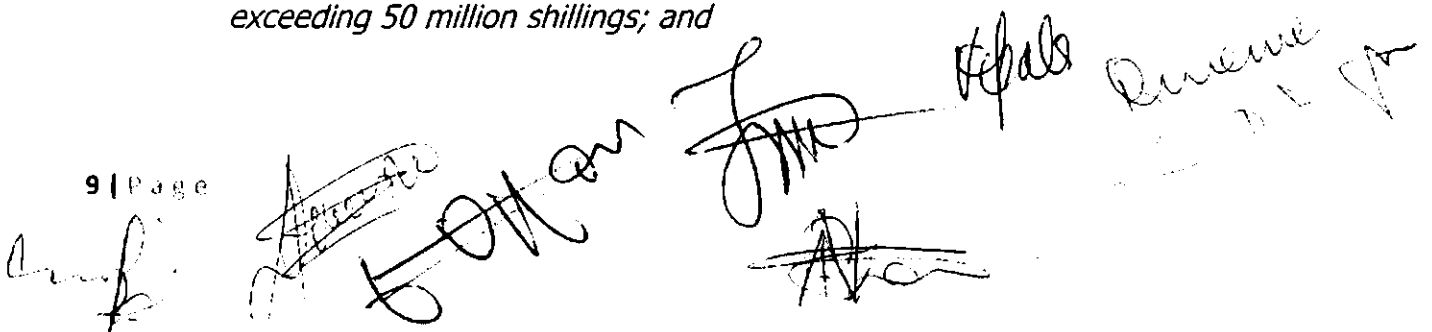
The Committee is further concerned that there appears to be a disconnect between the Bill and the amendments proposed in the Administration of Estates (Small Estates) (Special Provisions) Act. The Committee therefore does not understand how the value of UGX 15 Million was arrived at, yet the smallest estate in Uganda is between ten thousand shillings to fifty million shillings.

The Committee notes that since the intention of the amendment to section 2(5) of the Administrator General's Act is to ensure that estates of a lower value are administered directly by agents appointed by the Minister or the Administrator General in order to reduce the cost of administration, reduce wastage and diminishing of value of those estates and to bring services closer to the people by having them administered in the location of the estate rather than in Kampala, the jurisdiction of agents should be limited to small estates generally and not as proposed in the Bill.

Recommendation

In light of the above, the Committee recommends that clause 3 is amended by-

- *limiting the jurisdiction of the agents appointed by the Minister to only small estates, being estates in form of property in form of cash, cash in the bank, death gratuity, house hold assets, vehicles or any other movable property not exceeding 50 million shillings; and*



- *expressing the maximum value in currency points in order to cater for inflationary pressures that will erode the pecuniary jurisdiction of the agents appointed by the Minister if the same is expressed in Uganda shillings.*
- *Granting agents appointed by the Minister or the Administrator General jurisdiction over small estates since this will bring services closer to the people, reduce the cost of obtaining letters or probate in estates whose values fall within their jurisdiction, ensure that the beneficiaries draw as much value from estate and allow for the just and effective administration of estates of deceased persons irrespective of their value without eroding the beneficial interest of the estates.*

5.4. Power to Administer estates by the Administrator General

The Bill proposes in clause 4 to amend section 4 of the Principal Act by expanding the pecuniary jurisdiction of the Administrator General from 20,000 to fifteen Million.

The Committee observes that section 4 (5) of the Principal Act empowers the Administrator General to, without any letters of administration or other formal proceedings or notice, take possession of the estate of a value not exceeding twenty thousand shillings and realise the same by sale or otherwise and pay there out any debts or charges and pay, remit or deliver any surplus to such person as may appear to him or her to be entitled to it.

The Committee observes that section 4 (5) of the Administrator General's Act has, with the passage of time, become ineffective due to the effect of inflation on the pecuniary jurisdiction prescribed in the Act and is therefore in need of amendment.

The absurdity of this provision is reflected in the ***Administrator General's Cause No. 493 of 2003***, where the deceased maintained Shs. 200,000/= as her bank balance with Bank of Baroda. When the Administrator General requested the bank to send the funds to him for transmission to the beneficiaries, the bank replied that letters of administration had to be obtained before the funds could be sent. Since it was

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200,000/=, the application had to be made to the High Court and the Administrator General charges Shs. 200,000/= to make the application. Given that all the funds were going to be consumed in the process, the beneficiaries abandoned the money in the bank¹.

The Committee however notes with concern that the provision is ambiguous and may have the effect of granting the agents unlimited jurisdiction over all estates in Uganda.

Further, in granting the Administrator General jurisdiction over "property which is in the form of household assets, vehicles or any other movable property" without prescribing a maximum value of the estate for which the Administrator General may exercise the summary powers granted under the Act will create confusion since a person will not know the estates for which the Administrator General may administer without recourse to court.

The Committee is also further concerned that the provision is not shielded from inflationary pressures and changes in the value of the Uganda shillings. The Committee observes that the proposal to express that value of the estate for which the agent can administer in Uganda shillings exposes the jurisdiction of agents to changes in the value of the Uganda Shilling which is affected by inflation and loses value over time. The Committee prefers that in order to shield the jurisdiction of agents from inflation, the value should be expressed in currency points since currency points are not affected by changes in the value of the Uganda shillings or inflation.

The Committee is also further concerned that there appears to be a disconnect between the Bill and the amendments proposed in the Administration of Estates (Small Estates) (Special Provisions) Act. The Committee therefore does not understand how the value of UGX 15 Million was arrived yet the smallest estate in Uganda is between ten thousand shillings to fifty million shillings.

¹ See pg 66 of the Uganda Law Reform Commission Study Report on the review of laws on Succession in Uganda, 2014

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The Committee notes that since the intention of the amendment to section 2(5) of the Administrator General's Act is to ensure that estates of a lower value are administered directly by Administrator General in order to reduce the cost of administration, reduce wastage and diminishing of value of those estates and to bring services closer to the people, the estates that may be administered directly by the Administrator General should be small estates as prescribed in the Estates (Small Estates) (Special Provisions) Act.

In that regard therefore, the Committee is of the considered opinion that since this provision grants the Administrator General the right to take over and administer the estate without recourse to court, this should be limited to small estates whose value does not justify recourse to court.

Recommendation

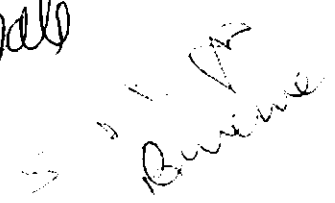
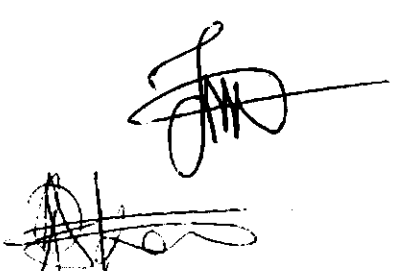
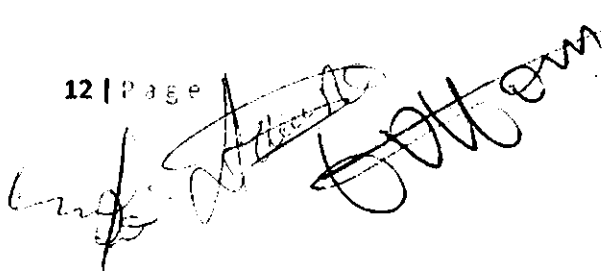
In light of the above, the Committee recommends that clause 4 is amended by-

- (a) limiting the Jurisdiction of the Administrator General to summary administration of an estate without recourse to court to small estates being estates whose value is in form of property in form of cash, cash in the bank, death gratuity, house hold assets, vehicles or any other movable property not exceeding 50 million shillings;*
- (b) expressing the maximum value in currency points in order to cater for inflationary pressures that will erode the pecuniary jurisdiction of the agents appointed by the Minister if the same is expressed in Uganda shillings.*



5.5. Obligation of the surviving spouse to inform Administrator General

Clause 5 proposes to amend section 5 of the principal Act by deleting of the words "or the widower or widow of the deceased, or his or her attorney duly authorised in writing, authorising that person to administer the estate of a deceased person."

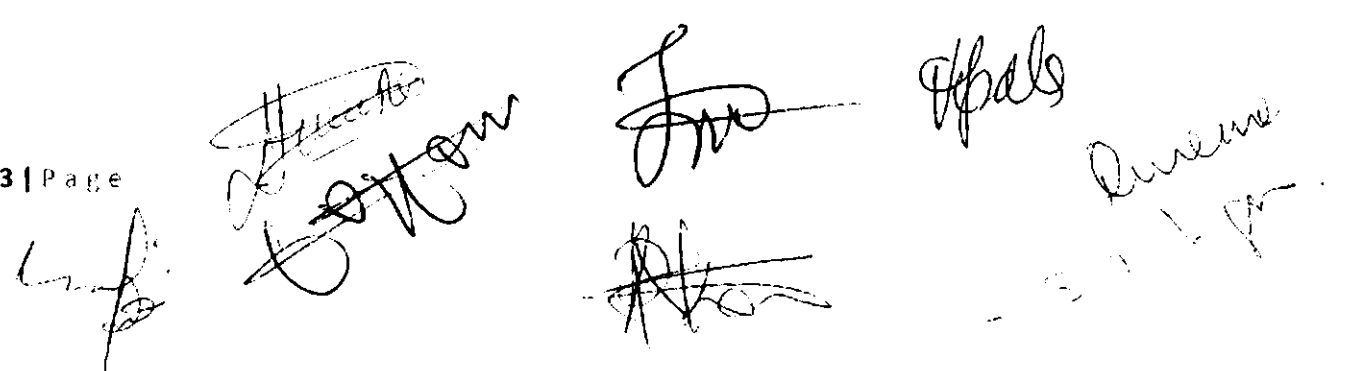


The proposed amendment will have the effect of excluding the surviving spouse and his or her attorney from the categories of people who do not have to inform the Administrator General before applying for letters of administration. This would mean that a surviving spouse would have to obtain a certificate of no objection from the Administrator General before administering or executing the estate of his or her deceased spouse.

The Committee has examined the proposal and rejects it. The Committee notes that the proposal does not consider the proprietary rights of the surviving spouse who is entitled to share in the property of the deceased spouse. The Committee notes that during marriage, a spouse acquires a right to share in the property that constitute matrimonial property and the spouses are entitled to share, bar anything to the contrary, equally in the property.

The proposal in the Bill reverses that right upon the death of a spouse by subjecting the surviving spouse's property rights to the whims of the Administrator General. The Committee is of the considered opinion that since the surviving spouse has proprietary rights in the estate of his or her deceased spouse, it would be unfair for the surviving spouse to seek the authorisation of the Administrator General to administer his or her own property.

The Provision also does not also recognizes that the surviving spouse is better placed to care for children of the deceased spouse, especially where they are below the age of eighteen years. The proponents of this amendment have argued the Administrator General's authorization is needed in order to protect the interest of children in the estate. Whereas this is true, the Committee notes that the surviving spouse would be better placed to take care of the children beneficiaries in the estate rather than the Administrator General. This position was upheld in the Kenyan case of **Re Kibiego (1972)**. Where High court held that:-



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"A widow of whatever race is the proper person to obtain letters of administration to her husband's estate particularly where the children are underage. This position has been cited as good law in many Ugandan cases".

In any case, the Committee notes that estates that have children beneficiaries, the interests of the children are taken care of by the guardians appointed for such children, thereby making the intervention of Administrator General unwarranted.

The Committee further notes that this amendment is not in harmony with the amendments proposed to the succession Act. The Committee notes that the Succession (Amendment) Bill, 2018 proposed to grant unfettered powers to the surviving spouse to administer the estate of a deceased person. The Bill proposed to amend the succession Act by inserting a new provision on priority of the surviving spouse to be granted letters of administration. The Committee agreed with the proposal to amend the succession Act as proposed in the 2018 Bill and further recommended that in order to make the priority of the surviving spouse meaningful, he or she should be excused from obtaining a certificate of no objection from the Administrator General. The Committee therefore notes that the proposal to amend section 5 as proposed in clause 5 is contrary to the earlier recommendation of the Committee.

The Committee also believes that requiring the obtaining of a certificate of no objection from the Administrator General will increase bureaucracy, unreasonably increase the cost of administration of estates, especially where such estates are non-contentious, resulting in the wastage of the estate as well as depleting the beneficial interests in the estate.

The Committee also notes that the proposal will interfere in the testamentary powers of a deceased person since it proposes to subject probate proceedings to the whims of the Administrator General. The proposal to require persons appointed in a will as executors to apply for a certificate of no objection has no legal basis since a person is empowered, by article 26 of the Constitution, to deal with his or her property as he deems fit. It should be noted that a person is free to appoint a executor in his or her

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will and once appointed and upon the death of a person, the executor is assumed to be the personal representative of the deceased person and free to deal with the property of the deceased in the terms of the will as though he or she is the deceased person.

Recommendation

For the reasons outlined above, the Committee rejects the amendment proposed in clause 5 and recommends for the deletion of the word "widows or widowers" in section 5 (1) of the Administrator General's Act and replace it with surviving spouse.

5.6. Intermeddling in the estate of a deceased person

The Bill proposes in clause 7 to amend section 11 of the principal Act to allow the Administrator General to, in so far as may be urgently necessary for the preservation of the property of a deceased person who dies intestate or who leave a will, or where a person causes to be moved or otherwise intermeddles with the property of a deceased person, administer the estate of the deceased person until court grants letters or probate.

The Bill also proposes to expand the penalty for intermeddling in the estate of the deceased person from imprisonment for three months to imprisonment for three years.

The Committee has examined the amendment proposed to section 11 of the principal Act and is in support of the amendment. The Committee notes that incidents of intermeddling in estates of deceased persons have been increasing over time and have been a source of wastage of estate and the depleting of the beneficial interest in the estates.

The Committee notes that whereas intermeddling in the estate of deceased persons is prohibited under the succession Act and the Administrator General's Act, there are no mechanisms that can immediately assist an estate or beneficiary free itself from intermeddling by a person. The proposal by the Bill is intended to provide a mechanism

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through which an estate or beneficiary can free itself from the act of intermeddling by allowing the Administrator General the right to take over and preserve the estate until letters or probate are granted.

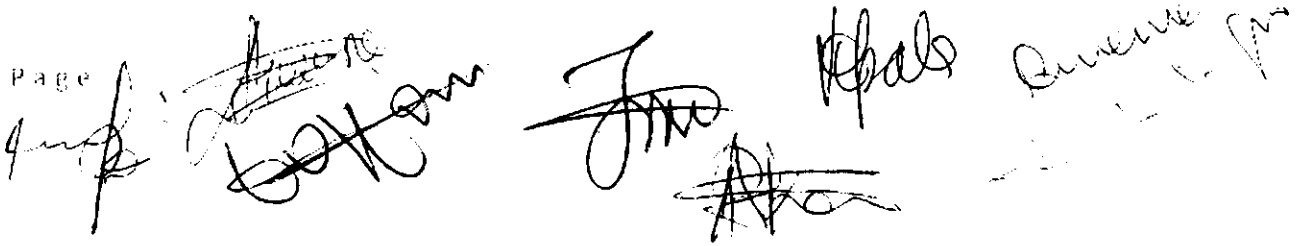
The Committee also notes that currently the penalty prescribed for intermeddling in an estate is so low, at UGX 200 or imprisonment for a period of 3 months. This penalty is not deterrent enough and this explains why the incidents of intermeddling in the estate of deceased persons are on the rise.

However, the Committee is concerned that the provision might not achieve the intended effect. For instance the Committee notes that intermeddling is not defined in the Administrator General's Act. The Committee notes that the failure to define what amounts to intermeddling is a big draw back that will affect the effectiveness of the provision.

The Committee further notes that there is a disconnect between intermeddling under the succession Act and intermeddling under the Administrator General's Act. The Committee notes that whereas intermeddling is not defined in the Administrator General Act, in the succession Act, intermeddling occurs when a person does any act which belongs to the administrator or executor of the estate when there is no substantive administrator or executor. There is therefore need to harmonize the conduct that amounts to intermeddling in both the Succession Act and the Administrator General's Act if the provision is to be effective.

The Committee also notes that the amendment proposed to section 11 has the effect of allowing the Administrator General to administer the estate of a deceased person without lawful authority. The Committee notes that the amendment proposes to allow the Administrator General, where he or she considers that there is need to preserve the estate of deceased person, to take over the estate and administer it.

By implication, this will mean that the Administrator General can exercise the powers of administrator or executor, being the power to collect and distribute the estate, without



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court order. This is not only contrary to the Succession Act which specifically bars a person from exercising the powers of administrator or executor without a grant being made by court, it is also contrary to the provisions of the Administrator General's Act, specifically section 2 (5) and 4 (5) which allow the Administrator General the right to administer estates of a specified nature, usually small estates whose value do not justify the obtaining of letters of administration, without an award of court.

The proposal therefore empowers the Administrator General to go beyond preserving the estate of a deceased person and instead administers the same, making the subsequent grant of letters or probate superfluous and of no legal consequences.

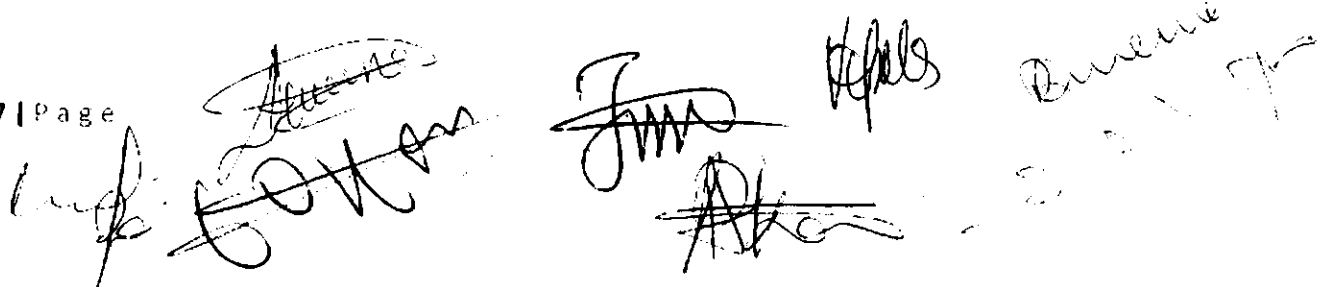
The provision is also open to abuse since it does not limit the activities that the Administrator General can legally undertake during the preservation of the estate. The Committee also notes that the duration for which the Administrator General may preserve the estate is not defined, making the actions of the Administrator General potentially unlimited both in scope and in time.

The Committee notes that since intermeddling provisions are intended to protect the estate of a deceased from unlawful interference, abuse or waste by persons without lawful authority, the actions of the Administrator General need to be limited in scope and time and restricted to actions that are essential for the preservation of the estate of deceased person and not to allow the Administrator General the right to administer the estate of a deceased person without lawful authority.

Recommendation

In light of the above, the Committee recommends that-

- (a) the powers of the Administrator General should be limited to only preserving the estate rather than administering the estate of the deceased without lawful authority.*
- (b) There should be a specific definition of what amounts to intermeddling;*



(c) Apart from the Administrator General, a person should be empowered to apply to court to stop the intermeddling of any individual in the estate of the deceased person;

(d) A person who intermeddles in the estate of a deceased person to make good the loss caused to the estate.

(e) For uniformity, the provisions on intermeddling in the estate of a deceased person should be harmonized with those in the Succession Act

5.7. Sale and disposal of property by Administrator General

Clause 10 of the Bill proposes to amend section 16 of the Principal Act by substituting for the words "next of kin" the words "spouse, lineal descendants and dependent relative."

Section 16 of the Administrator General's Act is to the effect that the Administrator General may, subject to any wishes which may be expressed by the next of kin of the deceased, dispose of the property of an estate under his or her administration either wholly or in part and either by public auction or private treaty as he or she in his or her discretion may deem to be in the best interests of the estate.

The Bill proposes to amend the provision to require the consultation of the spouse or lineal descendant rather than the next of kin.

The Committee examined the provision and is of the considered opinion that the amendment should be supported since it recognizes that essential people should be consulted by the Administrator General.

The proposed amendment will empower the Administrator General, spouse, lineal descendants and dependent relative to dispose of the property of an estate under his or her administration either wholly or in part and either by public auction or private treaty as he or she in his or her discretion may deem to be in the best interests of the estate.

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The proposed amendment is supported since it is intended to ensure that the people who are the actual beneficiaries of the estate are consulted before the disposal of property of the estate. The Committee notes that currently, since the Administrator General is not under any obligation to consult the beneficiaries before sale or disposing of property belong to the estate, the beneficiaries in most cases are not aware that their property has been sold off by the Administrator General. This has been the cause of most of disputes between the Administrator General and beneficiaries of estates that are administered by the Administrator General.

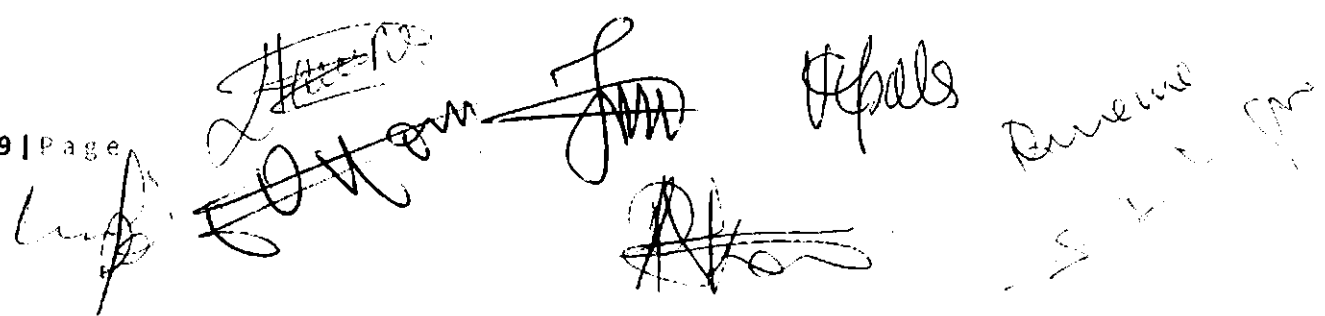
The Committee however notes that the amendment does not go far enough to deal with the issues embedded in the provision. The Committee notes that the discretion given to the Administrator General to dispose of the property belonging to the estate is far reaching, allowing the Administrator General to dispose of the property of a deceased person as he deems fit. For instance, there is no obligation on the Administrator General to ensure transparency, equity, fairness and accountability in the disposal process. Furthermore, the provisions do not impose a duty of care on the Administrator General to deal with property in a manner that ensures that-

- (a) the sale is beneficial to the estate and the beneficiaries of the estate;
- (b) there is accountability to the estate for the proceeds of sale, and
- (c) the need to get value for money;



The Committee is also aware that the provision is not in harmony with the amendments proposed to the Succession Act in so far as the disposal of property belonging to the estate is concerned. For instance, the Committee notes that amendments have been proposed by Government under the Succession (amendment) Bill, 2019 to exempt the principal residential holding from sale. This provision should therefore apply to the sale envisaged in section 16 of the Administrator General Act in order for the residential holding to be exempted from the sale.

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The provision is too broad and grants unlimited discretion to the Administrator General to determine the manner of sale. This provision can easily be abused to the detriment of the beneficiaries of the estate. The Administrator General should be able to sale by public treaty, after valuation of the property and with the consent of the beneficiaries.

Recommendation

In light of the above, the committee recommends that clause 10 is adopted albeit with the following amendments-

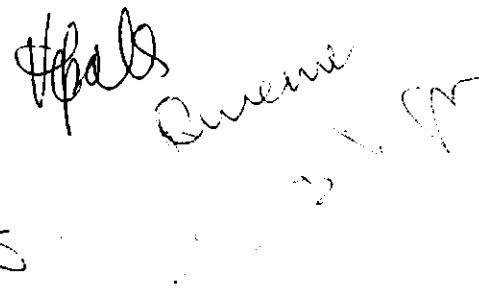
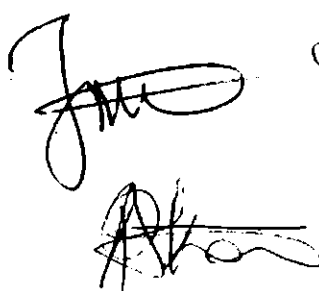
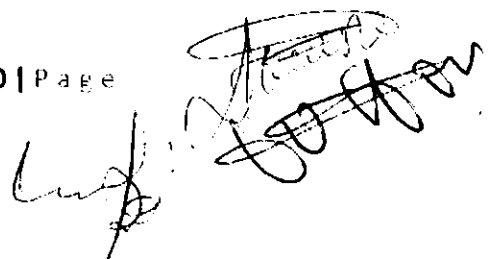
- (a) the disposal should be beneficial to the estate and the beneficiaries,*
- (b) the consent should be written;*
- (c) the disposal should be necessary to cater for the basic needs of the persons entitled to benefit under the estate;*
- (d) the disposal should recognize the property rights of the surviving spouse,*
- (e) the Administrator General's should account for the proceeds of sale;*
- (f) the sale is subject to sections 26 and 36 (6) of the succession Act which exempts the residential holding from the same.*
- (g) The sale is on market value terms;*
- (h) The disposal to be null and void if not carried out in a transparent manner;*

The Committee also recommends that for completeness, the Administrator General or an employee of the Administrator General should not sale to him or herself property belonging to an estate he or she is executing or administering.



5.8. Notification by gazette and newspaper of wide circulation

Clause 12 and 13 of the Bill seeks to amend section 18 and 19 of the Principal Act by removing the gazette as one of the mediums through which the Administrator General may notify the creditors and others having claims against the estate to file and prove their claims against the estate.



Section 18 of the Administrator General's Act requires the Administrator General to notify, by a notice in the gazette or a local newspaper, the creditors and claimants to file a claim against the estate. Section 19 deals with unclaimed balances and it obligates the Administrator General to notify the public, by gazette, in order for any claims to be made out of the unclaimed balances.

The Bill proposes that the Administrator General may now publish the notice in at least one newspaper of wide circulation in the area where the estate is situated as well as using any other means of communication as may be appropriate.

This provision should be supported since the Gazette is not easily accessible to the general public compared to newspapers. Furthermore, it allows the Administrator General to utilise any other means of communication, including digital platforms as well as other electronic media to make the notice. These modern forms of communication are easier, reach more masses than traditional media and are accessible.

The Committee however notes that the amendment proposed to sections 18 and 19 are limited since they allow for the publication in at least one newspaper with wide circulation in the area where the estate is situated. The Committee finds this to be limited since claims can be filed by persons who are living beyond the area where the estate is located. Therefore limiting the publication to an area where the estate is located needs to be rethought.

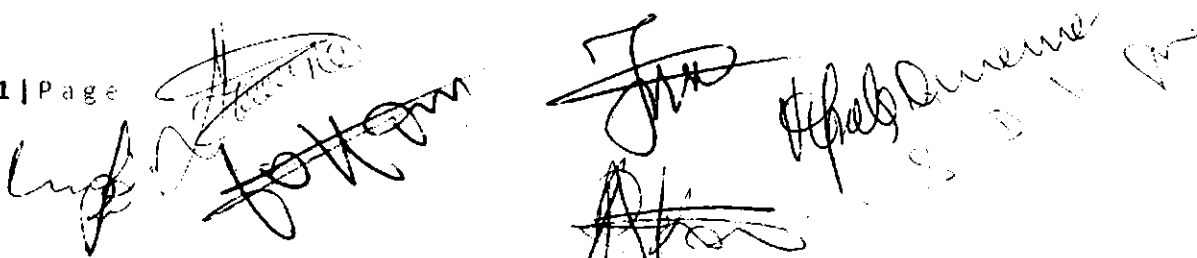
Recommendation



The Committee recommends that clause 12 and 13 are adopted albeit with amendment to ensure that the notices are made in a newspaper of wide national circulation in order to notify as many people as possible.

5.9. Court to appoint persons to receive minor's share

The Bill, in clause 15, proposes to amend section 27 of the Principal Act by expressing the value of the share of a minor which the Administrator General may, at his or her



discretion, pay or transfer to the father or mother of the minor or some other suitable person or the public trustee on behalf of the minor, in currency points rather than in shillings.

The Committee has examined the proposal and is in support of the amendment proposal since it shields the value from inflation.

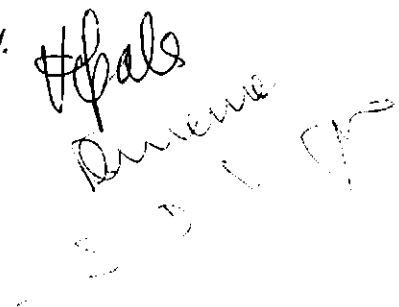
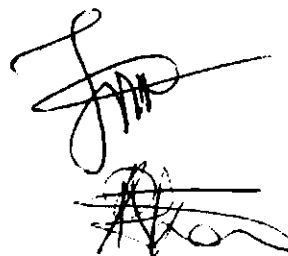
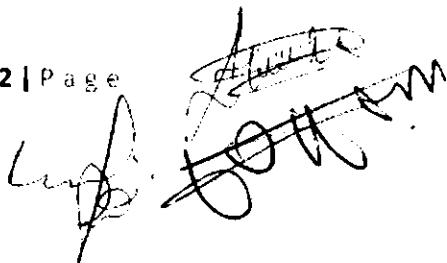

The Committee however notes that the amendment to section 27 does not go far enough since it maintains a provision that is no longer good law. The Committee notes that section 27 of the Administrator General's Act empowers the appointment of a child's father, mother or any other person to receive the child's share under the estate.

The Committee note this provision is no longer a good law in light of the amendments to the Children Act and the proposals made to the Succession Act as far as the holding of a child's share is concerned.

The Children Act allows for the appointment of a guardian who, upon such appointment, is required to hold the child's share in the estate of a deceased person and to administer the same prudently on behalf of the child. The Committee notes that the same principal has been adopted in the amendment to the succession Act, especially amendments to section 46 and 215 of the Succession Act. The Committee therefore finds section 27 to be contrary to the Children Act since it allows for the appointment a person, other than the guardian of the child, to hold and administer a child's share in the estate.

Recommendation

- *The Committee recommends for the adoption of the amendments proposed in clause 15.*
- *The Committee further recommends that section 27 of the Administrator General's Act is amended to comply with the provisions of the Children Act and the amendments made to the Succession Act in this regard.*



5.10. Attachment of Administrator General's bank accounts

Clause 17 of the Bill proposes to amend section 35 by inserting a new subsection (2) requiring that the costs, damage, interest and related litigation expenses in any suit against the Administrator General are charged on the consolidated fund as well as exempting from attachment and bank accounts of the Administrator General.

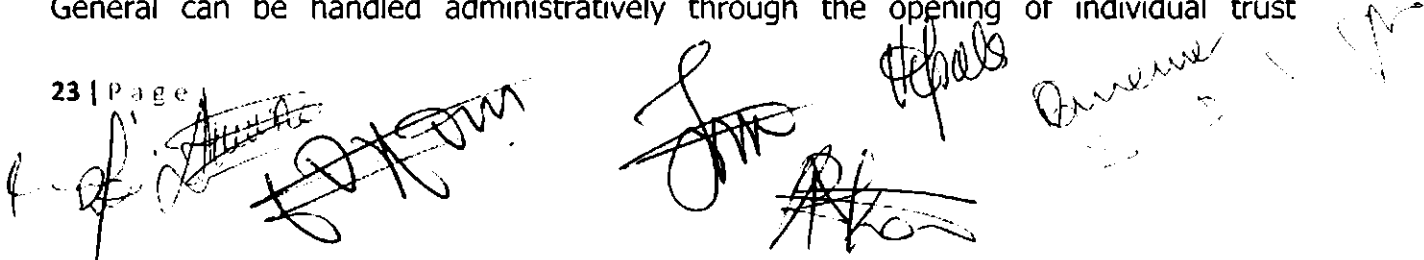
The Committee examined the proposal made in the Bill and is of the considered opinion that this provision may be challenged for infringing article 21 of the Constitution. The Committee notes that section 22 of the Administrator General's Act allows the taking of action against the Administrator General and upon such action, court has issued orders for the attachment of the accounts of the Administrator General. The Committee was informed that the practice of attaching the accounts of the Administrator General affects the administration of estates since most of the funds contained in the accounts are trust funds for beneficiaries.

The Committee notes that the proposed amendment, especially the exemption from attachment of the accounts of the Administrator General is in conflict with section 2(2) of the Administrator General Act as well as article 21 (1) in so far as it creates a distinction of between the matters that can be suffered by the Administrator General, a legal person, and any other person in Uganda whose accounts can be attached.

Section 2 (2) of the Administrator General's Act specifically grants legal personality to the Administrator General. This means that the Administrator General can be sued or sue or suffer all things that a legal entity may suffer in Uganda.

Considering that other legal entity's counts can be attached, the exemption granted to the Administrator General will grant it additional protection which is not available to all other legal entities, thereby making the provision apply differently to the same legal entity, conflicting with article 21 on equality for all before the law.

The Committee notes that the matter of attaching accounts of the Administrator General can be handled administratively through the opening of individual trust

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accounts for each of the estates it is administering. In case an attachment order is made, it only affects the account or estate against which the order relates rather than putting all trust funds into one pool account which is then susceptible to attachment.

Recommendation

- *In light of the above, the Committee recommends that the proposal to exempt the accounts of the Administrator General from attachment is rejected since it will be challenged for infringing article 21 (1) on equality for all before the law.*
- *The Committee further recommends that the Administrator General considers opening individual accounts for individual estates he or she is administering so that all the funds relating to an individual estate can be deposited thereon, and in case of attachment, it is only the relevant account that is affected and not the entire accounts of the Administrator General.*

5.11. Disposal of insignificant balances

The Bill proposes to delete section 37 of the Administrator General's Act which relates to disposal of insignificant balances.

Section 37 of the Administrator General's Act is to the effect "After completion of the administration of an estate by the Administrator General or his or her agents, if the net balance for distribution among heirs abroad is less than five hundred shillings the Administrator General may distribute the balance among such persons as appear to be entitled to it and remit the amount so due by bank draft, registered money order or postal order"

The committee examined the proposed amendment and it finds the amendment to be misconceived and will create a lacuna in the law since the Administrator General will not

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be guided on how to transmit a person's share in the estate. Furthermore, the Proposal will also create a lacuna in the law in so far as removing the distribution of the estate to persons who are outside the territorial jurisdiction of Uganda.

Section 37 of the provision prescribes the mechanism through which the Administrator General may transfer to a beneficiary, his or her share in the estate.

The Committee observes that whereas the threshold prescribed in the provision is low, the provision should be retained since it allows the transfer of a person's share in the estate in a manner prescribed in the Act, including persons who are abroad, through any of the means prescribed thereunder.

Recommendation

In light of the above, the Committee recommends that section 37 should be retained in the principal Act albeit with amendments to enhance the threshold prescribed thereunder, to express the threshold if any, in currency points and to allow the transfer of such property to any person who is entitled to share in the estate.

5.12. Harmonisation with the Succession Act

The Committee has examined the Administrator General's Act and found that it is not in harmony with the Succession Act in some instances. The Committee notes, for example, that section 20 of the Administrator General's Act is in conflict with the succession Act, especially sections 280, 281, 282 and 283 of the Succession Act.

Subsection (4) of section 20 provides of the Administrator General's Act is to the effect that fees, charges and reimbursements due to the Administrator General are to be the first charge on the estate, after payment of funeral expenses, and may be deducted from any monies received by the Administrator General in the course of the administration. The above provision gives fees, charges and reimbursements of the Administrator General first priority over all other expenses and fees incurred by the estate.

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The Committee notes that sections 280, 281, 282 and 283 of the Succession Act guide on the priority of paying fees and charges and disbursement and requires that funeral expenses have priority, followed by the expenses of obtaining probate or letters of administration, followed by wages due for services rendered to the deceased within three months preceding his or her death by any labourer, artisan or domestic servant and thereafter, the creditor are paid.

Section 20 appears to conflict with the provisions of the succession Act in so far as giving priority to expenses, fees, charges and reimbursements due to the Administrator General over all other expenses and fees incurred by the estate. This disharmony needs to be remedied and rectified.

Recommendation

The Committee recommends that Administrator General's Act should be harmonised with the Succession Act.

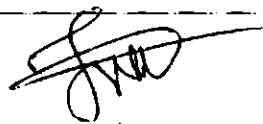
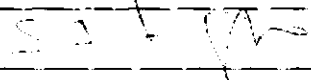
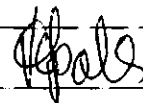
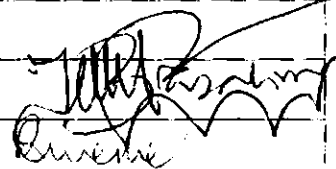
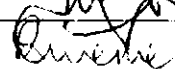
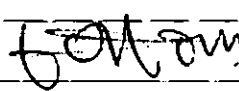
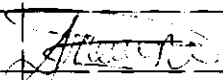
6.0. CONCLUSION AND RECOMMENDATION

In light of the above, the Committee proposes that the Administrator General's Act is due for amendment and should be amended as proposed in the Administrator General's (Amendment) Bill, 2019.

The Committee recommends that the Administrator General's (Amendment) Bill, 2019 is read the second time and do pass with the following amendments.

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**SIGNATURE OF MEMBERS ENDORSING THE REPORT ON THE ADMINISTRATOR GENERAL'S
(AMENDMENT) BILL, 2019**

SN	NAME	CONSTITUENCY	SIGNATURE
1.	Hon. Jacob Marksons Oboth (Chair)	West Budama South	
2.	Hon. Bitangaro Sam Kwezira	Bufumbira South	
3.	Hon. Jovah Kamateeka	Mitooma DWR	
4.	Hon. Isala Eragu Veronica	Kaberamaido County	
5.	Hon. Kajara Aston	Mwenge South	
6.	Hon. Mwiru Paul	Jinja East County	
7.	Hon. Basalirwa Asuman	Bugiri Municipality	
8.	Hon. Gureme R. Rwakoojo	Gomba West	
9.	Hon. Ongalo Kenneth Obote	Kalaki County	
10.	Hon. Agaba Abbas Mugisha	Kitagwenda County	
11.	Hon. Azairwe Dorothy. K	DWR Kamwenge	
12.	Hon. Mugoya Kyawa Gaster	Bukooli North	
13.	Hon. Akamba Paul	Busiki County	
14.	Hon. Otto Edward Makmot	Agago County	
15.	Hon. Adeke Anna Ebaju	NFY MP	
16.	Hon. Nsereko Muhammed	Kampala Central Division	
17.	Hon. Wilfred Niwagaba	Ndorwa East	
18.	Hon. Abdu Katuntu	Bugweri County	
19.	Hon. Ssemujju Ibrahim	Kira Municipality	
20.	Hon. Medard Ssegona Lubega	Busiro East	
21.	Hon. Mathias Mpuuga	Masaka Municipality	
22.	Hon. Byarugaba Alex	Isingiro County South	
23.	Hon. Akello Rose Lilly	DWR, Karenga	
24.	Hon. Asamo Hellen Grace	PWD Eastern	
25.	Hon. Namoe Stella	Napak DWR	

26	Hon. Akampulira Prosy	DWR Rubanda	AT
27	Hon. Suubi Brenda Asinde	DWR Iganga	
28	Hon. Amoding Monica	DWR Kumi	<i>Am</i>
29	Hon. Silwany Solomon	Bukooli County West	

Am
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**PROPOSED AMENDMENTS TO THE ADMINISTRATOR GENERAL
(AMENDMENT) BILL, 2019**

CLAUSE 1: SHORT TITLE AND COMMENCEMENT

Delete clause 1

Justification

- *Clause 1 is redundant in light of section 14 and 15 of the Acts of Parliament Act, Cap 2.*

**CLAUSE 2: AMENDMENT OF SECTION 1 OF THE ADMINISTRATOR GENERAL'S
ACT**

In clause 2, in the proposed amendment to section 1 of the principal Act, insert the following new paragraph immediately after paragraph (a) and renumber the clause according -

“(b) inserting the following definition after paragraph (c) as follows-

(ca). “child” means a person below the age of eighteen years, including an adopted child.”

Justification

- *To define child*

CLAUSE 3: AMENDMENT OF SECTION 2 OF THE PRINCIPAL ACT

In clause 3, substitute for the proposed amendment to section 2 (5) with the following-

"Section 2 (5) of the principal Act is amended by substituting for the words **"which does not appear to exceed two thousand shilling in gross value"**, the words "where the property is in the form of cash, cash in the bank, death gratuity, house hold assets, vehicles or any other movable property and does not exceed two thousand five hundred currency points". *The threshold prescribed under the Administration of Estates (Small Estates) (Special Provisions) (amendment)*

Justification

- *To cap the jurisdiction of agents of the Administrator General to estates over which such agents can exercise summary powers of the Administrator General without express authorization of the Administrator General or Court to only small estates of a total value of fifty Million (UGX 50,000,000) Million, being the maximum value of a small estate as prescribed the Administration of Estates (Small Estates) (Special Provisions) (amendment) Bill.*
- *Clearly state the jurisdiction of the agent to an aggregate property value rather than the proposal in the Bill which had no such limit and be open to abuse.*
- *To express the value of the estate in currency points in order to shield the provision from inflation.*
- *Granting agents appointed by the Minister or the Administrator General jurisdiction over small estates will bring services closer to the people, reduce the cost of obtaining letters or probate in estates whose values fall within their jurisdiction, ensure that the beneficiaries draw as much value from estate and allow for the just and effective administration of estates of deceased persons irrespective of their value without eroding the beneficial interest of the estates.*

CLAUSE 4: AMENDMENT OF SECTION 4 OF THE PRINCIPAL ACT

In clause 4, substitute for the proposed amendment to section 4 (5) (b) with the following-

"Section 4 (5) (b) of the principal Act is amended by substituting for the words "does not exceed twenty thousand shilling", the words "where the property is in the form of cash, cash in the bank, death gratuity, house hold assets, vehicles or any other movable property and does not exceed two thousand five hundred currency points". *The threshold prescribed under the Administration of Estates (Small Estates) (Special Provisions) (amendment)*

Justification

- *To cap the jurisdiction of the Administrator General to estates over which the Administrator General can administer, without any letters of administration or other formal proceedings or notice, take possession and administer to the largest of the small estates which is of a total aggregate value of Fifty Million (UGX 50,000,000) Million as prescribed the Administration of Estates (Small Estates) (Special Provisions) Act.*
- *Clearly state the jurisdiction of the Administrator General and limit it to a defined aggregate property value rather than the proposal in the Bill since the failure to expressly state the total value of the estates over which the Administrator General may have jurisdiction over may lead to abuse of such powers.*
- *To express the value of the estate in currency points in order to shield the provision from inflation.*
- *Granting the Administrator General jurisdiction over small estates will bring services closer to the people, reduce the cost of obtaining letters or probate in estates whose values fall within their jurisdiction, ensure that the beneficiaries draw as much value from estate and allow for the just and effective administration of estates of deceased persons irrespective of their value without eroding the beneficial interest of the estates.*

- *Consequential amendment arising from the amendment of clause 3 of the Bill.*

CLAUSE 5: AMENDMENT OF CLAUSE 5 OF THE PRINCIPAL ACT

Delete clause 5

Justification

- *The proposal will impose an unreasonable requirement on the widow or widower to obtain a letter of no objection from the Administrator General in total disregard of the fact that a widow or widower obtains, during the substance of a marriage, interest in the property that constitutes matrimonial property and therefore cannot be regarded as any other person.*
- *The provision will subject the widower or widower's proprietary rights to the desires and whims of the Administrator General, a matter that is contrary to the proprietary rights of such a person as guaranteed in the Constitution.*
- *The provision will also have the effect of curtailing the enjoyment and exercise of property belonging to the widow or widower since he or she will lose the right to administer his or her property and bestows the same to the administrator.*
- *The proposal is contrary to the amendment proposed in the Succession (amendment) Bill 2018, where the Committee recommended the adoption of a proposal to grant unfettered right to the surviving spouse to apply for and be granted letters of administration over any person, including the Administrator General.*

CLAUSE 7: AMENDMENT OF SECTION 11 OF THE PRINCIPAL ACT

For clause 7 there is substituted the following-

"Replacement of section 11 of the principal Act

For section 11, there is substituted the following-

- (1) When a person dies leaving property in Uganda, a person who-
- (a) without being authorized by law or without the authority of the Administrator General or an agent, takes possession of, hides, deals in or causes any property of a deceased person to be moved outside the territorial jurisdiction of Uganda;
 - (b) unlawfully refuses or neglects to deliver any such property to the Administrator General or his or her agent or any other person when called upon so to do; or
 - (c) intermeddles with the estate of a deceased person,
- commits an offence and is liable on conviction, to imprisonment for three years or to a fine not exceeding seventy two currency points, or to both fine and imprisonment..
- (2) For purposes of subsection (1) (a), a person is taken to intermeddle in the estate of a deceased where that person, while not being the Administrator General, an agent or a person to whom probate or letters of administration have been granted to by court-
- (a) takes possession or disposes of a deceased person's property; or
 - (b) does any other act which belongs to the office of executor or administrator.
- (3) Subject to section 268 of the Succession Act, the Administrator General may intermeddle in the estate of a deceased person where it is urgently necessary for purposes of-
- (a) preserving the estate from abuse,
 - (b) providing for the deceased's funeral;
 - (c) providing immediate necessities of the deceased's family;

- (d) preserving and prudent management of the deceased person's business, including preserving the deceased person's goods of trade; or
- (e) receiving money or other funds belonging to the deceased person.
- (4) The duration for which the Administrator General may intermeddle in the estate of the deceased person pursuant to subsection (3) is six months from the date of the deceased person's death or until the grant of letters of administration or probate, whichever first occurs.
- (5) For purpose of this section, the Administrator General or its agent may at any time before grant of letters of administration or probate take any action that is necessary for the preservation of the estate of the deceased person.
- (6) A person aggrieved by the decision of the Administrator General or its agent may apply to the High Court for redress.

Justification

- *To align the provision with section 268 of the succession Act;*
- *To cap the duration the Administrator General may intermeddle in the estate of a deceased person to six months or upon grant of letters or probate, which ever first occurs.*
- *To ensure compliance by creating offences against persons who neglect orders from the Administrator General.*
- *To limit the powers that can be exercised by the Administrator General to only preserving the estate rather than administering the estate of the deceased without lawful authority.*

INSERTION OF NEW CLAUSE IN THE BILL

The bill is amended by inserting the following new clause immediately after clause 5 as follows-

“Insertion of section 8A in principal Act

The principal Act is amended by inserting immediately after section 9, the following-

“8A. Duration of administration or execution

- (1) Where the Administrator General or an agent of the Administrator General takes over and administers an estate with or without an order of court under this Act, the Administrator General or an agent of the Administrator General shall carry out the duties and functions authorised by this Act or by the grant of probate or letters of administration for a period not exceeding three years.
- (2) Notwithstanding subsection (2), court may on application extend the duration prescribed in subsection (1) for a further period of three years if it is satisfied that-
 - (a) it is in the best interest of the beneficiaries to extend the period; and
 - (b) the Administrator General or the agent of the Administrator General has-
 - (i) complied with the provisions of this Act or any condition of grant of probate or letters of administration; and
 - (ii) obtained the consent of all the beneficiaries in the estate for which the grant was made.

Justification.

- *The imposition of a duration for administering an estate by the agent or Administrator General is to ensure that the Administrator General or an agent of the administrator does carry out the functions of that office within the shortest time possible, in this case three years, and to ensure that the Administrator General does not unreasonably hold onto the estate indefinitely.*
- *To harmonise the Administrator General’s Act with the amendments made to the Succession Act.*

CLAUSE 10: AMENDMENT OF SECTION 16 OF THE PRINCIPAL ACT

For clause 10, there is substituted the following-

“Replacement of section 16 of the principal Act

For section 16 of the principal Act, there is substituted the following-

“16. Power to dispose of property.

- (1) Subject to sections 27 and 36 of the Succession Act, the Administrator General may, with the written consent of the surviving spouse, lineal descendants and dependant relatives, dispose of the property of an estate under his or her administration either wholly or in part and either by public auction or private treaty as the Administrator General may deem to be in the best interests of the estate.
- (2) Where a beneficiary of the estate is a minor, the consent required in subsection (1) shall be given by the guardian of the minor and where the guardian of the minor is the executor or administrator, the consent shall be granted by court.
- (3) Notwithstanding subsection (1), the Administrator General shall dispose of the property of an estate under his or her administration only where-
 - (a) the disposal is beneficial to the estate;
 - (b) the disposal is beneficial to the beneficiaries in the estate;
 - (c) the sale is necessary to cater for the basic needs of the surviving spouse and lineal descendants or any other person entitled to benefit under the estate; or
 - (d) the disposal is necessary for settlement of the deceased person’ debts, including settlement of the deceased person’s tax obligations.
- (4) The Administrator General shall account to the estate the proceeds arising from the sale or disposal of any property belonging to the estate.
- (5) In disposing of property under this section, the Administrator General shall give first option to a beneficiary of the estate to purchase the property.

(6) The Administrator General, the agent of the Administrator General or any other officer of the Administrator General office shall not be eligible to purchase property of the estate.

(7) Any disposal of the property belonging to the estate of a deceased person in contravention of this section shall be void.

Justification

- *To exempt the disposal of matrimonial property and other property as prescribed in sections 27 and 30 of the Succession Act;*
- *To impose restrictions on the sale of property of the deceased person;*
- *For transparency and in order to obtain value for money, to bar the Administrator General, the Administrator General's agent or an officer of the Administrator General's office from purchasing the property belonging to the estate under his or her management.*
- *To enhance accountability by imposing an obligation on the Administrator General to account to the estate, for the proceeds arising from the sale of property.*
- *To grant a pre-emption rights to a beneficiary of the estate to purchase the property before it is offered to a third party.*

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 10

The Bill is amended by inserting immediately after clause 10, the following-

“Insertion of section 16A in principal Act

The principal Act is amended by inserting immediately after section 16, the following-

16A. Power to open and operate bank accounts

- (1) The Administrator General shall, with the authority of the Accountant General, open and maintain such accounts as are necessary for the performance of the functions of the Administrator General.
- (2) The Administrator General or an agent of the Administrator General shall deposit all funds received on behalf of an estate the Administrator General or an agent of the Administrator General is administering under this Acts onto which.

Justification

- *The power to open bank accounts will enhance transparency and accountability by ensuring that each estate has an account opened for it by the Administrator General or his or her agent onto which funds received for the estate are deposited thereon.*
- *The provision will ensure that funds for individual estates are not deposited onto the consolidated fund considering that these funds do not belong to Government and also, to ease access to such funds by the beneficiaries.*

CLAUSE 12: AMENDMENT OF SECTION 18 OF PRINCIPAL ACT

In clause 12, in the proposed amendment to section 18 (1), substitute for the words "the Gazette, and also in one or more local newspapers" appearing in subsection (1), the words "in at least one newspaper of wide national circulation and using any other means of communication as maybe appropriate for the particular estate".

Justification

- *In order to enhance transparency, to require notification to be made in a newspaper of wide national circulation;*
- *To ensure that the notification is received in areas beyond where the estate is situated.*

CLAUSE 13: AMENDMENT OF SECTION 19 OF PRINCIPAL ACT

In clause 13, in the proposed amendment to section 19 (1), substitute for all the words appearing after the words "the Gazette" appearing in subsection (1), with the words "at least one newspaper of wide national circulation and using any other means of communication as may be appropriate for the particular estate".

Justification

- *To make the notification to be made in a newspaper of wide national circulation;*
- *To ensure that the notification is received in areas beyond where the estate is situated*

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 13

The Bill is amended by inserting immediately after clause 13, the following-

"Amendment of section 20 of principal Act

Section 20 of the principal Act is amended

(a) by substituting for subsection (4) the following-

"(4) The fees, charges and reimbursements authorized by this Act shall be charged on the estate and paid after payment of funeral expenses and wages due for services rendered to the deceased within three months preceding his or her death by any labourer, artisan or domestic servant.

(b) By inserting immediately after subsection (4), the following-

"(4a) The fees, charges and reimbursements referred to in subsection (4) shall be deducted from any monies received by the Administrator General in the course of the administration of the estate.

Justification

- *To align the Administrator General's Act with the provisions of the succession Act, especially section 280, 281, 282 and 283 which sets out the priority for payment of fees, charges and disbursements out of the estate.*

CLAUSE 14: AMENDMENT OF SECTION 24 OF THE PRINCIPAL ACT

In clause 14, in the proposed amendment to section 24, substitute for the words "outside Uganda" the words "in a country other than Uganda"

Justification

- *For consistency with the nomenclature used in such circumstances.*

CLAUSE 15. AMENDMENT OF SECTION 27 OF THE PRINCIPAL ACT

For clause 15, there is substituted the following-

"Replacement of section 27 of the Principal Act

For section 27, there is substituted the following-

"27. Guardian to receive minor's share

(3) Where a person entitled to share under the will of a deceased person or in the distribution of an estate being administered by the Administrator General is a child, the Administrator General shall transfer and deliver the share of the child to the guardian of the child.

(4) The guardian of the child shall manage the property delivered to him or her in subsection (1) in a prudent manner and shall-

- (a) apply the property for the benefit of the child;
- (b) take reasonable steps to safeguard the property of the child from loss or damage; and

(c) annually account in respect of the child's property to the Administrator General, the surviving parent in any, court or any other person as court may direct.

Justification

- *In compliance with the children's Act and the succession Act, to require the share of the child is transferred to the guardian of the child*
- *To change the nomenclature used to from "minor" to "child" since the word "child" is the one that is normally used;*
- *To define the word "child"*

CLAUSE 16: AMENDMENT OF SECTION 30 OF THE PRINCIPAL ACT

In clause 16, in the proposed amendment to section 30 of the principal Act, substitute for "fifteen million shillings" the words "two thousand five hundred currency points".

Justification

- *To harmonize the provision with section 2 (5) and 4 (5) of the Administrator General's Act which expanded the value to two thousand five hundred currency points"*
- *To express the value in currency points for consistency and to shield it from being eroded by inflation.*

CLAUSE 17: AMENDMENT OF SECTION 35 OF THE PRINCIPAL ACT

In clause 17, in the proposed amendment to section 35 (2), delete all the words appearing after the word "Fund"

Justification

- *The exemption is in conflict with section 2(2) of the Administrator General Act as well as article 21 (1) in so far as it creates a distinction between the matters that*

can be suffered by the Administrator General, a legal person, and any other person in Uganda whose accounts can be attached.

- *Section 2 (2) of the Administrator General's Act specifically grants legal personality to the Administrator General. This means that the Administrator General can be sued or sue or suffer all things that a legal entity may suffer in Uganda.*
- *Government decentralised the payment of costs, damages, interest and any related expenses of litigation in any suit against a government Ministry, body or agency. By exempting the attachment of the accounts of the Administrator General, the successful party in these suits will not be able to realise the fruits of it labour.*

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CLAUSE 18: REPEAL OF SECTION 37 OF PRINCIPAL ACT

For clause 18, there is substituted the following-

“Replacement of section 37 of the principal Act

For section 37, there is substituted the following-

Distribution of estate

After completion of the administration of an estate by the Administrator General or his or her agents, the Administrator General or his or her agent shall distribute the balance, if any, among such persons as appear to be entitled to it and remit the amount so due by bank transfer, bank draft, registered money order or postal order or any other method as the Administrator General or agent considers necessary.”

Justification

- *The justification is to remove the threshold and to allow the transfer of such property to any person who is entitled to share in the estate.*
- *To impose an obligation on the Administrator General to distribute the proceeds of the estate to the rightful beneficiaries*

- *The Proposal to delete section 37 will create a lacuna in the law in so far as it removes the mechanism for the distribution of the beneficiaries of the estate as well as to persons who are outside the territorial jurisdiction of Uganda.*
- *The deletion will also allow the Administrator General to retain property of the estate, thereby unjustly enriching the Administrator General to the detriment of the beneficiaries of the estate.*
- *To expand the provision to cater for the distribution of the estate by the Administrator General.*

-----**END**-----

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