

THE LOCAL GOVERNMENTS (AMENDMENT) BILL, 2009

ARRANGEMENT OF CLAUSES

Clause

1. Amendment of section 7 of the Local Governments Act
2. Amendment of section 10 of principal Act
3. Amendment of section 11 of the principal Act
4. Amendment of section 23 of principal Act
5. Amendment of subsection 35 of principal Act
6. Amendment of section 47 of principal Act
7. Insertion of new section 51A
8. Amendment of section 54 of principal Act
9. Amendment of section 55 of principal Act
10. Amendment of Section 62 of the principal Act
11. Amendment of section 64 of the principal Act
12. Replacement of section 68 of the principal Act
13. Replacement of section 70 of the principal Act
14. Amendment of section 82 of the principal Act
15. Amendment of section 83 of the principal Act
16. Insertion of new section 85A
17. Amendment of section 86 of the principal Act
18. Replacement of section 94A of the principal Act
19. Replacement of section 102(2) of the principal Act
20. Amendment of section 118 of the principal Act
21. Amendment of section 171 of the principal Act



A BILL for an ACT

ENTITLED

THE LOCAL GOVERNMENTS (AMENDMENT) ACT, 2009

An Act to amend the Local Governments Act, to take account of a judgment of the Constitutional Court relating to implementation of the Local Governments Act and to amend the Act to bring it into conformity with the Constitution and for other related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 7 of the Local Governments Act

The Local Governments Act, Cap 243 in this Act referred to as the principal Act is amended in section 7, by inserting immediately after sub-section (2) the following—

“(2a) The Minister may, with the approval of Parliament declare an urban area a city in accordance with paragraph 32 of the Third Schedule to this Act.”

2. Amendment of section 10 of principal Act

The principal Act is amended in section 10(f)—

- (a) by substituting for “elderly persons” the words “older persons”; and

- (b) by substituting for “association of the elderly” the words “Council of older persons”

3. Amendment of section 11 of the principal Act

Section 11 of the principal Act is amended by substituting for sub-section (6c) the following—

“(6c) A notice made under sub-section (6A) shall be submitted to the Minister or his or her representative by the Clerk to Council and the Minister, or his or her representative shall evaluate the notice for removal of the Speaker, and if satisfied that there are sufficient grounds for doing so, shall, within thirty days after receipt of the notice, convene or cause the convening of a meeting for the removal and election of a speaker” and

- (b) by inserting immediately after subsection (12) the following—

“(13) A deputy speaker of a district council shall be paid emoluments and allowances in accordance with the First Schedule to this Act.”

4. Amendment of section 23 of principal Act

Section 23 of the principal Act is amended—

- (a) In subsection (6)—

- (i) by substituting for “elderly persons” the words “older persons”;
- (ii) by substituting for “associations of the elderly” the words “council of older persons”;

- (b) by inserting immediately after subsection (6) the following—

“(7) For the avoidance of doubt, any person representing the youth or persons with disability or older persons—

- (a) may be chosen on the multiparty basis or as an independent; and
- (b) shall be a person who is willing to serve in that capacity”

5. Amendment of subsection 35 of principal Act

Section 35 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(4) The planning period for Local Governments shall be the same as that of the Central Government”.

6. Amendment of section 47 of principal Act

Section 47 (2) of the principal Act is amended by inserting immediately after paragraph (j) the following—

“(k) the chairperson of the council of older persons of the parish or village level who shall be the Secretary of the Council of older persons.”

7. Insertion of new section 51A

The principal Act is amended by inserting immediately after section 51 the following—

“Payment of allowances to chairpersons of village, parish and ward council

51A A chairperson of a village, parish and ward council shall be paid allowances in accordance with the First Schedule to this Act.”

8. Amendment of section 54 of principal Act

Section 54 of the principal Act is amended as follows—

- (a) by inserting immediately after subsection (2A) the following—

“(2B) A member of a District Service Commission representing an urban authority shall be appointed by the district council on the recommendation of the Urban Council;

(2C) In the case of a District with more than one Urban Authority, the electoral college of the Urban Council Executive Committee members in that District shall recommend a member to be appointed to the District Service Commission by the District Council;

(2D) A member of the District Service Commission representing persons with disabilities shall be appointed by the District Council on the recommendation of the District Council for disability.

(2E) A district council shall appoint a District Service Commission within three months after the term of the district service commission expires and the Ministry responsible for local governments shall enforce compliance with this subsection.”

- (b) by inserting immediately after subsection (4)(c) the following—

“(d) failure to attend five consecutive meetings of the District Service Commission”

9. Amendment of section 55 of principal Act

Section 55 of the principal Act is amended as follows—

- (a) by inserting immediately after subsection (3) the following—

“(3a) When considering recruitment of accounting, internal audit and procurement staff, the District Service Commission shall use guidelines issued by the Public Service Commission”.

- (b) in subsection (4), by substituting for “of the relevant council” the words “by the responsible officer”;
- (c) by substituting for sub-section (7) the following—

“(7) three members of the District Service Commission or its specialized committees shall form a quorum at any of its meetings”.

10. Amendment of Section 62 of the principal Act

The principal Act is amended by substituting for subsection (1) the following—

“(1) The Chief Administrative Officer shall assign a senior public officer in the employment of the Local Government to perform the duties of Clerk to the District Council.”

11. Amendment of section 64 of the principal Act

Section 64 of the principal Act is amended by inserting immediately after subsection (3) the following—

“(3a) The Chief Administrative Officer shall initiate disciplinary action and all submissions in respect of town clerks of town councils and town boards.”

12. Replacement of section 68 of the principal Act

For section 68 of the principal Act, there is substituted the following—

“Removal of chief administrative officer and town clerks from office

68. (1) The chief administrative officer, Deputy Chief Administrative Officer, Town Clerk of a city and town clerk of a municipality shall be removed from office in accordance with articles 188(2) and 200(4) of the Constitution respectively.”

(2) The town council may recommend the removal of a town clerk by a resolution supported by two-thirds of the council members on any of the following grounds—

- (a) abuse of office;
- (b) incompetence;

- (c) misconduct or misbehavior; or
- (d) such physical or mental incapacity as would render the town clerk incapable of performing the duties of the town clerk, as the case may be.

(3) Before passing a resolution under subsection (2), the council shall in writing, put its allegations to the town clerk who shall have the right to defend himself or herself before the council.

(4) Following the resolution of the council, to remove the town clerk, the clerk to the council shall forward the council's decision together with supporting documents to the Chief Administrative Officer who shall immediately interdict the town clerk and require the Town Clerk to submit his or her written defence to the district service commission within fourteen days after receipt of the letter of interdiction.

(5) The district service commission shall conduct investigations into the allegations against the town clerk and take further appropriate action.

(6) The town clerk shall, during investigations under subsection (5), have a right to appear and defend himself or herself before the district service commission.

(7) On receipt of the letter of interdiction, the town clerk shall hand over to an officer designated by the Chief Administrative Officer.

(8) Where the town clerk is dissatisfied with the decision of the district service commission he or she may appeal to the Public Service Commission.”

13. Replacement of section 70 of the principal Act

For section 70 of the principal Act, there is substituted the following—

“70. Resident District Commissioner

(1) There shall be for each district, a Resident District Commissioner who shall be appointed by the President

(2) For a person to be appointed a Resident District Commissioner he or she shall be a citizen of Uganda and qualified to be a member of Parliament.

(3) The functions of a Resident District Commissioner are—

- (a) to monitor the implementation of central and local government services in the district;
- (b) to act as chairperson of the district security committee of the district; and
- (c) to carry out such other functions as may be assigned by the President or prescribed by Parliament by law”.

14. Amendment of section 82 of the principal Act

Section 82(4) of the principal Act is amended by substituting for “fifteenth day of June” the words “thirtieth day of June”.

15. Amendment of section 83 of the principal Act

Section 83 of the principal Act is amended in subsection (6)—

- (a) by inserting after “city” the words “city division council”
- (b) by inserting immediately after subsection (6) the following—

“(7) The Secretary to the Treasury may remit funds to a service delivery unit such as a school, hospital or similar institution, under a local government but he or she shall inform the Permanent Secretary of the Ministry responsible for local Government, the line Ministries, the Resident District Commissioners, the Auditor General, chairpersons of Local Governments and Chief Administrative Officers and Town Clerks about the remittances”.

16. Insertion of new section 85A

The principal Act is amended by inserting immediately after section 85 the following—

“Salaries and gratuities to be paid out of Consolidated Fund 85A Salaries and gratuities of political leaders of local governments shall be paid out of the Consolidated Fund.”

17. Amendment of section 86 of the principal Act

Section 86 of the principal Act is amended by substituting for “four months” the words “three months”.

18. Replacement of section 94A of the principal Act

For section 94A of the principal Act, there is substituted the following—

“Municipal or city division contracts committees

94A (1) A municipal or city division council shall establish a municipal or city division contracts committee to serve the municipality or city division.

(2) A municipal or city division contracts committee shall also cater for the procurement of municipal or city division and other lower local government councils within its jurisdiction.

(3) A municipal or city division contracts committee shall comprise a chairperson and four other members nominated by a Town Clerk from among the public officers of the district or city employed in the municipality or city division and approved by the Secretary to the Treasury.

(4) A municipal or city division contracts committee shall seek the services of the district legal advisor in the execution of its work.

(5) The quorum at any meeting of the municipal or city division contracts committee is three including the chairperson.

(6) In the absence of the chairperson, the members of the municipal or city division contracts committee present shall elect a person from among their number to preside over the meeting.

(7) Members of a municipal or city division contracts committee shall hold office for three years and shall be eligible for reappointment for only one more term.

(8) Members of the municipal or city division contracts committee shall be appointed with due regard to their technical competence and skills required for the discharge of the functions of the contracts committee.”

19. Replacement of section 102(2) of the principal Act

For section 102(2) of the principal Act there is substituted the following—

“(2) A person appointed a returning officer shall be a person of high moral character and proven integrity and shall not be a local government officer”.

20. Amendment of section 118 of the principal Act

Section 118 of the principal Act is amended—

(a) In subsection (2) by substituting for the words “A councilor representing persons with disability shall be elected by the National Union of Disabled People of Uganda forming an electoral college as follows”—

the words “A councilor representing persons with disabilities shall be elected by electoral colleges established under the National Council for the Disability Act.”

(b) in subsection (2B) by inserting immediately after “disabilities” the words or “older persons”.

21. Amendment of section 171 of the principal Act

Section 171 of the principal Act is amended by substituting for section 171 the following—

“By-elections

171(1) Where the office of a chairperson becomes vacant, the chief administrative officer shall within twenty-one days notify the Electoral Commission; and the commission shall organise a by-election within ninety days from the occurrence of the vacancy.

(2) Any chief administrative officer who fails to report to the Electoral Commission within one month from the date the office fell vacant, commits an offence and is liable on conviction to a fine not exceeding five currency points or imprisonment not exceeding three months or both.

(3) A person elected chairperson under subsection (1) shall hold office for the period covering the unexpired term of the council.

(4) Where the seat of a councilor becomes vacant under regulation 3 of the Third Schedule to this Act, the chief administrative officer shall notify the electoral Commission in writing within twenty-one days after the vacancy occurred and the commission shall organise a by-election within ninety days after the occurrence of the vacancy.

(5) Where the seat of a chairperson of a subcounty council, town council, municipal division, municipal council or city division becomes vacant, the chief administrative officer shall notify the district registrar within twenty-one days after the occurrence of the vacancy and the Electoral Commission shall organise a by-election within ninety days after the occurrence of the vacancy.

(6) For the purposes of this section the parish chief shall report to the subcounty chief any vacancy occurring in a parish or village council within ten days after the occurrence of the vacancy for onward transmission to the district registrar and the Electoral Commission shall organise a by-election within ninety days after the occurrence of the vacancy to fill the vacancy.

(7) Notwithstanding anything in this section, by-election shall not be held where the term of the council to which the vacancy relates has less than six months to expire.

(8) A by-election for local government councils shall not be held where a vacancy occurs within six months to the general elections of local councils.”