

Bill No. 28

(Amendment) Bill

2015

**THE KAMPALA CAPITAL CITY AUTHORITY (AMENDMENT)
BILL, 2015**

MEMORANDUM

1. Object

The object of this Bill is to amend the Kampala Capital City Act, 2010, to streamline and strengthen the governance of the Capital City in accordance with article 5(4) of the Constitution; to provide for the Lord Mayor to be elected by the council from the councilors; to clarify the roles of the Lord Mayor and Deputy Lord Mayor; to rationalise the provisions relating to the Metropolitan Physical Planning Authority with the structure and provisions relating to the Capital City Authority and for related matters.

2. Defects in the existing law

While Kampala Capital City was given a special status from Local Governments and is being administered by the Central Government, the Kampala Capital City Act, 2010 still provides for decentralised local governments within the Capital City which has led to contradictions and a clash of roles. Also, the lack of clarity in the administrative structure means that the technical staff of Kampala Capital City Authority are obliged to report to the Minister responsible for Kampala and to elected leaders at the various administrative units within the City without specifying the reporting mechanisms.

Section 11(1), (b) of the Act vests the power to convene and preside over meetings of the Authority only in the Lord Mayor. In the absence of the Lord Mayor many fundamental activities of Capital City cannot be discharged and implemented.

Also section 11(1), (e) of the Kampala Capital City Act, 2010 provides for the functions of the Lord Mayor to include executive powers like being the head of the Authority in developing strategies and programmes for the development of the Capital City, being the political head of the Capital City yet Kampala Capital City is administered by the Central Government where the minister should be the political head with executive powers.

Section 21 of the Kampala Capital City Act, 2010 provides for the establishment of a Metropolitan Physical Planning Authority, however the law does not prescribe its character whether as a body corporate or not, and does not provide for its secretariat and financing.

Remedies

The Bill, therefore, seeks to amend the Kampala Capital City Act, 2010, to address the apparent clash of roles and to re-assert the powers of the central government in the administration of Kampala Capital City by vesting more powers in the Minister who is a representative of the Central Government by making him or her the political Head of the Capital City.

The Bill also seeks to amend some sections under Part III of the Act on Governance of Kampala Capital City to correct the latent errors and ambiguity in composition of the Authority, Council and nomenclature of institutions and offices referred to in the Act by providing for the Council of the Authority, the composition of the Council, functions of the council separate from the functions of the Authority and electing the Lord Mayor and Deputy Lord Mayor from among the councilors.

Furthermore the Bill seeks to streamline the establishment of the Metropolitan Physical Planning Authority (clauses 14 -16), to remove all the ambiguities in the establishment and functions of the Metropolitan Authority to provide its composition, strengthen its operations by providing the administrative structure and the secretariat.

FRANK TUMWEBAZE, (MP)

Minister for the Presidency and Kampala Capital City.

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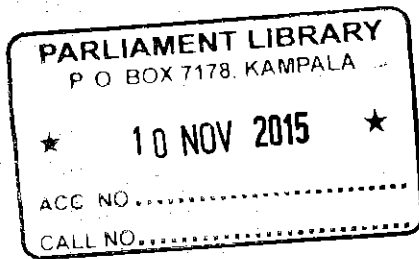
ARRANGEMENT OF CLAUSES

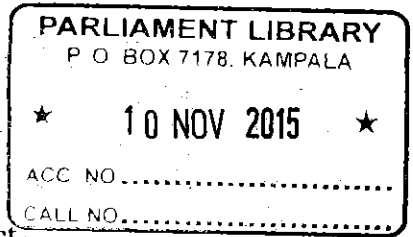
Clause

1. Amendment of Kampala Capital City Act, 2010
2. Amendment of section 5 of the principal Act.
3. Replacement of section 6 of the principal Act.
4. Insertion of new section 6A.
5. Amendment of section 7 of the principal Act.
6. Amendment of section 8 of the principal Act.
7. Replacement of section 9 of the principal Act.
8. Replacement of section 10 of the principal Act.
9. Amendment of section 11 of the principal Act.
10. Amendment of section 12 of the principal Act.
11. Amendment of section 15 of the principal Act.
12. Amendment of section 16 of the principal Act.
13. Amendment of section 19 of the principal Act.
14. Amendment of section 21 of the principal Act.
15. Amendment of section 22 of the principal Act.
16. Insertion of new sections 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22I, 22J, 22K, 22L.
17. Amendment of section 26 of the principal Act.
18. Amendment of section 28 of the principal Act.
19. Amendment of section 29 of the principal Act.
20. Amendment of section 31 of the principal Act.
21. Amendment of section 32 of the principal Act.
22. Amendment of section 34 of the principal Act.
23. Repeal of section 47 of the principal Act.
24. Amendment of section 48 of the principal Act.
25. Amendment of section 49 of the principal Act.
26. Repeal of section 52 of the principal Act.
27. Repeal of section 54 of the principal Act.

Clause

- 28. Repeal of section 55 of the principal Act.
- 29. Amendment of section 57 of the principal Act.
- 30. Amendment of section 58 of the principal Act.
- 31. Repeal of sections 61 to 70 of the principal Act.
- 32. Amendment of section 72 of the principal Act.
- 33. Insertion of new section 76A.
- 34. Amendment of section 78 of the principal Act.
- 35. Amendment of section 79 of the principal Act.
- 36. Amendment of section 82 of the principal Act.





A Bill for an Act

ENTITLED

**THE KAMPALA CAPITAL CITY (AMENDMENT) ACT,
2015.**

An Act to amend the Kampala Capital City Act, 2010, to streamline and strengthen the governance of the Capital City in accordance with article 5(4) of the Constitution; to provide for the Lord Mayor to be elected by the Council from the councillors; to clarify the roles of the Lord Mayor and Deputy Lord Mayor; to rationalize the provisions relating to the Metropolitan Physical Planning Authority with the structure and provisions relating to the Capital City Authority; and to provide for related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of Kampala Capital City Act, 2010.

The Kampala Capital City Act, 2010, in this Act referred to as the "principal Act" is amended in section 2—

- (a) by inserting immediately after the definition of "Capital City" the following—

“ “Council” means the Council established under section 6 of this Act;”

- (b) by substituting for the definition of "councillor" the following—

“councillor” means a member of the Council, a division urban council, ward urban council or village urban council;”

2. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by repealing subsection (3).

3. Replacement of section 6 of the principal Act.

The principal Act is amended by substituting for section 6 the following—

“6. Council of the Authority.

(1) The Council is the governing body of the Capital City.

(2) The Council shall consist of the following members—

(a) the Lord Mayor;

(b) the Deputy Lord Mayor;

(c) one councillor directly elected by secret ballot to represent each electoral area in the Capital City on the basis of universal adult suffrage;

(d) two councillors representing the youth, one of whom shall be female;

(e) two councillors with disability representing persons with disabilities, one of whom shall be female;

(f) women councillors forming one third of the Authority such that the councilors elected under paragraphs (c), (d) and (e) shall form two thirds of the Authority;

(g) two councillors representing the workers, one of whom shall be female; and

(h) two councillors representing the elderly, one of whom shall be female.

(2) A person is not qualified to be a councillor unless he or she is qualified to be elected a member of Parliament.”

4. Insertion of new section 6A.

The principal Act is amended by inserting immediately after section 6, the following new section—

“6A. Functions of the council.

The functions of the Council are—

- (a) to determine taxation levels within the Capital City;
- (b) to enact subsidiary legislation for the proper management of the Capital City;
- (c) to make recommendations on the budget proposals made by the Executive Director;
- (d) to discuss and make recommendations to budget proposals made by the executive director;
- (e) to monitor the delivery of services within the Capital City;
- (f) to mobilize the residents of the Capital City to undertake income generating activities and self-help community projects;
- (g) to assist the city divisions in mobilising the residents to pay local taxes;
- (h) to perform any other function as may be assigned by the Minister.”

5. Amendment of section 7 of the principal Act.

Section 7 of the principal Act is amended in subsection (1) by repealing paragraphs (c), (d), (e), (l), (o) and (p).

6. Amendment of section 8 of the principal Act.

Section 8 of the principal Act is amended—

- (a) in the head note by substituting for the word “Authority”, the word “Council”;
- (b) in subsection (1) by substituting for the word “Authority”, the word “Council”;
- (c) in subsection (2) by substituting for the word “Authority”, the word “Council”;
- (d) in subsection (3) by substituting for the word “Authority”, the word “Council”;
- (e) in subsection (4) by substituting for the word “Authority”, the word “Council”;
- (f) in subsection (5) by substituting for the word “Authority”, the word “Council”;
- (g) in subsection (6) by substituting for the word “Authority”, the word “Council”.

7. Replacement of section 9 of the principal Act.

The principal Act is amended by substituting for section 9 the following—

“9. Lord Mayor and Deputy Lord Mayor.

(1) There shall be a Lord Mayor and a Deputy Lord Mayor of the Capital City.

(2) The Lord Mayor and Deputy Lord Mayor shall be elected by the Council from among the councillors referred to in section 6(2) (c) to (h).

(3) The election of the Lord Mayor and the Deputy Lord Mayor shall be presided over by the Electoral Commission.

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(4) A person shall not be Lord Mayor or Deputy Lord Mayor unless that person is elected by at least two-thirds of all members of the Council.

(5) The Lord Mayor and Deputy Lord Mayor shall serve on a full time basis.”

8. Replacement of section 10 of the principal Act.

A person is not qualified to be elected as the Lord Mayor, Deputy Lord Mayor or a member of the Council unless he or she is qualified to be elected a member of Parliament.

9. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended—

(a) by substituting for subsection (1) the following—

“(1) The functions of the Lord Mayor are—

- (a) to preside over all meetings of the Council;
- (b) to perform ceremonial functions and civic functions;
- (c) to host foreign and local dignitaries on behalf of the Authority and Capital City;
- (d) to promote the Capital City as a tourist and investment destination;
- (e) to represent, support and promote the businesses and residents of the Capital City.”;

(b) in subsection (2) by substituting for the word “Authority”, the word “Council”.

10. Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended—

- (a) in subsection (1)—
- (i) by substituting for the word “Authority”, the word “Council”;
 - (ii) paragraph (e), by substituting for the word “Authority”, the word “Council”;
- (b) by substituting for subsection (5) the following—
- “(5) The Minister shall evaluate the resolution in consultation with the Attorney General and if satisfied that there are sufficient grounds for doing so, shall, within twenty-one days after receipt of the petition, convene the Council to consider the petition.”
- (c) by substituting for subsections (6),(7), (8) and (9) the following—
- “(6) The Minister shall, at least fourteen days before convening the Council, give a copy of the petition to the Lord Mayor or Deputy Lord Mayor against whom the petition is made.
- (7) At the meeting convened to consider the petition, the Minister shall give the Lord Mayor or Deputy Lord Mayor an opportunity to respond to the matters specified in the petition before entertaining any motion on the petition.
- (8) A resolution for the removal of the Lord Mayor or Deputy Lord Mayor shall be supported by the votes of not less than two-thirds of all members of the Council.
- (9) A person who is removed as Lord Mayor or Deputy Lord Mayor may appeal to the High Court within twenty one days from the date of the resolution.”
- (d) by repealing subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20) and (21).

11. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended by substituting for the word “Authority”, the word “Council”.

12. Amendment of section 16 of the principal Act.

Section 16 of the principal Act is amended—

- (a) in the head note, by substituting for the word “Authority” the word “Council”;
- (b) in subsection (1) by substituting for the word “Authority”, the word “Council” between the words “The” and “shall”;
- (c) in subsection (2) by substituting for the word “Authority”, the word “Council” between the words “the” and “may”;
- (d) in subsection (3) by substituting for paragraph (b) the following—

“(b) to receive reports and make recommendations to the Council on quarterly and annual work plans of directorates.”
- (e) in subsection (3) (c) by substituting for the word “Authority”, the word “Council”;
- (f) in subsection (3) (f) by substituting for the word “Authority” the word “Council” between the words “the” and “proposals”;
- (g) in subsection (4) by substituting for the word “Authority”, the word “Council”;
- (h) in subsection (5) by substituting for the word “Authority”, the word “Council”;
- (i) in subsection (7) by substituting for the word “Authority”, the word “Council”.

13. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended—

- (a) by repealing paragraph (c);
- (b) by substituting for paragraph (e) the following—
“(e) advise the Council on government policy”;
- (c) in paragraph (f), by substituting for the word “Authority”, the words “Council and subsequently to the Minister”;
- (d) in paragraph (g) by substituting for the word “Authority” the word “Council”;
- (e) in paragraph (h) by substituting for the word “Authority” the word “Council”.
- (f) in paragraph (s) by substituting for the word “Authority” the word “Council”;
- (g) in paragraph (t) by substituting for the word “Authority” the word “Council”;
- (h) in paragraph (u) by substituting for the word “Authority” the word “Minister”;
- (i) in paragraph (v) by substituting for the word “Authority” the word “Council”;

14. Amendment of section 21 of the principal Act.

Section 21 of the principal Act is amended—

- (a) by substituting for subsection (2) the following—

“(2) The Metropolitan Authority shall consist of the following members—

- (a) a chairperson and six other persons all of whom shall be appointed by the Minister with the approval of Cabinet, being persons qualified and experienced in physical planning, civil engineering, architecture, environment, public health or surveys;
- (b) the chairperson of the National Planning Authority;
- (c) the chairperson of the National Physical Planning Board;
- (d) the chief executive officer of the Metropolitan Authority, *ex officio* without a right to vote on any matter requiring a vote;
- (e) the executive director of the Authority, *ex officio* without a right to vote on any matter requiring a vote; and
- (f) the chief administrative officers of Mpigi, Wakiso and Mukono district, *ex officio* without a right to vote on any matter requiring a vote.”

15. Amendment of section 22 of the principal Act.

Section 22 of the principal Act is amended—

- (a) in subsection (1), by inserting immediately after paragraph (c), the following—
 - “(ca) supervise and coordinate the joint execution of transportation or infrastructure projects by the Authority, districts and other mandated agencies of Government within the metropolitan area;”
- (b) by inserting immediately after subsection (1), the following—

“(1a) The Metropolitan Authority shall submit the Metropolitan Physical Development Plan developed under subsection (1) (a) to the Minister for the approval of Cabinet.”

- (c) by inserting immediately after subsection (2), the following—

“(2a) Notwithstanding section 6 (1) (a) of the Physical Planning Act, 2010, the Metropolitan Authority shall hear and determine appeals lodged by persons or local governments aggrieved by the decision of any physical planning committee within the Metropolitan Authority.”

16. Insertion of new sections 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22I, 22J, 22K.

The principal Act is amended by inserting immediately after section 22, the following new sections—

“22A. Secretariat of the Metropolitan Authority.

(1) The Metropolitan Authority shall have a secretariat which shall be responsible for the day-to-day operations of the Metropolitan Authority and implementing the decisions of the Metropolitan Authority.

(2) The secretariat shall be headed by a full time chief executive officer.

22B. Chief Executive Officer.

(1) The chief executive officer shall be appointed by the Minister on the recommendation of the Metropolitan Authority.

(2) A person shall not be appointed chief executive officer unless that person has relevant knowledge, qualifications and considerable experience in physical planning, urban planning, civil engineering, architecture, environment, public health, surveys, law or management.

(3) The chief executive officer shall hold office for five years, and shall be eligible for reappointment for only one further term.

(4) The chief executive officer shall cease to hold office if he or she—

- (a) resigns;
- (b) is declared insolvent;
- (c) is convicted of a criminal offence in respect of which a penalty of imprisonment of six months or more is imposed without the option of a fine;
- (d) is removed from office by the Minister on the recommendation of the Metropolitan Authority for—
 - (i) continuously and persistently being unable to discharge the functions of the office of chief executive officer;
 - (ii) failing to disclose to the Metropolitan Authority his or her interest in a contract or proposed contract or any other matter connected to the Metropolitan Authority; or
 - (iii) misbehavior or abuse of office.

22C. Functions of the chief executive officer.

(1) The chief executive officer of the Metropolitan Authority is responsible for—

- (a) implementing the policies, projects and programmes approved by the Metropolitan Authority;
- (b) managing the funds and property of the Metropolitan Authority;

- (c) taking and keeping a record of the meetings of the Metropolitan Authority;
- (d) administering, organizing and supervising the staff of the Metropolitan Authority;
- (e) keeping records of all the transactions of the Metropolitan Authority.

(2) In the performance of his or her duties, the chief executive officer is answerable to the Metropolitan Authority.

22D. Other officers and staff of the Metropolitan Authority.

(1) There shall be officers and staff of the Metropolitan Authority as may be necessary for the effective performance of the functions of the Metropolitan Authority.

(2) The officers and staff of the Metropolitan Authority shall be appointed by the Metropolitan Authority on terms and conditions determined by the Metropolitan Authority.

22E. Funds of the Metropolitan Authority.

The funds of the Metropolitan Authority shall consist of—

- (a) money appropriated by Parliament for the purposes of the Metropolitan Authority;
- (b) money paid to the Metropolitan Authority for services rendered;
- (c) a percentage of fees charged for the approval of development plans within the metropolitan area;
- (d) money borrowed by the Metropolitan Authority;
- (e) loans, grants, gifts or donations from Government and other sources made with the approval of the Minister, the Minister responsible for finance and Parliament.

22F. Power to open and operate bank accounts.

The Metropolitan Authority shall, in accordance with the Public Finance Management Act, 2015, open and maintain bank accounts as are necessary for the performance of the functions of the Metropolitan Authority.

22G. Estimates of income and expenditure.

(1) The Metropolitan Authority shall, in accordance with the Public Finance Management Act, 2015, prepare and submit to the Minister for approval, a budget containing the estimates of income and expenditure of the Metropolitan Authority for the next financial year.

(2) The Metropolitan Authority shall not incur any expenditure exceeding the budget without the approval of the Minister.

22 H. Application of Metropolitan Authority funds.

The funds of the Metropolitan Authority may be applied to the payment—

- (a) or discharge of expenses, obligations or liabilities incurred in connection with the performance of the functions or exercise of the powers of the Metropolitan Authority;
- (b) of any remuneration or allowances payable to a member or staff of the Metropolitan Authority.

22I. Accounts.

The Metropolitan Authority shall—

- (a) keep proper books of accounts and all records relating to the transactions and affairs of the Metropolitan Authority;

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- (b) within three months after the end of the financial year, prepare annual financial statements for the preceding financial year; and
- (c) within three months after the end of each financial year, submit the annual accounts to the Auditor General.

22J. Audit.

(1) The Auditor General or an auditor appointed by the Auditor General shall, in each financial year, audit the accounts of the Metropolitan Authority.

(2) The Auditor General or an auditor appointed by the Auditor General shall within three months after receipt of the accounts, submit to the Minister and Parliament a report on the audited accounts of the Metropolitan Authority.”

17. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended in subsection (1) by substituting for the words “Capital City”, the words “Metropolitan Area”.

18. Amendment of section 28 of the principal Act.

Section 28 of the principal Act is amended—

- (a) by substituting for subsection (1) the following—

“(1) The mayor and deputy mayor shall be elected by the division urban council from the division councilors.”

- (b) by substituting for subsection (2) the following—

“(2) A person shall not be elected mayor or deputy mayor unless that person is elected by at least two-thirds of all members of the division urban council”;

- (c) by inserting immediately after (2), the following—

“(2a) The election of the mayor and the deputy mayor shall be presided over by the Lord Mayor or Deputy Lord Mayor.”

- (d) by repealing subsection (7).

19. Amendment of section 29 of the principal Act.

Section 29 of the principal Act is amended in subsection (1) by repealing paragraph (a).

20. Amendment of section 31 of the principal Act.

Section 31 of the principal Act is amended—

- (a) in subsection (1) by repealing the word “and shall be the accounting officer of the division urban council”;
- (b) in subsection (2), by inserting immediately after paragraph (c) the following—

“(ca) assisting the executive director to prepare the annual budget of the division urban council;”

21. Amendment of section 32 of the principal Act.

Section 32 of the principal Act is amended—

- (a) in section 32 by renumbering the existing provision as subsection (1); and
- (b) by inserting immediately after subsection (1) the following—

“(2) The procedure for the removal of the Lord Mayor or Deputy Lord Mayor under section 12 shall apply to the removal of the mayor or deputy mayor with the necessary modifications.”

22. Amendment of section 34 of the principal Act.

Section 34 of the principal Act is amended by inserting immediately after subsection (1), the following—

“(1a) For the purposes of subsection (1), the town clerk shall, within seven days from the date of a decision of the division urban council, transmit the decision to the Council.”

23. Repeal of section 47 of the principal Act.

The principal Act is amended by repealing section 47.

24. Amendment of section 48 of the principal Act.

Section 48 of the principal Act is amended in subsection (2) by repealing the words “of the council”.

25. Amendment of section 49 of the principal Act.

The principal Act is amended by repealing subsection (3).

26. Repeal of section 52 of the principal Act.

The principal Act is amended by repealing section 52.

27. Repeal of section 54 of the principal Act.

The principal Act is amended by repealing section 54.

28. Repeal of section 55 of the principal Act

The principal Act is amended by repealing section 55.

29. Amendment of section 57 of the principal Act.

Section 57 of the principal Act is amended by substituting for subsection (3), the following—

“(3) The Auditor General shall give a report of the audited accounts of the Authority to Parliament with copies to—

- (a) the Minister responsible for finance;

- (b) the Minister;
- (c) the Authority or lower urban council to which the audit relates;
- (d) the Kampala Capital City Public Accounts Committee;
- (e) the Inspector General of Government; and
- (f) the Resident City Commissioner.”

30. Amendment of section 58 of the principal Act.

Section 58 of the principal Act is amended—

- (a) by substituting for subsection (3) the following—

“(3) A person shall not be appointed a member of the Capital City Public Accounts Committee unless that person is of high moral character and proven integrity.”

- (b) by substituting for subsection (5) the following—

“(5) The members of the Capital City Public Accounts Committee shall hold office for the duration of the term of the council.”

- (c) in subsection (11), by repealing the words “or division assistant executive director”.

31. Repeal of sections 61 to 70 of the principal Act.

The principal Act is amended by repealing sections 61 to 70.

32. Amendment of section 72 of the principal Act.

Section 72 of the principal Act is amended in subsection (1)—

- (a) paragraph (c), by substituting—

- (i) for the words “act as”, the words “to be”;

- (ii) for the word “Authority”, the word “Council”;

(b) in subsection (2), by repealing paragraph (f).

33. Insertion of new section 76A.

The principal Act is amended by inserting immediately after section 76, the following—

“76A. Term of councillors representing professional bodies.

(1) Notwithstanding any other provision of this Act, the term of office of the councillors representing professional bodies under section 6(1)(f) shall end at the same time as the term of the Lord Mayor, Deputy Lord Mayor and the councillors elected under section 6 (1) (c), (d) and (e).

(2) Where the service of the councillor representing a professional body is terminated as a result of the application of subsection (1), the councillor is entitled to payment by the Authority of compensation for loss of employment for the period by which his or her services as a councillor is shortened.

(3) The compensation to be paid to the councillor representing professional bodies under subsection (2), shall be equal to the salary and allowances that the councillor would have earned as a member if he or she had continued to be councillor until the date on which the term of the Council in question would normally have ended.”

34. Amendment of section 78 of the principal Act.

Section 78 of the principal Act is amended in subsection (2), by substituting for paragraph (c) the following—

“(c) without prejudice to paragraph (b), the Local Governments (Rating) Act, shall, with effect from the commencement of this Act, apply to the Capital City such that the Council shall impose, levy and collect rates in accordance with the Act.”

35. Amendment of section 79 of the principal Act.

Section 79 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting immediately after paragraph (b), the following—

“(ba) to address the Council on matters of policy, national importance or development of the Capital City”;

(ii) in paragraph (c), by substituting for the word mayor, the words “Lord Mayor”;

(iii) in paragraph (e), by inserting immediately after the word “Authority” the words “and Metropolitan Authority”.

(b) by inserting immediately after subsection (1), the following—

“(1a) For the purposes of this Act, the Minister shall be the political head of the Capital City and may, with the approval of Cabinet, assume the executive and legislative powers of the Authority or Council where it has become extremely difficult or impossible for the Council or Authority to function.”

36. Amendment of section 82 of the principal Act.

Section 82 of the principal Act is amended in subsection (2) by repealing paragraphs (e), (g) and (h).

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Cross reference

Local Governments (Rating) Act, 2005, Act No. 8 of 2005.
Public Finance Management Act, 2015, Act No. 3 of 2015.

