

**MOTION SEEKING LEAVE OF PARLIAMENT TO INTRODUCE A PRIVATE MEMBERS' BILL ENTITLED, "THE ESTABLISHMENT AND MANAGEMENT OF MARKETS BILL, 2019"**

*(Moved under Articles 79 and 94 of the Constitution of the Republic of Uganda, 1995 and Rule 120 of the Rules of Procedure of Parliament)*

**WHEREAS** Article 94 of the Constitution of the Republic of Uganda and rule 120 of the Rules of Procedure of the Parliament of Uganda recognize the right of a Member to move a Private Member's Bill;

**AND WHEREAS** Article 237 of the Constitution of the Republic of Uganda vests land which is the primary factor of production on the citizens of Uganda;

**AWARE THAT** Article 40(2) of the same Constitution provides that every person in Uganda has a right to practice his or her profession and to carry on any lawful occupation, trade or business;

**NOTING THAT** the Markets Act Cap 94 places the vital question of ownership of markets in Uganda in the hands of local authorities and central government contrary to the provisions of the Constitution;

**RECOGNISING THAT** in today's fast growing world, several stakeholders like market vendors, private individuals and companies have joined the market business especially to manage and collect funds, provide cleaning services and offer credit facilities, and, market vendor's associations also exist to manage and control markets to improve the welfare of vendors and yet these stakeholders are not covered by the Act;

**FURTHER RECOGNISING THAT** since the Markets Act was enacted in 1942, there have been several developments that have taken place including increased urban population growth and the shift from subsistence to commercial agricultural production which has led to the tremendous increase in the number of market vendors in all markets, resultantly overwhelming the capacity of the facilities and structures in these markets thus leading to the development of illegal roadside markets and other different kinds of markets;

**NOTING THAT** given the above listed developments, the Markets Act, Cap 94 has become inadequate in its content and therefore does not match up to the current needs of market development, management and administration thereby greatly affecting the administration and management of markets;

**FIRMLY CONVINCED** there is need to repeal the Markets Act Cap 94 of 1942, and introduce a new law that provides for the establishment, ownership and management of markets in Uganda in order to address the above gaps inherent in the current law that have led to numerous legal battles.

**NOW THEREFORE**, this motion is moved requesting:

1. That this Parliament accepts and grants me leave so that I introduce a Bill for an Act entitled, "The Establishment and Management of Markets Bill, 2019", a draft of which is attached hereto;
2. Do order the publication of the said Bill in preparation for its first reading.

**I beg to move.**

Moved By:

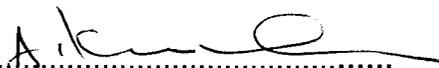
  
**RWABUSHAIJA MARGARET, (MP)**

Workers

Seconded By:

**1. KUNIHIRA AGNES, (MP)**

Workers

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**2. MWIRU PAUL, (MP)**

Jinja Municipality

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**3. BAKKABULINDI CHARLES, (MP)**

Workers

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## **DRAFT**

### **THE ESTABLISHMENT AND MANAGEMENT OF MARKETS BILL, 2019**

#### **MEMORANDUM**

##### **Object of the Bill**

The object of the Bill is to repeal the Markets Act Cap 94 of 1942, to provide for the establishment, ownership and management of markets in Uganda, to make provision for the Market Management Committee; and for related matters.

##### **Defects in the Current legislation**

1. The current Markets Act Cap 94 was enacted by the Legislative Council (Legco) in 1942. Legco was the Legislative arm of the colonial Government whose aim was to champion the interests of the colonial masters then. Uganda being a sovereign state, has undertaken a lot of economic reforms, both in structural and legal reforms. Most state enterprises were privatised in the 1990's and the economy was virtually left in the hands of the private sector players. Whereas article 237 of the Constitution places the primary factor of production-land in the hands of the citizens of Uganda and whereas article 40 (2) provides that every person in Uganda has a right to practice his or her profession and to carry on lawful occupation, trade or business; the Markets Act places the vital question of ownership solely in the hands of local, central Government.
2. The current legislation does not provide for the forum of dispute resolution given the current spate of market disputes between the market vendors and the controlling authority. It also follows that the current law is conspicuously silent about the manner in which the vendors can elect within themselves a Market Management Committee which can negotiate or have audience with the local/ central Government for and on behalf of the vendors.

3. Whereas the Markets Act Cap 94 was enacted to provide for the establishment and management of markets, the word “market” was not defined in the Act. This gap provides a leeway for several interpretations of what a market is. In today’s world, there have been a number of market settings that have sprung up some of which are permanent while others are make-shift and this include street markets, road side markets, mobile markets, car boot markets, open space, super markets etc. Regulation of such markets that were not envisaged in the law therefore becomes impossible. Therefore need for proper definition of what a market is and also categorisation and regulation of markets.
4. Section 1 of the Markets Act, mandates the district administration, a Municipal council and a town council to establish and maintain markets within their jurisdictions and no other person or authority has the power to establish or maintain a market. It should however be noted that today, other stakeholders like market vendors, private individuals and companies have joined the market business especially to manage and collect funds from vendors, provide cleaning and security services and offer credit facilities. Market vendors’ associations also exist to manage and control markets and improve the welfare of vendors. These stakeholders are however not covered by the Act. These kinds of issues pose ownership questions that affect the management and development of markets thus leading to numerous legal battles.
5. Further, there is an emerging trend where real estate developers are setting up markets within real estates on privately owned land. This contravenes the current law that provides that markets are to be owned by local governments and yet it is possible that the establishment of such markets that are not owned by local governments is based on the real need in the area. In such instances, it is inevitable that such markets are regulated by law.
6. Section 2 of the Markets Act empowers the Minister to make rules for carrying into effect the purposes of the Act. The Act however does not define or specify which Minister is supposed to make these rules and so people are left to guess who is responsible. It should however be noted that when the Act was enacted in 1942, Uganda had the centralised system of governance and so it was the Minister for Trade who was responsible in

dealing with such matters. However, when the decentralised system of governance was introduced in Uganda, the Minister responsible for Local Governments took over the governance of local government affairs. There is therefore need to clearly specify which Minister the Act is referring to.

7. Most urban centres collect revenue in markets with a purpose of enhancing revenue and promoting expansion of markets. However, a lot of the time, revenue collection in markets is contracted out to private tax collectors but there has been persistent poor performance in revenue collection despite the high costs of operation and maintenance associated with market facilities. This is because revenue collection by private contractors is mired with corruption and fraud thus leading to considerable loss of revenue by local governments to private tax collectors.

Non-regulation of tax collection also leads to exploitation of market vendors and thus eventual resistance from the tax payers.

There is therefore need to regulate revenue collection in markets with a view of expanding markets and promoting revenue collection.

8. Whereas Government has constructed a few modern markets in a few districts within the country many of the market structures that are still in existence were originally intended for a smaller number of vendors. However with Uganda's fast growing population, there is an increasing number of vendors and the markets can no longer accommodate the increasing number of vendors and, the markets are also very old and dilapidated. There is therefore need to provide sufficient space in markets, enhance the designs and layout of common market vending infrastructures such as lock-ups, stalls, warehousing, wholesale facilities and restaurants. There is also need to provide for private services providers such as banks, clinics, offices and day care centres for breastfeeding mothers.

## **Remedies proposed by the Bill**

The Bill therefore seeks to-

- (a) Repeal the Markets Act Cap 94 of 1942;
- (b) Provide for establishment, ownership, management and development of markets by-
  - (i) Central Government;
  - (ii) Local Governments;
  - (iii) Companies;
  - (iv) Private individuals;
- (c) Provide for licensing of markets by either the Central or Local Government;
- (d) Provide for a working definition of the word “market” that takes into account the new emerging settings of markets that have sprung up;
- (e) Establish the Market Management Committee which shall run the affairs of markets in Uganda;
- (f) Prohibit the operation of bars and lodges and, the sale of certain types of articles, goods and foods in the markets;
- (g) Provide for the Chief Magistrates Court as the final court of appeal in matters relating to markets;
- (h) Provide for offences and penalties;
- (i) Empower the Minister responsible for Trade and Industry to make rules for the better carrying into effect the purposes of the Act;
- (j) Empower Local Authorities to make by-laws and ordinances governing the affairs of markets.

**Rwabushaija Margaret, MP**  
*Workers Representative*

# **THE ESTABLISHMENT AND MANANGEMENT OF MARKETS BILL**

## **ARRANGMENT OF CLAUSES**

### *Clauses*

#### **PART 1 - PRELIMINARY**

#### **PART 1 - PRELIMINARY**

1. Interpretation
2. Objectives of the Bill

#### **PART II - ESTABLISHMENT OF MARKETS**

3. Establishment, ownership and development of markets
4. Application to establish and operate a market
5. Grant of market license

#### **PART 111- MANAGEMENT OF MARKETS**

6. Registration of markets
7. Registration of market vendors
8. Layout and design of markets
9. Use of pitch, stall or shop
10. Inspection and monitoring of markets
11. Revenue collection
12. Power to enter agreements
13. Power to make by-laws and ordinances

#### **PART IV- MARKET MANAGEMENT COMMITTEE**

14. Establishment of the Market Management Committee
15. Composition and election of Members of the Committee
16. Qualification of Members of the Committee
17. Tenure of office
18. Removal of a Member

**PART V- FUNCTIONS OF THE MARKET MANAGEMENT COMMITTEE**

- 19. Functions of the Committee
- 20. Powers of the Committee
- 21. Meetings of the Market Management Committee
- 22. Facilitation of Members of the Market Management Committee

**PART VI- PROHIBITION OF CERTAIN ACTIVITIES, GOODS, PERSONS**

- 23. Prohibition of operation of lodges, bars and pork butcheries
- 24. Prohibition of the sale of certain goods and articles
- 25. Restriction of certain activities
- 26. Slaughter of animals, birds or fish
- 27. Unauthorised entry
- 28. Unauthorised activities

**PART VII- HEALTH AND SAFETY**

- 29. General cleanliness
- 30. Food contamination
- 31. Administration of First Aid
- 32. Electrical hazards

**PART VII- MISCELLANEOUS PROVISIONS**

- 33. Regulations
- 34. Offences and penalties
- 35. Saving provisions

**SCHEDULES**

**Schedule**                      Currency Points

**A BILL for an ACT**

**ENTITLED**

**THE ESTABLISHMENT AND MANAGEMENT OF MARKETS BILL, 2019**

An Act to repeal the Markets Act Cap 94; to provide for the establishment, ownership and management of markets in Uganda; to make provision for the Market Management Committee; to provide for the powers of the Minister in regulating markets; and for related matters.

BE IT ENACTED by Parliament as follows:

**PART 1 - PRELIMINARY**

**1. Interpretation**

In this Act, unless the context otherwise requires-

“Court” means the Chief Magistrates Court established under the Magistrates Courts Act cap 16;

“Committee” means the Market Management Committee established under this Act;

“Local authority” means the sub county council, district council, municipal council, town council or city council.

“Market” means an open area, building or event at which people gather to buy and sell goods or food.

“Minister” means the Minister responsible for trade and industry;

**2. Objectives of the Bill**

The objectives of the Bill are to:

- (a) Facilitate the establishment, management and development of markets in Uganda;
- (b) Allow private citizens to own markets in Uganda in accordance with the ownership rights guaranteed by the Constitution of Uganda, 1995;
- (c) Provide for an expeditious dispute resolution mechanism in markets;

- (d) Regulate the running of certain businesses in markets;
- (e) Regulate the sale of certain, goods and products in markets.

## **PART II - ESTABLISHMENT OF MARKETS**

### **3. Establishment, ownership and development of markets**

- (1) The Central or Local Government may establish, own and develop a market in its own capacity or in association with any person
- (2) A person may, with the approval of a local authority or Central Government establish, own and develop a market either individually or in association with others
- (3) No person shall be compulsorily deprived of his or her market or any interest in or right over the market except where the following conditions are satisfied-
  - (a) The taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health;
  - (b) Provision for prompt payment of fair and adequate compensation is made, prior to the taking of possession or acquisition of the property; and
  - (c) A right of access to a court of law by any person who has an interest or right over the property

### **4. Application to establish and operate a market**

- (1) A person proposing to establish and operate a market shall in a prescribed form, make an application to the local authority for a license to establish and operate a market.
- (2) An application made under subsection (1) shall be accompanied by-
  - (a) the name and address of the applicant;
  - (b) the proposed name, physical location and nature of the proposed business activities;
  - (c) technical drawings of the market plan.
  - (d) the existing or proposed physical infrastructure

- (e) evidence of ownership of land for the proposed market
- (3) The local authority shall, on receipt of the application made under this section organise a meeting or a series of meetings with the applicant to verify the resources and information given in the application.
- (4) A detailed report of the findings of the local authority under sub-section (3) shall be submitted to the Minister

## **5. Grant of license**

- (1) Subject to this Act, a local authority may, on application made to it in the prescribed manner and on payment of the appropriate fee specified in the Schedule to this Act, grant to the applicant a market licence.
- (2) A market licence shall—
  - (a) be in the prescribed form;
  - (b) be granted subject to such conditions as may be prescribed; and
  - (c) specify the premises in respect of which it is granted.
- (3) The local authority may revoke any license granted under this section if it is satisfied that any of the terms and conditions upon which the license was granted has been contravened.
- (4) Any applicant who is aggrieved by the refusal of the licensing authority to grant him or her market license may appeal to the Minister whose decision shall be final.

## **PART 111- MANAGEMENT OF MARKETS**

### **6. Registration of markets**

- (1) A local authority shall keep a register of all markets within its area of jurisdiction.

(2) The market register under this section must clearly indicate the category/type of market listed.

(3) A duplicate copy of such register shall be filed with the Minister

(4) A local authority shall be obliged to update the markets register after every twelve months.

#### **7. Registration of market vendors**

(1) A proprietor of a market shall be required to register all market vendors and keep an updated triplicate register for his or her market

(2) A duplicate copy of such vendors register shall be filed with the local authority which has territorial jurisdiction where the market is located

(3) The triplicate of such vendors register shall be filed with the Minister

(4) A proprietor of a market shall be obliged to update the vendors register after every twelve months.

#### **8. Layout and design of markets**

(1) A person shall not operate a market in contravention of the market plan approved by the local authority.

(2) The market plan submitted to the local authority for approval must accommodate the needs of persons with disabilities and must have properly designated areas for the following facilities:

(a) Toilets

(b) Rubbish pits

(c) Eating places

(d) Breastfeeding centres

(3) The responsible authority shall approve the layout and design of space for different business activities within a market at such times as the authority may deem necessary.

- (4) A market proprietor who intends to alter the layout and design of space for business activity within the market shall first submit the alteration plan to the authority for approval.
- (5) The authority may approve the alteration plan subject to such modifications or directions as it may deem necessary.

#### **9. Use of pitch, stall or shop**

The Local Authority shall have the right to decide and specify the type of commodities that may be kept or displayed for sale in any pitch, stall or shop within a market.

#### **10. Inspection and monitoring of markets**

- (1) The Local Authorities shall be responsible for the inspection, monitoring and coordination of local governments to ensure compliance with the provisions of this Act and any other law.
- (2) Subject to the provisions of this Act and any other law, an authorised person carrying out inspection of a market shall have powers-
  - (a) to enter and inspect the premises or property of any vendor as may be relevant to the inspection;
  - (b) require any person to produce any documents or item connected to the inspection and where necessary retain any document or item connected with the case being investigated.
- (3) An authorised person carrying out the inspection may attend any meeting of the Market Management Committee.

#### **11. Revenue collection**

- (1) A Local Authority may levy, charge and collect fees and taxes, including rates, rents, royalties, stamp duties and registration and licensing fees and taxes from all markets in its area of jurisdiction in accordance with the Local Governments Act, Cap 243.

(2) The revenue collected from markets shall be spent on basic services such as sanitation, education, health construction and maintenance of roads in the area of jurisdiction of the Local Authority.

#### **12. Power to enter into agreements**

(1) Subject to the provisions of article 119 (5) of the Constitution, the local authority may enter into contractual arrangement with a person, firm, company or organisation which intends to invest money in the establishment, management or maintenance of a market.

(2) A contractual arrangement entered into under subsection (1) above shall not operate as a bar to relieve any person from complying with the provisions of this Act with regard to property operations of a market.

#### **13. Power to make by-laws and ordinances**

A local Authority may in relation to its powers and functions under the Local Governments Act, Cap 243, make bylaws and ordinances for the better carrying out of the affairs of the markets within its area of jurisdiction.

### **PART IV- MARKET MANAGEMENT COMMITTEE**

#### **14. Establishment of the Market Management Committee**

There shall be established a committee called the Market Management Committee in every market for the purpose of running the affairs of the market

#### **15. Composition and election of Members of the Committee**

(1) The Market Management Committee shall consist of five (5) members who shall be democratically elected by the registered vendors in a market from amongst themselves

(2) The five Committee Members shall consist of-

(a) Chairperson;

- (b) Vice chairperson;
- (c) Secretary;
- (d) Treasurer; and
- (e) Defence secretary.

(3) For purposes of this Act, two of the five committee members shall be women.

## **16. Qualification of Members of the Committee**

The lawful qualities and qualifications of the members of the Market Management Committee shall be determined by the vendors themselves who are the voters

## **17. Tenure of office**

Subject to this Act, the committee members shall serve on the committee on a part-time basis for a period not exceeding three years on such terms and conditions as may be specified in the instruments of appointment.

## **18. Removal of a Member**

- (1) The local authority may, remove a committee member from office on the ground of inability to perform the functions of his or her office as a result of infirmity of body or mind or of any other cause or misbehaviour.
- (2) In the case of removal from office of a member under this section on the ground of inability to perform the functions of his or her office, for misbehavior or as a result of any other cause other than infirmity of body or mind, the member shall, before removal, be given an opportunity to be heard on the allegations made against him or her.

## **PART V- FUNCTIONS OF THE MARKET MANAGEMENT COMMITTEE**

### **19. Functions of the Committee**

- (1) The Market Management Committee shall be-
  - (a) the official body to which market vendors relay all matters relating or incidental to the control and management of the market.
  - (b) the link between the vendors and the proprietor of the Market.

- (c) responsible for the general day to day management of the market and ensuring proper sanitation and hygiene in all areas of the market.

## **20. Powers of the Committee**

- (1) The Market Management Committee shall exercise quasi-judicial power over all civil matters arising out of a market within its area of jurisdiction and shall enjoy judicial immunity.
- (2) The powers referred to in subsection (1) above shall not apply to criminal matters
- (3) Decisions of the Market Management Committee shall be appealable to the Chief Magistrate

## **21. Meetings of the Market Management Committee**

- (1) A market Management Committee shall meet for the discharge of its functions at least once every month, at a time and place that the chairperson may determine.
- (2) A notice calling for a meeting together with the agenda for that meeting, shall be circulated to each member of the committee at least seven days before the date of the meeting, and a written notice may be supplemented by a public announcement over the radio or placed at a place of common interest or by any other means.
- (3) The meetings of the committee shall be open to the public, but where in the opinion of the chairperson or by resolution of the committee, the deliberations at a particular meeting are of a confidential nature, the committee may meet in camera.
- (4) Subject to the foregoing provisions, a committee may make by-laws regulating the procedure for meetings of the committee

- (5) The records of every meeting of the Market Management Committee shall be kept in English.

## **22. Facilitation of members of the Market Management Committee**

The Members of the Market Management Committee shall be facilitated from the fees collected from the market as determined by the local authority.

## **PART VI- PROHIBITION OF CERTAIN ACTIVITIES, GOODS, PERSONS**

### **23. Prohibition of operation of lodges, bars and pork butcheries**

A person shall not operate a lodge, pork butchery or bar within a market area

### **24. Prohibition of sale of certain goods and articles**

(1) A person shall not sell the following goods and articles in a market-

- (a) Live animals other than poultry and fish within pitches provided for that purpose;
- (b) Hides and skins;
- (c) Fresh meat and offal, except within a meat stall or shop licensed as such;
- (d) Cooked food or any other food prepared for immediate consumption, except within a restaurant
- (e) Clothes and manufactured goods except within pitches, stalls or shops set aside for that purpose.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of ten currency points or imprisonment for a period not exceeding four months or both.

### **25. Restriction of certain activities**

- (1) A person shall not operate any of the following businesses within a market-
- (a) Medical clinic;

- (b) Hair saloon
- (c) Metal or carpentry workshop.
- (d) bar

(2) The businesses listed in sub-section (1) above can only be operated within a market if Government has approved that the market is structured in such a way as to cater for such business activities.

(3) Where any of the businesses referred to in sub-section (1) above has been approved in a market, the proprietor shall provide and maintain adequate facilities within the market for the protection of the health and safety of the public from any risk likely to emanate from the premises where the business is operated.

(4) Where a person with the approval of Government, is operating a business within the market which otherwise attracts a particular type of license under the law, he or she shall pay both the market dues and that particular license notwithstanding that he or she is operating within a market.

## **26. Slaughter of animals, birds or fish**

A person shall not slaughter, dress or clean any animal, bird or fish in a market except as permitted by law and within facilities approved or provided by the market proprietor for the purpose.

## **27. Unauthorised entry**

(1) A person shall not enter a market at any time if he or she is-

- (a) medically certified to be suffering from an infectious or contagious disease;
- (b) under the influence of alcohol or drugs;
- (c) in possession of a fire arm or other kind of ammunition without reasonable cause;

- (d) in possession of a pet;
- (e) when the market is closed except if authorised by the Market Management Committee.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of ten currency points or imprisonment for a period not exceeding four months or both.

### **28. Unauthorised activities**

(1) A person shall not within the precincts of a market-

- (a) play a game;
- (b) shout, whistle, sing, or play a musical instrument unless otherwise authorised by the Market Management Committee;
- (c) Spit on the market grounds or commit a nuisance in the market.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of ten currency points or imprisonment for a period not exceeding four months or both.

## **PART V- HEALTH AND SAFTY**

### **29. General cleanliness**

(1) A person occupying a pitch, stall or shop in a market shall keep such pitch, stall or shop clean and habitable at all times.

(2) A person referred to in sub section (1) above shall dispose of all garbage, liquid or solid waste from his or her pitch, stall or shop in accordance with the requirement of the Public Health Act or any rules made there under.

### **30. Food contamination**

A person handling fresh food shall take all measures to ensure that the food does not get contaminated.

### **31. Administration of First Aid**

- (1) The market Management Committee shall designate a team to be in charge of health and safety in the market.
- (2) The team referred to in subsection (1) above will be appropriately trained as first aid responders to deal with minor accidents and emergencies.

### **32. Electrical hazards**

The Market management Committee shall take all measures to prevent electrical hazards including risks of fires and electrocution by ensuring electrical safety.

## **PART VI- MISCELLANEOUS**

### **33. Regulations**

The Minister may by statutory instrument make regulations which apply to markets generally or any specified markets for any of the following purposes-

- (a) Regulating the use of markets and market buildings;
- (b) ensuring that law and order is maintained;
- (c) maintaining cleanliness, hygiene and sanitation;
- (d) fixing the amount for markets licence and renting the stalls in the market;
- (e) fixing the hours within which a market should operate;
- (f) prescribing the weights, scales and measures to be used in the sale of any particular produce
- (g) providing for the appointment of inspections, market masters and any other officials and regulating their powers and duties;
- (h) examination of procedure and articles of food or any product of sale in a market;
- (i) any other regulation for carrying into effect the purposes of this Act.

### **34. Saving provision**

Any market established during or before the coming into force of this Act shall be deemed to have been established under the Act and rules made there under.

## Schedule

One currency point is equivalent to twenty thousand shillings.