

PARLIAMENTARY LIBRARY

P. O. Box 7178, KAMPALA

**BILLS
SUPPLEMENT No. 6**

★

28 APR 2015

★ 17th April, 2015.

BILLS SUPPLEMENT

to the Uganda Gazette No. 19 Volume CVIII dated 17th April, 2015.

ACC. No:
CALL No:

Printed by UPPC, Entebbe by Order of the Government.

Bill No. 11

Constitution (Amendment) Bill

2015

THE CONSTITUTION (AMENDMENT) BILL, 2015

MEMORANDUM

1. Object of the Bill

The object of this Bill is to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution; to change the name of the Electoral Commission to the Independent Electoral Commission; to prescribe a procedure for the removal of members of the Independent Electoral Commission, similar to the procedure for the removal of judicial officers; to increase the retirement age for Justices and Judges; to provide for the Judicial Service Commission to appoint certain staff of the judiciary; to provide for corporate status for the Inspectorate of Government; to provide for the establishment of city land boards; to provide for a Salaries and Remuneration Board; and for related matters.

2. Provisions of the Bill

PART I—AMENDMENT OF CHAPTER FIVE OF THE CONSTITUTION - REPRESENTATION OF THE PEOPLE

Clause 1 of the Bill seeks to amend article 60 (1) of the Constitution to change the name of the Electoral Commission to the Independent Electoral Commission in order to explicitly recognize the independence of the Electoral Commission and to enable Parliament to prescribe by law, the composition of the Commission. Currently, the Commission consists of the chairperson, deputy chairperson and 5 other members.

Clause 1 also seeks to amend article 60 of the Constitution to prescribe the procedure for removal of members of the Electoral Commission, similar to the procedure for removal of judicial officers under article 144. At present, a member of the Commission may be removed by the President on grounds specified in article 60 (8) but no procedure is prescribed for the removal.

PART II—AMENDMENT OF CHAPTER SIX OF THE CONSTITUTION— THE LEGISLATURE

Clause 2 seeks to amend article 72 of the Constitution by substituting for the head note, a new head note to include both political parties and political organisations to properly describe the content of the article.

The clause further seeks to amend article 72 to require a person intending to stand for election as a candidate independent of a political party or political organisation to be supported by the signatures of at least one thousand registered voters in the constituency or district in order to avoid disorganisation of political parties or organisations by members of the party or organisation who choose to leave the political party or political organisation and stand as independent candidates.

Clause 3 of the Bill seeks to amend article 81 of the Constitution to require the registrar of every court which declares the seat of a member of Parliament vacant to transmit a copy of the judgment of the court to the Clerk to Parliament within ten days after the declaration and to require that a by-election is held within sixty days after the Independent Electoral Commission has received notification of the occurrence of a vacancy from the Clerk to Parliament. Currently the Electoral Commission is required to hold a by-election within sixty days after the vacancy has occurred. This is to give the Independent Electoral Commission reasonable time within which to organise a by-election.

Clause 4 of the Bill seeks to amend article 83 of the Constitution to provide for a member of Parliament to vacate his or her seat where the member ceases to be a member of the political party or organisation for which he or she stood as a candidate for election to Parliament.

PART IV—AMENDMENT OF CHAPTER THIRTEEN OF THE
CONSTITUTION—INSPECTORATE OF GOVERNMENT

Clause 9 seeks to amend article 223 to give corporate status to the Inspectorate of Government to further strengthen the independence of the IGG in accordance with article 227 of the Constitution.

PART V—AMENDMENT OF CHAPTER FIFTEEN OF THE
CONSTITUTION—LAND AND ENVIRONMENT

Clause 10 of the Bill seeks to introduce a new article 241A to provide for the establishment of City land boards whose membership, procedure and terms of service should be prescribed by Parliament. Currently article 240 and 241 of the Constitution only provide for district land boards.

PART VI—AMENDMENT OF CHAPTER SEVENTEEN OF THE
CONSTITUTION—GENERAL AND MISCELLANEOUS

Clause 11 of the Bill seeks to introduce a new article 247A to provide for the establishment of a Salaries and Remuneration Board. The object is to establish a central independent body that will be responsible for determining all salaries, allowances and benefits issuing out of the Consolidated Fund so as to remove discrepancies in those salaries and to ensure relativity between those salaries.

3. Procedure for amendment of the Constitution

The procedure for amendment of all the provisions proposed to be amended by this Bill is that prescribed by article 262 (Amendment by Parliament) of the Constitution namely; approval at second and third readings of Parliament by not less than two thirds of all members of Parliament.

MAJ. GEN. KAHINDA OTAFIRE, (MP)
Minister of Justice and Constitutional Affairs.

Currently, the provision only relates to instances where a person leaves the political party for which he or she stood as a candidate for election to Parliament to join another party or to remain in Parliament as an independent member.

The Bill seeks to introduce a new clause 83 (2a) to specifically permit floor crossing in Parliament under article 83 (1) (g) and (h) within twelve months before a general election.

PART III—AMENDMENT OF CHAPTER EIGHT OF THE CONSTITUTION— THE JUDICIARY

Clause 5 seeks to amend article 131 (2) of the Constitution to require that when hearing appeals from the decisions of the Court of Appeal sitting as a Constitutional Court, the Supreme Court should consist of seven members of the Supreme Court.

This is to change the requirement of a full bench sitting in Constitutional Appeals which was relevant when the full bench of the Supreme Court was seven justices. This is not practicable with the current number of 11 Justices as prescribed by Parliament.

Clause 6 of the Bill seeks to amend article 144 of the Constitution to increase the retirement age for Judges from seventy to seventy five years in the case of Justices of the Supreme Court and the Court of Appeal and from sixty five to seventy years in the case of Judges of the High Court.

Clause 7 seeks to amend article 147 to include certain staff of the judiciary among the category of persons in respect of whom the Judicial Service Commission may review and make recommendations regarding their terms and conditions of service.

Clause 8 seeks to introduce a new article 148A to provide for the Judicial Service Commission to appoint, discipline and remove certain staff of the judiciary as may be prescribed by Parliament. Currently all the staff of the judiciary who are not judicial officers are appointed by the Public Service Commission under article 172 (1)(b) of the Constitution.

THE CONSTITUTION (AMENDMENT) BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART I—AMENDMENT OF CHAPTER FIVE OF THE CONSTITUTION -REPRESENTATION OF THE PEOPLE

- 1. Amendment of article 60 of the Constitution
- 2. Amendment of article 72 of the Constitution

PART II—AMENDMENT OF CHAPTER SIX OF THE CONSTITUTION—THE LEGISLATURE

- 3. Amendment of article 81 of the Constitution
- 4. Amendment of article 83 of the Constitution

PART III—AMENDMENT OF CHAPTER EIGHT OF THE CONSTITUTION – THE JUDICIARY

- 5. Amendment of article 131 of the Constitution
- 6. Amendment of article 144 of the Constitution
- 7. Amendment of article 147 of the Constitution
- 8. Insertion of new article 148A

PART IV—AMENDMENT OF CHAPTER THIRTEEN OF THE CONSTITUTION—INSPECTORATE OF GOVERNMENT

- 9. Amendment of article 223 of the Constitution

PART V—AMENDMENT OF CHAPTER FIFTEEN OF THE CONSTITUTION - LAND AND ENVIRONMENT

- 10. Insertion of new article 241A

PART VI—AMENDMENT OF CHAPTER SEVENTEEN OF THE CONSTITUTION - GENERAL AND MISCELLANEOUS

- 11. Insertion of new article 247A

A Bill for an Act

ENTITLED

THE CONSTITUTION (AMENDMENT) ACT, 2015.

An Act to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution; to change the name of the Electoral Commission to the Independent Electoral Commission; to empower Parliament to prescribe the number of members of the Independent Electoral Commission; to prescribe a procedure for the removal of members of the Independent Electoral Commission, similar to the procedure for the removal of judicial officers; to increase the retirement age for Justices and Judges; to provide for the Judicial Service Commission to appoint certain staff of the judiciary; to provide for corporate status for the Inspectorate of Government; to provide for the establishment of city land boards; to provide for a Salaries and Remuneration Board; and for related matters.

BE IT ENACTED by Parliament as follows:

**PART I—AMENDMENT OF CHAPTER FIVE OF THE CONSTITUTION -
REPRESENTATION OF THE PEOPLE**

1. Amendment of article 60 of the Constitution

Article 60 of the Constitution is amended—

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

“(1) There shall be a Commission called the Independent Electoral Commission which shall consist of a Chairperson, a Deputy Chairperson and such other members as Parliament shall by law prescribe, all of whom shall be appointed by the President with the approval of Parliament”; and

- (b) by inserting immediately after clause (8) the following—

“(9) Any question for the removal of a member of the Independent Electoral Commission shall be referred to a tribunal appointed by the President, and the President may remove the member if the tribunal recommends that the member should be removed on any of the grounds specified in clause (8) of this article.

(10) Where the question for removal of a member involves an allegation that the member of the Independent Electoral Commission is incapable of performing the functions of his or her office arising from physical or mental incapacity, the President shall, on the advice of the head of the Health Services of Uganda, appoint a medical board which shall investigate the matter and report its findings to the President with a copy to the tribunal.

(11) Where a tribunal is appointed by the President under clause (9) of this article in respect of any member of the Independent Electoral Commission, the President shall suspend that member from performing the functions of his or her office.

(12) A suspension under clause (11) of this article shall cease to have effect if the tribunal advises the President that the member suspended should not be removed.”

2. Amendment of article 72 of the Constitution

Article 72 of the Constitution is amended—

- (a) by substituting for the headnote the following “Right to form political parties or political organisations”; and
- (b) by substituting for clause (4) the following—

“(4) A person may stand for election as a candidate independent of a political party or political organisation if that person is supported by the signatures of at least one thousand registered voters in the constituency, in the case of members directly elected to represent constituencies or district, in the case of district women representatives.”

PART II—AMENDMENT OF CHAPTER SIX OF THE CONSTITUTION—
THE LEGISLATURE

3. Amendment of article 81 of the Constitution.

Article 81 of the Constitution is amended—

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

“(2) Whenever a vacancy occurs in Parliament, the Clerk to Parliament shall notify the Independent Electoral Commission in writing within ten days after the vacancy has occurred; and a by-election shall be held within sixty days after the Independent Electoral Commission has received notification of the vacancy from the Clerk to Parliament.”; and

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

“(2a) Where the seat of a Member of Parliament is declared vacant by a court—

- (a) the registrar of the court shall transmit to the Clerk to Parliament a copy of the judgment of the court within ten days after the declaration; and

- (b) the Clerk to Parliament shall notify the Independent Electoral Commission in writing of the vacancy within ten days after receiving the judgment from the registrar of the court.”

4. Amendment of article 83 of the Constitution

Article 83 of the Constitution is amended—

- (a) in clause (1), by substituting for paragraph (g) the following—

“(g) if that person leaves the political party or political organisation for which he or she stood as a candidate for election to Parliament to join another political party or political organisation or to remain in Parliament as an independent member, or otherwise ceases to be a member of the political party or political organisation for which he or she stood as a candidate for election to Parliament;” and

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

“(2a) Clause (1) (g) and (h) shall not apply to an independent member joining a political party or political organisation or a member leaving a political party or organisation within twelve months before a general election to participate in activities or programmes of a political party or political organisation relating to a general election.”

**PART III—AMENDMENT OF CHAPTER EIGHT OF THE CONSTITUTION—
THE JUDICIARY**

5. Amendment of article 131 of the Constitution

Article 131 of the Constitution is amended by substituting for clause (2) the following—

“(2) When hearing appeals from the decisions of the Court of Appeal sitting as a Constitutional Court, the Supreme Court shall consist of seven members of the Supreme Court.”

6. Amendment of article 144 of the Constitution

Article 144 of the Constitution is amended—

- (a) in clause (1)(a) by substituting for “seventy years” the words “seventy five years”; and
- (b) in clause (1) (b) by substituting for “sixty five years” the words “seventy years”.

7. Amendment of article 147 of the Constitution

Article 147(1) of the Constitution is amended by substituting for paragraph (b), the following—

“(b) subject to the provisions of this Constitution, to review and make recommendations on the terms and conditions of service of judges, other judicial officers and staff of the judiciary appointed in accordance with article 148A of this Constitution;”

8. Insertion of new article 148A

Chapter Eight of the Constitution is amended by inserting immediately after article 148, the following—

“148A Appointment of staff of the judiciary

Notwithstanding article 172(1)(b), the Judicial Service Commission shall be responsible for the appointment, discipline and removal of such staff of the judiciary as may be prescribed by Parliament by law.”

PART IV—AMENDMENT OF CHAPTER THIRTEEN OF THE
CONSTITUTION—INSPECTORATE OF GOVERNMENT

9. Amendment of article 223 of the Constitution

Article 223 of the Constitution is amended by inserting immediately after clause (1), the following—

“(1a) The Inspectorate shall be a body corporate with capacity to sue and be sued in its corporate name.”

PART V—AMENDMENT OF CHAPTER FIFTEEN OF THE
CONSTITUTION—LAND AND ENVIRONMENT

10. Insertion of new article 241A

Chapter Fifteen of the Constitution is amended by inserting immediately after article 241 the following—

“City land boards

241A. City land boards

- (1) There shall be a city land board for each city.
- (2) Parliament shall by law prescribe the membership, procedure and terms of service of a city land board.
- (3) The functions of a city land board are—
 - (a) to hold and allocate land in the city which is not owned by any person or authority;
 - (b) to facilitate the registration and transfer of interests in land; and
 - (c) to deal with all other matters connected with land in the city in accordance with laws made by Parliament.
- (4) In the performance of its functions, a city land board shall be independent of the Uganda Land Commission and shall not be subject to the direction or control of any person or authority but shall take into account national and city council policy on land.”

PART VI—AMENDMENT OF CHAPTER SEVENTEEN OF THE
CONSTITUTION—GENERAL AND MISCELLANEOUS**11. Insertion of new article 247A**

The Constitution is amended by inserting immediately after article 247 the following—

“247A. Salaries and Remuneration Board

(1) There shall be a body known as the Salaries and Remuneration Board.

(2) The Salaries and Remuneration Board shall consist of a Chairperson, a Deputy Chairperson and such other members as Parliament shall by law prescribe, all of whom shall be appointed by the President with the approval of Parliament.

(3) The Salaries and Remuneration Board shall be responsible for determining the salaries and allowances of all public officers and other persons whose salaries or allowances are paid from the Consolidated Fund.

(4) A member of the Board may be removed from office on any of the following grounds—

- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) misbehaviour or misconduct; or
- (c) incompetence.

(5) A member of the Board shall vacate office if he or she is under a sentence of death or a sentence of imprisonment exceeding nine months without the option of a fine imposed by a competent court.

(6) In this article, salary and allowances includes gratuity and benefits.”