

ACTS SUPPLEMENT

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Act 11

Constitution (Amendment) Act

2005

THE CONSTITUTION (AMENDMENT) ACT, 2005

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1. Short title

PART II—AMENDMENT OF CHAPTER TWO OF THE
CONSTITUTION—THE REPUBLIC

2. Amendment of article 5 of the Constitution
3. Replacement of article 6 of the Constitution
4. Insertion of new article 8A

PART III—AMENDMENT OF CHAPTER THREE OF THE
CONSTITUTION—CITIZENSHIP

5. Amendment of article 14 of the Constitution
6. Amendment of article 15 of the Constitution
7. Amendment of article 16 of the Constitution
8. Amendment of article 17 of the Constitution

PART IV—AMENDMENT OF CHAPTER FOUR OF THE
CONSTITUTION—PROTECTION AND PROMOTION OF FUNDAMENTAL
AND OTHER HUMAN RIGHTS AND FREEDOMS

9. Amendment of article 23 of the Constitution
10. Amendment of article 31 of the Constitution
11. Amendment of article 32 of the Constitution
12. Amendment of article 33 of the Constitution

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

13. Amendment of article 61 of the Constitution
14. Amendment of article 68 of the Constitution
15. Amendment of article 71 of the Constitution
16. Amendment of article 72 of the Constitution

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

17. Amendment of article 77 of the Constitution
18. Amendment of article 80 of the Constitution
19. Amendment of article 81 of the Constitution
20. Insertion of new article 82A
21. Amendment of article 84 of the Constitution
22. Amendment of article 85 of the Constitution
23. Replacement of article 87 of the Constitution
24. Insertion of new article 87A
25. Replacement of article 88 of the Constitution
26. Replacement of article 90 of the Constitution

PART VII—AMENDMENT OF CHAPTER SEVEN OF THE
CONSTITUTION - THE EXECUTIVE

27. Amendment of article 103 of the Constitution
28. Amendment of article 105 of the Constitution
29. Amendment of article 108 of the Constitution
30. Insertion of new article 108A
31. Amendment of article 111 of the Constitution
32. Insertion of new article 119A

PART VIII—AMENDMENT OF CHAPTER NINE OF THE
CONSTITUTION - FINANCE

33. Amendment of article 163 of the Constitution

PART IX—AMENDMENT OF CHAPTER TEN OF THE
CONSTITUTION - THE PUBLIC SERVICE

34. Insertion of new article 173A

PART X—AMENDMENT OF CHAPTER ELEVEN OF THE
CONSTITUTION - LOCAL GOVERNMENT

35. Amendment of article 181 of the Constitution
36. Replacement of article 188 of the Constitution

Section

37. Amendment of article 191 of the Constitution
38. Amendment of article 200 of the Constitution
39. Replacement of article 203 of the Constitution

PART XI—AMENDMENT OF CHAPTER THIRTEEN OF THE
CONSTITUTION - INSPECTORATE OF GOVERNMENT

40. Amendment of article 231 of the Constitution
41. Amendment of article 232 of the Constitution

PART XII—AMENDMENT OF CHAPTER FOURTEEN OF THE
CONSTITUTION - LEADERSHIP CODE OF CONDUCT

42. Insertion of new article 235A

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

43. Replacement of article 244 of the Constitution

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

44. Replacement of article 255 of the Constitution

PART XV—AMENDMENT OF CHAPTER NINETEEN OF THE
CONSTITUTION - TRANSITIONAL PROVISIONS

45. Miscellaneous repeals
46. Insertion of articles on transition.

PART XVI—AMENDMENT OF SCHEDULES TO THE CONSTITUTION

47. Amendment of Second Schedule to the Constitution
48. Amendment of Third Schedule to the Constitution
49. Amendment of Fourth Schedule to the Constitution

THE CONSTITUTION (AMENDMENT) ACT, 2005.

An Act to amend the Constitution in accordance with article 261 of the Constitution: to distinguish Kampala as the capital city of Uganda and to provide for its administration and for the delineation of its boundaries; to provide for Swahili as the second official language of Uganda; to provide for the leader of the opposition in Parliament under the multiparty political system; to remove the limits on the tenure of office of the President; to create the offices of Prime Minister and Deputy Attorney General; to provide for the independence of the Auditor General and to provide for the procedure for his or her removal; to provide for the creation and functions of special courts to handle offences relating to corruption; to establish and prescribe the functions of a Leadership Code Tribunal; to provide for the control of minerals and petroleum; to provide for the holding of referenda generally; to make miscellaneous repeals to the spent provisions of the Constitution and to provide transitional provisions having regard to the amendments made in the Constitution; and for related matters.

DATE OF ASSENT: 26th September, 2005.

Date of Commencement: 30th September, 2005.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title

This Act may be cited as the Constitution (Amendment) Act, 2005.

PART II—AMENDMENT OF CHAPTER TWO OF THE
CONSTITUTION —THE REPUBLIC**2. Amendment of article 5 of the Constitution**

Article 5 of the Constitution is amended by substituting for clause (4) the following—

“(4) Kampala, located in Buganda shall be the capital city for Uganda and shall be administered by the Central Government.

(5) The territorial boundary of Kampala shall be delineated by Act of Parliament.

(6) Parliament shall, by law, make provision for the administration and development of Kampala as the capital city.”

3. Replacement of article 6 of the Constitution

For article 6 of the Constitution, there is substituted the following—

“6. Official language

(1) The official language of Uganda is English.

(2) Swahili shall be the second official language in Uganda to be used in such circumstances as Parliament may by law prescribe.

(3) Subject to this article, any other language may be used as a medium of instruction in schools or other educational institutions or for legislative, administrative or judicial purposes as Parliament may by law prescribe.”

4. Insertion of new article 8A

Chapter Two of the Constitution is amended by inserting immediately after article 8, the following—

“8A. National Interest

(1) Uganda shall be governed based on principles of national interest and common good enshrined in the national objectives and directive principles of state policy.

(2) Parliament shall make relevant laws for purposes of giving full effect to clause (1) of this article.”

PART III—AMENDMENT OF CHAPTER THREE OF THE
CONSTITUTION—CITIZENSHIP

5. Amendment of article 14 of the Constitution

Article 14 of the Constitution is amended by the repeal of paragraph (a).

6. Amendment of article 15 of the Constitution

Article 15 of the Constitution is amended—

(a) by substituting for clauses (1) and (2) the following—

“(1) A citizen of Uganda of eighteen years and above, who voluntarily acquires the citizenship of a country other than Uganda may, retain the citizenship of Uganda subject to this Constitution and any law enacted by Parliament.

(2) A person who is not a citizen of Uganda may, on acquiring the citizenship of Uganda, subject to this Constitution and any law enacted by Parliament, retain the citizenship of another country.”

(b) by repealing clauses (3) and (4);

(c) by inserting immediately after clause (5) of that article the following—

“(6) Parliament shall by law prescribe the circumstances under which—~~LAW DEVELOPMENT~~ ~~REFERENCE~~ ~~THE~~ ~~ARTS~~

(a) a citizen of Uganda who acquires the citizenship of another country may retain the citizenship of Uganda;

(b) a citizen of Uganda whose citizenship of origin is of another country and who holds the citizenship of another country may cease to be a citizen of Uganda;

(c) a person who is not a citizen of Uganda may, on acquiring Uganda citizenship retain the citizenship of another country;

(7) Parliament shall, by law, prescribe the offices of State which a person who holds the citizenship of another country in addition to the citizenship of Uganda is not qualified to hold”.

7. Amendment of article 16 of the Constitution

Article 16 of the Constitution is amended by substituting for clauses (2) and (3) the following—

“(2) The Board shall consist of a Chairperson, a Deputy Chairperson and such other members as Parliament shall by law prescribe.

(3) The members of the Board shall—

(a) be persons of high moral character and proven integrity and appointed by the President with the approval of Parliament;

- (b) hold office for such period and on such terms and conditions as Parliament shall by law prescribe.

(4) The functions of the Board shall be prescribed by Parliament by law”.

8. Amendment of article 17 of the Constitution

Article 17 of the Constitution is amended—

- (a) in clause (1), by inserting immediately after paragraph (j) the following—

“(k) to perform such other national duties and obligations as Parliament may by law prescribe”; and

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

“(3) Parliament may, in the case of any duty or obligation under clause (1), prescribe a penalty for contravention of that duty or obligation”.

PART IV—AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION—PROTECTION AND PROMOTION OF FUNDAMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS

9. Amendment of article 23 of the Constitution

Article 23 of the Constitution is amended in clause (6) by substituting for paragraphs (b) and (c) the following—

- “(b) in the case of an offence which is triable by the High Court as well as by a subordinate court, if that person has been remanded in custody in respect of the offence for sixty days before trial, that person shall be released on bail on such conditions as the court considers reasonable;

- (c) in the case of an offence triable only by the High Court, if that person has been remanded in custody for one hundred and eighty days before the case is committed to the High Court, that person shall be released on bail on such conditions as the court considers reasonable."

10. Amendment of article 31 of the Constitution

Article 31 of the Constitution is amended—

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

"(1) A man and a woman are entitled to marry only if they are each of the age of eighteen years and above and are entitled at that age—

(a) to found a family; and

(b) to equal rights at and in marriage, during marriage, and at its dissolution."

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

"(2a) Marriage between persons of the same sex is prohibited."

11. Amendment of article 32 of the Constitution

Article 32 of the Constitution is amended by substituting for clause (2) the following—

"(2) Laws, cultures, customs and traditions which are against the dignity, welfare or interest of women or any other marginalised group to which clause (1) relates or which undermine their status, are prohibited by this Constitution.

(3) There shall be a Commission called the Equal Opportunities Commission whose composition and functions shall be determined by an Act of Parliament.

(4) The Equal Opportunities Commission shall be established within one year after the coming into force of the Constitution (Amendment) Act, 2005.

(5) Parliament shall make laws for the purpose of giving full effect to this article."

12. Amendment of article 33 of the Constitution

Article 33 of the Constitution is amended by repealing clause (6).

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

13. Amendment of article 61 of the Constitution

Article 61 of the Constitution is amended—

(a) by renumbering existing article 61 as clause (1) of article 61;

(b) by substituting for paragraph (g) of clause (1) of article 61 as renumbered the following—

“(g) to formulate and implement voter educational programmes relating to elections; and”;

(c) by inserting at the end of the article the following—

“(2) The Electoral Commission shall hold presidential, and general parliamentary and local government council elections within the first thirty days of the last ninety days before the expiration of the term of the President.

(3) Except where it is impracticable to do so, the Electoral Commission shall hold presidential, and general parliamentary and local government council elections on the same day.

(4) Subject to this Constitution, the Electoral Commission shall, in accordance with the law, determine the dates for holding the elections referred to in clause (2).”

14. Amendment of article 68 of the Constitution

Article 68 of the Constitution is amended by inserting immediately after clause (5) the following—

“(6) Parliament may by law exempt any public election, other than a Presidential or Parliamentary election, from the requirements of clause (1) that it shall be held by secret ballot.”

15. Amendment of article 71 of the Constitution

Article 71 of the Constitution is amended—

(a) by renumbering article 71 as clause (1); and

(b) by inserting immediately after clause (1) the following—

“(2) Parliament shall by law prescribe a code of conduct for political organisations and political parties and provide for the establishment of a national consultative forum for political parties and organisations with such functions as Parliament may prescribe.”

16. Amendment of article 72 of the Constitution

Article 72 of the Constitution is amended by inserting after clause (3) the following—

“(4) Any person is free to stand for an election as a candidate, independent of a political organisation or political party.

(5) Parliament, shall by law, regulate the manner of participation in and financing of elections by individuals seeking political office as independent candidates.”

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

17. Amendment of article 77 of the Constitution

Article 77 of the Constitution is amended by substituting for clause (3) the following—

“(3) Subject to this Constitution, the term of Parliament shall be five years from the date of its first sitting after a general election.”

18. Amendment of article 80 of the Constitution

Article 80 of the Constitution is amended—

(a) by substituting for paragraph (c) of clause (1) the following—

“(c) has completed a minimum formal education of Advanced Level standard or its equivalent which shall be established in a manner and at a time prescribed by Parliament by law.”

(b) by inserting at the end of clause (2) the following—

“(f) has, within the seven years immediately preceding the election, been convicted by a competent court of a crime involving dishonesty or moral turpitude;

(g) has, within the seven years immediately preceding the election, been convicted by a competent court of an offence under any law relating to elections conducted by the Electoral Commission.”

(c) by substituting for clause (3) the following—

“(3) Under the movement political system, a person elected to Parliament while he or she is a member of a local government council or holds a public office shall resign the office before assuming the office of a member of Parliament.”

(d) by inserting immediately after clause (3) the following—

“(4) Under the multiparty political system, a public officer or a person employed in any government department or agency of the government or an employee of a local government or any body in which the government has controlling interest, who wishes to stand in a general election as a member of Parliament shall resign his or her office at least ninety days before nomination day.”

19. Amendment of article 81 of the Constitution

Article 81 of the Constitution is amended by repealing clause (1).

20. Insertion of new article 82A

Chapter Six of the Constitution is amended by inserting immediately after article 82 the following—

“82A. Leader of the opposition

(1) Under the multi organisations or multiparty form of democracy, there shall be, in Parliament, a leader of the opposition.

(2) Parliament shall, by law, prescribe the following in respect of the Leader of the Opposition—

- (a) how he or she is chosen and how he or she ceases to hold that office;
- (b) his or her status;
- (c) his or her role and functions; and
- (d) the benefits and privileges attached to his or her office.”

21. Amendment of article 84 of the Constitution

Article 84 of the Constitution is amended by inserting immediately after clause (6) the following—

“(7) The right to recall a member of Parliament shall only exist while the movement political system is in operation.”

22. Amendment of article 85 of the Constitution

Article 85 of the Constitution is amended by substituting for clause (1) the following—

“(1) A member of Parliament shall be paid such emoluments, such gratuity and pension, and shall be provided with such facilities, as may be determined by Parliament.”

23. Replacement of article 87 of the Constitution

For article 87 of the Constitution, there is substituted the following—

“87. Clerk to Parliament and other staff of Parliament

(1) There shall be a public officer designated Clerk to Parliament appointed by the President acting in accordance with the advice of the Public Service Commission.

(2) There shall also be such other members of staff as may be necessary for the efficient discharge of the functions of Parliament.

(3) The other staff referred to in clause (2) shall be public officers who shall, notwithstanding articles 166 and 172, be appointed, disciplined and removed by the Parliamentary Commission subject to any law made by Parliament.

(4) The salary, emoluments and gratuity of the staff of Parliament shall be determined by Parliament subject to article 93 of this Constitution”.

24. Insertion of new article 87A

Chapter Six of the Constitution is amended by inserting immediately after article 87 the following—

“87A. Parliamentary Commission

There shall be a Commission called the Parliamentary Commission whose composition and functions shall be prescribed by Parliament by law.”

25. Replacement of article 88 of the Constitution

For article 88 of the Constitution there is substituted the following—

“88. Quorum of Parliament

(1) The quorum of Parliament shall be prescribed by the rules of procedure of Parliament made under article 94 of this Constitution.

(2) For the avoidance of doubt, the rules of procedure of Parliament may prescribe different quorums for different purposes.”

26. Replacement of article 90 of Constitution

For article 90 of the Constitution there is substituted the following—

“90. Committees of Parliament

(1) Parliament shall appoint committees necessary for the efficient discharge of its functions.

(2) Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.

(3) In the exercise of their functions under this article, committees of Parliament—

(a) may call any Minister or any person holding public office and private individuals to submit memoranda or appear before them to give evidence;

(b) may co-opt any member of Parliament or employ qualified persons to assist them in the discharge of their functions;

(c) shall have the powers of the High Court for—

(i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;

(ii) compelling the production of documents; and

- (ii) issuing a commission or request to examine witnesses abroad.”

PART VII —AMENDMENT OF CHAPTER SEVEN OF THE
CONSTITUTION - THE EXECUTIVE

27. Amendment of article 103 of the Constitution

Article 103 of the Constitution is amended—

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

“(3) Apart from the election required to be held by clause (2) of article 61 of this Constitution, election of the President shall also be held in the following circumstances—

- (a) an election held under clause (6) of article 104 of this Constitution;
- (b) an election held under clause (3) of article 105 of this Constitution;
- (c) an election held under clause (2) of article 109 of this Constitution; and
- (d) an election necessitated by the fact that a normal presidential election could not be held as a result of the existence of a state of war or a state of emergency in which case, the election shall be held within such period as Parliament may, by law, prescribe.”

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

“(6a) Notwithstanding the provisions of clauses (4) and (6) of this article, where, in a presidential election only one candidate is nominated, after the close of nominations, the Electoral Commission shall declare that candidate elected unopposed”.