

ACTS SUPPLEMENT

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Act 21

Constitution (Amendment) (No. 2) Act

2005

THE CONSTITUTION (AMENDMENT) (NO. 2) ACT, 2005.

ARRANGEMENT OF SECTIONS

Section.

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3. Amendment of article 176 of the Constitution.
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8. Replacement of Fifth Schedule to the Constitution.
9. Amendment of Sixth Schedule to the Constitution.

THE CONSTITUTION (AMENDMENT) (NO. 2) ACT, 2005.

An Act to amend the Constitution to provide for Kampala as the capital city of Uganda; to provide for the districts of Uganda; to provide that subject to the existence of regional governments the system of local government in Uganda shall be based on a district as a unit; to provide for the creation of regional governments as the highest political authority in the region with political, legislative, executive, administrative and cultural functions in the region and to provide for the composition and functions of the regional governments; to provide for regional assemblies for each regional government; to provide for grants for districts not forming regional governments; to replace the Fifth Schedule to provide for details relating to regional governments; to amend article 189 to recognize the functions and services of regional governments and to provide for related matters.

DATE OF ASSENT: 21st December, 2005.

Date of Commencement: 30th December, 2005.

BE IT ENACTED by Parliament as follows:

1. Short title

This Act may be cited as the Constitution (Amendment) (No. 2) Act, 2005.

2. Amendment of article 5 of the Constitution

Article 5 of the Constitution is amended by substituting for clause (2) the following—

“(2) Subject to article 178 of this Constitution, Uganda shall consist of—

(a) regions administered by regional governments when districts have agreed to form regions as provided for in this Constitution;

(b) Kampala; and

(c) the districts of Uganda;

as specified in the First Schedule to this Constitution, and such other districts as may be established in accordance with this Constitution or any other law.”

3. Amendment of article 176 of the Constitution

Article 176 of the Constitution is amended by substituting for clause (1) the following—

“176. Local government system

(1) Subject to article 178, the system of local government in Uganda shall be based on the district as a unit under which there shall be such local governments and administrative units as Parliament may, by law, provide”.

4. Replacement of article 178 of the Constitution

For article 178 of the Constitution there is substituted the following—

“178. Regional governments

(1) Two or more districts may cooperate to form a regional government to perform the functions and services specified in the Fifth Schedule to this Constitution.

(2) A district shall not be taken to have agreed to enter into a cooperation arrangement to form a regional government unless—

(a) the proposal to join the regional government has been approved by resolution of the district council by a majority of two thirds of the members of the district council; and

(b) the decision of the district council has been ratified by not less than two-thirds of the sub county councils in the district.

(3) Subject to clause (1) and to the provisions of this Constitution, the districts of the regions of Buganda, Bunyoro, Busoga, Acholi and Lango, specified in the First Schedule to this Constitution, shall be deemed to have agreed to form regional governments for the purposes of this article.

(4) The headquarters of the regional governments deemed to have been established in clause (3) of this article shall be as follows—

(a) in Buganda, Mengo Municipality which shall be created by Parliament;

(b) in Bunyoro, Hoima Municipality which shall be created by Parliament;

(c) in Busoga, Jinja Municipality;

(d) in Acholi, Gulu Municipality; and

(e) in Lango, Lira Municipality.

(5) The districts forming the regional government shall form a regional assembly.

(6) A regional government shall be a body corporate with power to sue and be sued and shall have power to do all things that may be done by a body corporate and shall be subject to all obligations to which a body corporate is subject.

(7) Notwithstanding article 180, a regional government formed under this article shall be the highest political authority within its region and shall have political, legislative, executive, administrative and cultural functions in the region.

(8) A regional government shall in particular have in relation to the region, the functions and services conferred upon a regional government in the Fifth Schedule to this Constitution and may make laws which shall have the force of law in the region.

(9) A regional assembly shall have power to legislate on matters within its jurisdiction.

(10) Subject to this article and to the Fifth Schedule to this Constitution, the executive and administrative powers of a regional government shall extend to the execution and implementation of the laws enacted by the regional assembly and other laws operating in the region and the management of the affairs of the regional government.

(11) The laws made by the regional assembly shall be in conformity with the Constitution and the national laws and shall be consistent with national policies.

(12) The provisions of the Fifth Schedule to this Constitution shall have effect in respect of the matters specified in it in relation to regional governments.

(13) Regional governments shall commence on 1st July, 2006".

5. Insertion of new article 178A

Chapter Eleven of the Constitution is amended by inserting immediately after article 178 the following—

"178A. Grants for districts not forming regional governments.

(1) A district which does not wish or is not able to enter into a cooperation arrangement to form a regional government shall be paid an equalization grant.

(2) The equalization grant payable under clause (1) shall be based on the incremental costs met by the Central Government in managing the regional government.

(3) The President shall cause to be presented to Parliament, proposals for the money to be paid out of the Consolidated Fund as equalization grant under clause (1).

(4) The proposals made under clause (3) shall be made at the same time as the estimates of revenue and expenditure under article 155 of this Constitution and shall state the sums of money that are to be paid to each district."

6. Amendment of article 189 of the Constitution

Article 189 of the Constitution is amended by inserting immediately after clause (4), the following—

"(5) This article shall have effect without prejudice to the functions and services authorised or required to be performed by a regional government under this Constitution".

7. Replacement of First Schedule to the Constitution

For the First Schedule to the Constitution there is substituted the following—

"FIRST SCHEDULE

Article 5, 178

KAMPALA AND DISTRICTS OF UGANDA

Kampala

DISTRICTS OF UGANDA

- | | | |
|----------------|---|-------------|
| 1. Bundibungyo | } | of Rwenzori |
| 2. Kasese | | |
| 3. Busia | } | of Bukedi |
| 4. Butaleja | | |
| 5. Pallisa | | |
| 6. Tororo | | |

7. Abim	}	of Karamoja
8. Kaabong		
9. Kotido		
10. Moroto		
11. Nakapiripirit		

12. Mbale	}	of Bugisu
13. Sironko		
14. Manafwa		

15. Bukwo	}	of Sebei
16. Kapchorwa		

17. Adjumani	}	of Madi
18. Moyo		

19. Arua	}	of West Nile
20. Koboko		
21. Nebbi		
22. Yumbe		
23. District comprising of Maracha and Terego Counties		

24. Amuru	}	of Acholi
25. Gulu		
26. Kitgum		
27. Pader		

28. District comprising of Buliisa County	}	of Bunyoro
29. Hoima		
30. Kibaale		
31. Masindi		

32. Kabarole	}	of Tooro
33. Kamwenge		
34. Kyenjojo		
35. Amuria	}	of Teso
36. Kaberamaido		
37. Katakwi		
38. Kumi		
39. Soroti		
40. Kalangala	}	of Buganda
41. Kayunga		
42. Kiboga		
43. Luwero		
44. Masaka		
45. Mityana		
46. Mpigi		
47. Mubende		
48. Mukono		
49. Nakaseke		
50. Nakasongola		
51. Rakai		
52. Sembabule		
53. Wakiso		
54. Bushenyi	}	of Ankole
55. Ibanda		
56. Isingiro		
57. Kiruhura		
58. Mbarara		
59. Ntungamo		

60. Amolatar
61. Apac
62. District comprising
of Dokolo County
63. Lira
64. Oyam
- } of Lango

AW DEVELOPMENT
REFERENCE

65. Bugiri
66. Iganga
67. Jinja
68. Kaliro
69. Kamuli
70. Mayuge
71. Namutumba
- } of Busoga

72. Kabale
73. Kanungu
74. Kisoro
75. Rukungiri
- } of Kigezi

8. Replacement of Fifth Schedule to the Constitution

For the Fifth Schedule to the Constitution there is substituted the following—

"FIFTH SCHEDULE

Article 178

REGIONAL GOVERNMENTS

1. Name of regional governments

A regional government may adopt its own name.

2. Composition of Regional Assembly

(1) The composition of a regional assembly shall be prescribed by Act of Parliament and shall consist of—

- (a) directly elected representatives elected on the basis of universal adult suffrage at elections conducted by the Electoral Commission;

- (b) representatives of women, who shall not be less than one third of the membership;
 - (c) representatives of the youth and persons with disabilities;
 - (d) representatives of indigenous cultural interests in areas where there is a traditional or cultural leader, nominated by the traditional or cultural leader but not exceeding fifteen per cent of the members of the regional assembly;
 - (e) district chairpersons in the region who shall be ex-officio members with no right to vote.
- (2) A regional assembly shall have a speaker elected by the regional assembly from among its members; but a person shall only be taken to have been elected if the votes cast in his or her favour are more than fifty percent of all the members of the regional assembly.
- (3) The speaker of the regional assembly shall, in relation to the regional assembly, perform similar functions to those of the Speaker of Parliament.
- (4) Members of regional assemblies shall serve for the same term as members of district councils.

3. Committees of the Regional Assembly

- (1) A regional assembly may establish standing and other committees or organs for the efficient discharge of its functions.
- (2) The representatives of cultural interests shall constitute the standing committee on cultural matters.
- (3) The standing committee on cultural matters shall have, as against the rest of the members of the regional assembly, exclusive jurisdiction on the cultural matters of the region.
- (4) In this paragraph "cultural matters" include the following—
- (a) the choice and installation of a traditional leader or cultural leader;
 - (b) all traditional and cultural matters relating to the traditional or cultural leader and to the institutions of the traditional leader or cultural leader as well as royal members of the traditional leadership;
 - (c) the choice, appointment and succession to clan and sub-clan leadership;

- (d) clan, traditional and customary matters;
- (e) matters relating to cultural funeral rites, cultural succession and customary heirs;
- (f) cultural or traditional lands, sites, shrines and installations;
- (g) clan lands, sites, shrines and installation; and
- (h) traditional, customary and cultural practices which are consistent with this Constitution.

(5) In carrying out its responsibilities under subparagraphs (3) and (4), the standing committee on cultural matters shall consult the traditional or cultural leader of the region as well as the relevant clan leaders.

(6) A decision of the standing committee on cultural matters shall not be effective until the decision has been approved by the traditional or cultural leader of the region and, in the case of succession under subparagraph (4)(a), by the clan or cultural leader's council.

4. Regional Government

(1) A regional government shall be led by a regional chairperson elected in accordance with this paragraph.

(2) A person shall not be qualified to be elected a regional chairperson unless—

(a) he or she is a citizen of Uganda by birth as defined in article 10 of this Constitution and one of whose parents or grandparents is or was resident in the region and a member of the indigenous communities existing and residing within the borders of the region as at the first day of February, 1926;

(b) he or she is qualified to be a member of Parliament; and

(c) he or she is not less than thirty-five years of age.

(3) A regional chairperson shall—

(a) be directly elected by universal adult suffrage at an election conducted by the Electoral Commission;

(b) be willing and able, where applicable, to adhere to and perform the cultural and traditional functions and rites required by his or her office;

(c) where applicable, upon election, be given instruments of office by the cultural or traditional leader of the region; and

(d) be the political head of the regional government.

(4) Parliament shall by law prescribe the grounds and procedure for removal of the chairperson of the regional government.

5. Ministers of Regional Government

(1) A regional government shall have regional ministers who shall be appointed by the head of the regional government with the approval of the regional assembly.

(2) The number of regional ministers of a region shall be determined by Parliament.

6. Cooperation with Central Government

A regional government shall cooperate with the Ministries of the Central Government but on policy matters they shall liaise with the office of the President.

7. Voting in the Regional Assembly

(1) Representatives of cultural interests as defined in paragraph 3 shall not vote on any partisan matter.

(2) A matter shall be considered to be of a partisan nature if in the course of its being tabled or debated in a regional assembly it is declared by a majority vote of the directly elected representatives to be partisan.

8. Role of traditional or cultural leader

Where a traditional leader or cultural leader exists in a region the traditional or cultural leader shall—

(a) be the titular head of the regional government;

(b) be the titular head of the regional assembly and shall open, address and close the sessions of the regional assembly; and

(c) enjoy the benefits and privileges and roles as provided for in article 246 of this Constitution and by Parliament and the regional assembly.

9. Functions and services of regional governments

The functions and services for which a regional government is responsible are as follows—

- (a) secondary education and tertiary institutions except national universities and other national institutions;
- (b) regional roads;
- (c) regional referral hospitals other than national referral hospitals and national medical institutions;
- (d) co-ordination, monitoring and supervision of agriculture;
- (e) forests, other than, forests, national parks and wildlife reserves managed by the Government;
- (f) culture;
- (g) cultural and traditional lands;
- (h) promotion of local languages, crafts and antiquities;
- (i) water;
- (j) sanitation;
- (k) to levy surcharge or cess subject to the approval of Central Government;
- (l) functions and services surrendered voluntarily by a district council or district councils;
- (m) receiving copies of financial accountability of districts to the Central Government to enable the regional government monitor and supervise the implementation of government programmes.

10. Land

(1) A regional government may establish a regional land board whose functions may include the following—

- (a) coordination and monitoring of land use in the region;
- (b) planning of land use in the region; except that if there is a conflict between regional land planning and Central Government land planning, the latter shall prevail.

(2) A regional land board shall consist of—

(a) all chairpersons of the District Land Boards in the region;

(b) an equal number of members appointed by the regional government.

(3) A regional land board shall be represented on each District Land Board in its region in a manner prescribed by Parliament.

11. Financial provisions for regional governments

(1) Where a regional government is established the government shall work out a formula of granting unconditional grants to the regional government having regard to the Seventh Schedule to this Constitution.

(2) Experts under the general direction of Government and in consultation with regional governments shall work out the formula for the financial allocation to regional governments.

(3) Grants sent to the region may change in light of economic and social conditions such as population and other similar considerations.

(4) There shall also be a mechanism to resort to in case the central government without reasonable cause fails to remit funds to the regional government.

12. Recognition of cultural diversity and equitable distribution of resources

(1) Each regional government must recognize and respect the different cultures existing within the region.

(2) A regional government shall ensure that there is equitable distribution of the resources in the region in accordance with a formula worked out by Government in consultation with regional governments.

13. National Cultural Heritage Sites

Parliament shall by law—

(a) gazette national cultural heritage sites; and

(b) provide for the ownership and management of the cultural sites referred to in subparagraph (a) of this paragraph.

14. Take-over of regional government by President

(1) Where—

- (a) the High Court determines that there is failure to comply with the requirements of paragraph 12;
- (b) the regional government so requests and it is in the public interest to do so;
- (c) a state of emergency has been declared in the region or in Uganda generally; or
- (d) it has become extremely difficult or impossible for the regional government to function;

a regional government shall be liable to a take-over of its administration by the President in a manner prescribed by an Act of Parliament and similar to the take-over of administration of a district under article 202 of this Constitution.

(2) In the circumstances described in subparagraph (1), the President may, with the approval of two thirds of the members of Parliament, assume the executive and legislative powers of the regional government.

(3) The exercise by the President of the power to assume the executive and legislative powers in subparagraph (2), may be done through such persons or officers as the President may appoint; and the legislative functions shall be exercised by making statutory instruments.

(4) Where the President assumes the exercise of the legislative powers of a regional government under this paragraph, the President shall have no power to make laws on cultural matters as defined in paragraph 3 of this Schedule.

(5) Unless approved by Parliament for a longer term, the exercise by the President of the power to take over, shall be for a period not exceeding ninety days.

(6) Upon the expiry of the term under subparagraph (5)—

(a) the President shall hand back the administration of the region to the incumbent regional government; or

(b) if Parliament, by a resolution supported by not less than two thirds of all members of Parliament, decides that the prevailing circumstances still make it impossible for the incumbent regional government to resume the administration of the region—

(i) where the unexpired term of the regional assembly is longer than twelve months, the President shall cause elections to be held for a new regional assembly within sixty days; or

(ii) where the unexpired term of the regional assembly is less than twelve months the President shall continue to administer the region until the next elections are held.”

9. Amendment of Sixth Schedule to the Constitution

The Sixth Schedule to the Constitution is amended—

(a) by inserting immediately after paragraph 16 the following—

“16A Development and upgrading of national roads”;

(b) by substituting for item 24, the following—

“24. Forest and wildlife reserve policy and management.”