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ACTS SUPPLEMENT

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Act 20 Local Governments (Amendment) Act 2005

THE LOCAL GOVERNMENTS (AMENDMENT) ACT, 2005

ARRANGEMENT OF SECTIONS

Section.

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THE LOCAL GOVERNMENTS (AMENDMENT) ACT, 2005

An Act to make miscellaneous amendments to the Local Governments Act to make it conform to the amendments made to the Constitution; to define standard of education equivalent to advanced level; to repeal the reference to graduated tax; to provide for the appointment and discipline by the Public Service Commission of Chief Administrative Officers and their deputies, town clerks of cities and municipalities; to provide for the creation of municipalities and town boards; to reduce the number of secretaries on executive committees from five to three; to increase the term of office of local government councils from four years to five years; to provide for representation of the elderly on local government councils; to provide that where less than six months remain before the term of a council expires a by-election shall not be held to fill a vacancy which has occurred; to ensure that public officers and other government employees who wish to stand for election in the multiparty system resign before

nomination; to provide for the deputy speaker of a district council to be part time; to provide for the reporting of vacancies in the local government councils to the Electoral Commission and the time within which to report such vacancies; and for other related matters.

DATE OF ASSENT: 4th December, 2005.

Date of commencement: 9th December, 2005.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 1 of the principal Act

Section 1 of the Local Governments Act, in this Act referred to as the principal Act is amended by repealing subsection (2).

2. Amendment of section 7 of the principal Act

Section 7 of the principal Act is amended—

(a) by inserting immediately after subsection (2) the following—

“(2a) A district council may, with the approval of Parliament, create a municipality within its area of jurisdiction in accordance with paragraph 32 of the Third Schedule to this Act.”

(b) by inserting immediately after subsection (3) the following—

“(3a) A district council, acting on a request of a lower local government may, with the approval of the Minister, declare an area to be a town board.”

(c) by inserting immediately after subsection (9) the following—

“(9a) Notwithstanding anything in this section, a local government or an administrative unit created within six months before a general election shall not be taken into account by the Electoral Commission for the purposes of the general election.”

3. Amendment of section 10 of principal Act

Section 10 of the principal Act is amended by inserting at the end of subsection (1) the following paragraph—

“(f) two elderly persons a male and female above the age of sixty years elected by the executive committees of the respective associations of the elderly.”

4. Amendment of section 11 of the principal Act

Section 11 of the principal Act is amended by substituting for subsections (11) and (12) the following—

“(11) A speaker shall be on full time service of the district council.

(12) A speaker of a district council shall be paid emoluments and allowances in accordance with the First Schedule to this Act, and shall not hold any office of profit or emolument likely to compromise his or her office.”

5. Amendment of section 14 of the principal Act

Section 14 of the principal Act is amended—

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

“(3) The speaker shall within twenty-four hours after receipt of the notice referred to in subsection (2), cause a copy to be transmitted to the chairperson and the Minister.”; and

(b) by substituting for subsection (4) the following—

“(4) The Minister shall evaluate the notice 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 notice, constitute a tribunal consisting of a Judge of the High Court or a person qualified to be appointed a Judge of the High Court, as chairperson and two other persons all of whom shall be appointed by the Minister in consultation with the Chief Justice, to investigate the allegations.”

6. Amendment of section 16 of the principal Act

Section 16 of the principal Act is amended by substituting for subsection (2) (c) the following—

“(c) such number of secretaries, not exceeding three, as the council may determine.”

7. Amendment of section 23 of the principal Act

Section 23 of the principal Act is amended by substituting for subsection (6) the following—

“(6) There shall be two elderly persons a male and a female above the age of sixty years on every lower local government council who shall be elected by the respective executive committees of the associations of the elderly.”

8. Amendment of section 25 of the principal Act

Section 25 of the principal Act is amended by substituting for subsection (2) (c) the following—

“(c) such number of secretaries, not exceeding three, as the council may determine.”

9. Insertion of new section 26A of the principal Act

Immediately after section 26 of the principal Act there is inserted the following—

“26A. Censure of Member of executive committee of a lower local government council

(1) A council of a lower local government may, by resolution supported by more than half of all the members of the council, pass a vote of censure against a member of the executive committee of the lower local government council.

(2) Proceedings for censure shall be initiated by petition to the chairperson through the speaker, signed by not less than one-third of all the members of the council, to the effect that they are dissatisfied with the conduct or performance of the member of the executive committee and the speaker shall submit the petition to the chairperson.

(3) The chairperson shall, upon receipt of the petition, cause a copy to be given to the member of the executive committee in question.

(4) The motion for the resolution of censure shall not be debated until the expiry of fourteen days after the petition is sent to the chairperson.

(5) A member of the executive committee in respect of whom a vote of censure is debated under sub-section (4) is entitled to be heard during the debate”.

10. Amendment of section 45 of the principal Act

Section 45 of the principal Act is amended by substituting for sub-section (1) (b) the following—

“(b) in urban areas—

- (i) the parish or ward;
- (ii) the town board; and
- (iii) the village.”

11. Amendment of section 46 of the principal Act

Section 46 of the principal Act is amended by inserting immediately after subsection (2) the following—

“(3) A town board shall consist of the Chief Administrative Officer as chairperson, the District Engineer, District Director of Health Services, District Planner and District Police Commander; and the Town Clerk of the town board, who shall be appointed by the District Service Commission shall be the Secretary”.

12. Insertion of new Section 48A of the principal Act

Immediately after section.48 of the principal Act there is inserted the following—

“48A. Functions of a town board

The town board shall perform such functions as the Minister may, by statutory instrument, prescribe.”

13. Amendment of section 54 of the principal Act

Section 54 of the principal Act is amended by substituting for subsection (2a) the following—

“(2a) In appointing the members of the District Service Commission under sub-section (2), the District Council shall ensure—

- (a) that the number of members of the District Service Commission, apart from the Chairperson, does not exceed four;
- (b) that at least one third of the members of the Commission are women and at least one member of the Commission is a person with disability.”

14. Amendment of section 55 of the principal Act

Section 55 of the principal Act is amended by inserting immediately after subsection (1), the following—

“(1a) Notwithstanding subsection (1), the appointment and disciplinary control of Chief Administrative Officers, Deputy Chief Administrative Officers and Town Clerks of cities and municipalities shall be effected by the Public Service Commission in accordance with article 200 of the Constitution”.

15. Amendment of section 63 of the principal Act

Section 63 of the principal Act is amended by substituting for subsection (1) the following—

“(1) There shall be a chief administrative officer for a every district who shall be appointed by the Public Service Commission.”

16. Amendment of section 65 of the principal Act

Section 65 of the principal Act is amended by substituting for subsection (1), the following—

“(1) An urban council other than a division council shall have a town clerk who shall, except in the case of a city or a municipality, be appointed by the District Service Commission upon a request by the relevant urban council.”

17. Amendment of section 66 of the principal Act

Section 66 of the principal Act is amended by inserting immediately after subsection (1) the following—

“(1a) The deputy chief administrative officer shall be appointed by the Public Service Commission.”

18. Amendment of section 80 of the principal Act

Section 80 of the principal Act is amended—

- (a) in subsection (1) by repealing the words “graduated tax”; and
- (b) by repealing subsection (5).

19. Replacement of section 95 of the principal Act

For section 95 of the principal Act there is substituted the following—

“95. Co-ordination, guidance, monitoring and inspection of local governments

The Ministry responsible for local governments shall be responsible for the guidance, inspection, monitoring and co-ordination of local governments to ensure compliance with the provisions of this Act and any other law.”

20. Amendment of section 97 of the principal Act

Section 97 of the principal Act is amended by repealing subsection (2).

21. Amendment of section 111 of the principal Act

Section 111 of the principal Act is amended—

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

“(1) All elections at local government and administrative unit levels shall be by secret ballot using one ballot box for all candidates at each polling station”;

(b) by repealing subsection (2);

(c) by inserting immediately after subsection (3) the following—

“(3a) For the purposes of subsection (3)(e), any of the following persons wishing to stand for election as a district chairperson shall establish his or her qualification with the Commission as a person holding a minimum qualification of Advanced Level or its equivalent at least two months before nomination day in the case of a general election, and two weeks in the case of a by-election—

(i) persons whether their qualification is obtained from Uganda or outside Uganda, who are claiming to have their qualification accepted as equivalent to advanced level education;

(ii) persons claiming to have advanced level qualifications obtained from outside Uganda;

(iii) persons claiming to have academic degrees which were obtained outside Uganda.

(3b) A person required to establish his or her qualification under subsection (3a) shall do so by the production of a certificate issued to him or her by the National Council for Higher Education in consultation with the Uganda National Examinations Board.

(3c) A person who claims to possess a qualification referred to in subsection (3a) (iii) of this section shall, before the issue of the certificate prove to the satisfaction of the National Council for Higher Education that admission to that qualification was obtained on the basis of Advanced Level Standard of Education or its equivalent.

(3d) For the avoidance of doubt, if a candidate has an advanced level certificate obtained in Uganda or qualifications higher than the prescribed qualification obtained in Uganda or obtained from the former University of East Africa or any of its constituent colleges, then there shall be no need for the verification of his or her qualifications by the National Council of Higher Education.

(3e) The Commission shall not accept for the purposes of this section a statutory declaration or affidavit as evidence of an academic qualification required by this section.”

22. Amendment of section 116 of the principal Act

Section 116 of the principal Act is amended by substituting for subsections (3), (3a), (4) and (5) the following—

“(3) Under the movement political system a person elected a chairperson or member of a local government executive committee when holding a public office shall resign the public office before assuming the office of chairperson or a member of the executive committee.

(4) Under the movement political system a person holding a public office who wishes to be a candidate for a local government office or councilor under this Act shall apply for annual leave or leave without pay at least fourteen days before nominations commence.

(5) Under the multi party political system, a public officer, a person employed in any government department or agency of the government, an employee of a local government or an

employee of a body in which government has a controlling interest, who wishes to stand for election to a local government office shall resign his or her office at least thirty days before nomination day in accordance with the procedure of the service or employment to which he or she belongs.

(6) For the avoidance of doubt—

(a) a public officer employed by a local government shall not be a councillor of that local government or another local government or lower local government”.

(b) a person referred to in subsection (5) is not required to resign his or her office if elected to an administrative unit at village, parish or ward level”.

23. Amendment of section 118 of the principal Act

Section 118 of the principal Act is amended by inserting immediately after subsection (2) the following—

“(2a) Councillors representing the elderly shall be elected by the associations of the elderly forming an electoral college composed as follows—

(a) in the case of the district, all members of the district executive committee and subcounty executive committees in the district;

(b) in the case of a city, all members of the city executive committee and division executive committees;

(c) in the case of other urban councils and subcounty councils, all members of the town or division or subcounty executive committees and parish or ward executive committees.

(2b) The Commission shall, where existing organisations are formed into electoral colleges to elect representatives of persons with disabilities at different levels of local governments, facilitate the organisations to establish the different bodies that form the electoral colleges.”

24. Insertion of new section 119A of principal Act

The principal Act is amended by inserting immediately after section 119, the following—

“119A Sponsorship of candidates by political organisations or political parties

Under the multiparty political system, nomination of candidates may be made for election under this Act by a political organisation or political party sponsoring a candidate or by a candidate standing for election as an independent candidate without being sponsored by a political organisation or political party”.

25. Replacement of section 125 of the principal Act

For section 125 of the principal Act there is substituted the following—

“125. Non-sectarian campaign

(1) A person shall not use a symbol or colour which has a tribal or religious affiliation or any other sectarian connotation as a basis for that person’s candidature for election or in support of that person’s campaign.

(2) Under the movement political system, a person shall not use as a basis for his or her candidature or campaign a symbol or colour of a political party or organisation.

(3) Subject to any law, under the multiparty political system, political party or organisation symbols or colours may be used.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction—

(a) in the case of an offence under subsection (1), to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both; and

(b) in the case of an offence under subsection (2), to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.”

26. Replacement of section 126 of the principal Act

For section 126 of the principal Act there is substituted the following—

“126. Use of local council or Government facilities

(1) Except as otherwise provided in this section, where a candidate is a chairperson or holds any other political or public office, he or she shall not use local council or Government facilities for the purpose of campaigning for election under this Act.

(2) Where a candidate holds any political office, he or she shall, during the campaign period, restrict the use of the official facilities ordinarily attached to his or her office to the execution of his or her official duties.

(3) For the purposes of enforcing this section the Commission shall, by writing require any candidate to state in writing the facilities ordinarily attached to any office held by that person to which subsection (2) applies and the candidate shall comply with the requirement.

(4) This section applies with the necessary modifications to an employee of a statutory corporation or company in which the government owns a controlling interest and a member of a commission or committee established by the Constitution as it applies to a public officer.

(5) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

27. Repeal of section 161A of the principal Act

Section 161A (Election of village and parish chairperson to be by secret ballot) of the principal Act is repealed.

28. Replacement of section 170 of the principal Act

For section 170 of the principal Act, there is substituted the following—

“170. Term of office of councils and chairperson

(1) The chairperson, local government councils and administrative councils shall be elected every five years.

(2) Subsection (1) shall have effect after the expiry of the term of local government councils in existence at the time this section comes into force.”

29. Amendment of section 171 of the principal Act

Section 171 of the principal Act is amended—

(a) in subsection (1) by substituting for “as soon as it is practicable” the words “within twenty one days”;

(b) by inserting at the end of subsection (1), the following—

“except that in the case of a district chairperson, the commission shall organize the bye election within sixty days from the occurrence of the vacancy”;

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

“(3) Where the seat of a councillor becomes vacant under regulation 3 of the Third Schedule to this Act, the Clerk to the council shall notify the Electoral Commission in writing within twenty one days after the vacancy occurred and the commission shall organize a by-election within six months after the occurrence of the vacancy.

(3a) Where the seat of a chairperson of a subcounty council, town council, municipal division, municipal council or city division, the subcounty chief or town clerk as the case may be, shall notify the district registrar within twenty one days after the occurrence of the vacancy and the Electoral Commission shall organize a by-election within ninety days after being notified of the vacancy

(3b) For the purposes of this section the parish chief shall report to the subcounty chief any vacancy occurring in a parish or village council within ten days after the occurrence of the vacancy for onward transmission to the district registrar and the Electoral Commission shall organise a by-election within six months after the occurrence of the vacancy to fill the vacancy.

(3c) Notwithstanding anything in this section, no by-election shall be held where the term of the council to which the vacancy relates has less than six months to expire.”

30. Repeal of section 171A of the principal Act

Section 171A (Local council elections not to coincide with presidential and parliamentary elections) of the principal Act is repealed.