

Act 21

Constitution (Amendment) (No. 2) Act

2005

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

ARRANGEMENT OF SECTIONS

Section.

1. Short title.
2. Amendment of article 5 of the Constitution.
3. Amendment of article 176 of the Constitution.
4. Replacement of article 178 of the Constitution.
5. Insertion of new article 178A.
6. Amendment of article 189 of the Constitution.
7. Replacement of First Schedule to the Constitution.
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

(h) 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 | } | |
| 4. Butaleja | } | of Bukedi |
| 5. Pallisa | } | |
| 6. Tororo | } | |

- | | | |
|-----|--|----------------|
| 7. | Abi m | } |
| 8. | Kaabong | } |
| 9. | Kotido | } of Karamoja |
| 10. | Moroto | } |
| 11. | Nakapiripirit | } |
| 12. | Mbale | } |
| 13. | Sironko | } of Bugisu |
| 14. | Manafwa | } |
| 15. | Bukwo | } |
| 16. | Kapchorwa | } of Sebei |
| 17. | Adjumani | } |
| 18. | Moyo | } of Madi |
| 19. | Arua | } |
| 20. | Kohoko | } |
| 21. | Nebbi | } of West Nile |
| 22. | Yumbe | } |
| 23. | District comprising
of Maracha and
Terego Counties | }
}
} |
| 24. | Amuru | } |
| 25. | Gulu | } |
| 26. | Kitgum | } of Acholi |
| 27. | Pader | } |
| 28. | District comprising
of Buliisa County | }
} |
| 29. | Hoima | } of Bunyoro |
| 30. | Kibaale | } |
| 31. | Masindi | } |

- 32. Kabarole }
- 33. Kamwenge } of Tooro
- 34. Kyenjojo }

- 35. Amuria
- 36. Kaberamaido
- 37. Katakwi } of Teso
- 38. Kumi
- 39. Soroti

- 40. Kalangala
- 41. Kayunga
- 42. Kiboga
- 43. Luwero
- 44. Masaka
- 45. Mityana
- 46. Mpigi
- 47. Mubende
- 48. Mukono
- 49. Nakaseke
- 50. Nakasongola } of Buganda
- 51. Rakai
- 52. Sembabule
- 53. Wakiso

- 54. Bushenyi
- 55. Ibanda
- 56. Isingiro
- 57. Kiruhura } of Ankole
- 58. Mbarara
- 59. Ntungamo

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

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

- 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 per cent 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";

by substituting for item 24, the following

"24. Forest and wildlife reserve policy and management." 16

28. Amendment of article 105 of the Constitution Article 105 is amended by repealing clause (2) and substituting for it the following-

"(2) A person may be elected under this Constitution to hold office as President for one or more terms as prescribed by this article."

29. Amendment of article 108 of the Constitution Article 108 of the Constitution is amended by substituting for clause (6) the following-

"(6) Article 106 shall, subject to this Constitution, apply to the Vice President".

30. Insertion of new article 108A Chapter Seven of the Constitution is amended by inserting immediately after article 108, the following-

"108A. Prime Minister

(1) There shall be a Prime Minister who shall be appointed by the President with the approval of Parliament by simple majority from among members of Parliament or persons qualified to be elected members of Parliament.

(2) The Prime Minister shall-

(a) be the Leader of Government Business in Parliament and be responsible for the coordination and implementation of Government policies across ministries, departments and other public institutions; and

(b) perform such other functions as may be assigned to him or her by the President, or as may be, conferred on him or her by this Constitution or by law.

(3) The Prime Minister shall, in the performance of his or her functions, be individually accountable to the President and collectively responsible for any decision made by the Cabinet.

(4) The office of the Prime Minister shall become vacant if-

(a) the appointment is revoked by the President;

(b) the incumbent resigns or dies; or

(c) the incumbent becomes disqualified to be a member of Parliament.

(5) The Prime Minister shall, before commencing to perform the functions of his or her office, take and subscribe the oath of allegiance and the oath of Prime Minister, specified in the Fourth Schedule to this Constitution.

(6) Clause (6) of article 108 applies to the Prime Minister with necessary modifications as it applies to the Vice President."

31. **Amendment of article 111 of the Constitution** Article 111 is amended by substituting for clause (1) the following-

"(1) There shall be a Cabinet which shall consist of the President, the Vice President, the Prime Minister and such number of Ministers as may appear to the President to be reasonably necessary for the efficient running of the State."

32. **Insertion of new article 119A** Chapter Seven of the Constitution is amended by inserting immediately after article 119, the following-

"119A. Deputy Attorney General

(1) There shall be a Deputy Attorney General who shall be a Minister appointed by the President under article 114 with the approval of Parliament.

(2) A person shall not be qualified to be appointed Deputy Attorney General unless he or she is qualified to practise as an advocate of the High Court and has so practiced or gained the necessary experience for not less than seven years.

(3) The Deputy Attorney General shall deputise for the Attorney General".

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

33. Amendment of article 163 of the Constitution

Article 163 of the Constitution is amended-

(a) in clause (1), by repealing the phrase "and whose office shall be a public office";

(b) in clause (3), by inserting immediately after paragraph (b) the following-

"(c) in consultation with the Public Service Commission, employ and discipline his or her own staff;

(d) have power to engage private auditors to assist him or her in the performance *of* his or her functions."; and

(c) by inserting immediately after clause (10) the following-

"(11) The Auditor General may retire at any time after attaining the age of 60 years, and shall vacate office on attaining the age of 70 years.

(12) The Auditor General 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.

(13) Any question for the removal of the Auditor General shall be referred to a tribunal appointed by the President, which shall submit its findings to the President; and the President may remove the Auditor General if the tribunal recommends that he or she should be removed on any of the grounds specified in clause (10).

(14) Where the question for removal of the Auditor General involves an allegation that the Auditor General is incapable of performing the functions of his or her office arising from infirmity of body or mind, 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.

(15) Where a tribunal is appointed by the President under clause (13) in respect of the Auditor General, the President shall suspend that Auditor General from performing the functions of his or her office.

(16) A suspension under clause (15) shall cease to have effect if the tribunal advises the President that the Auditor General suspended should not be removed.

(17) Parliament shall make laws to regulate and facilitate the performance of the functions of the Auditor General."

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

34. Insertion of new article 173A

Chapter Ten of the Constitution is amended by inserting immediately after article 173 of the Constitution, the following-

"173A. Head of the Public Service

(1) There shall be a Head of the Public Service who shall be appointed by the President acting on the advice of the Public Service Commission.

(2) The functions of the Head of the Public Service are as follows-

- (a) tendering advice to the President on matters relating to the Public Service;
- (b) coordination of the activities of Permanent Secretaries;
- (c) supervision of the work of Permanent Secretaries;
- (d) serving as a link between the Executive and the Public Service;
- (e) serving as a link between Service Commissions;
- (f) ensuring the implementation of Cabinet and other Government decisions; and
- (g) any other duties assigned to him or her from time to time by the President."

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

35. Amendment of article 181 of the Constitution

Article 181 of the Constitution is amended by substituting for clauses (4) and (5), the following-

"(4) All local government councils shall be elected every five years.

(5) Subject to article 61 of this Constitution, elections of all local government councils shall take place on such date as the Electoral Commission shall determine in accordance with the law."

36. Replacement of article 188 of the Constitution

For article 188 of the Constitution, there is substituted the following-

"188. Chief and Deputy Chief Administrative Officer

(1) There shall be a Chief Administrative Officer and Deputy Chief Administrative Officer for every district.

(2) Notwithstanding articles 176(2) and (3) and 200 of this Constitution, the Public Service Commission shall appoint persons to hold or act in the office of Chief Administrative Officer and Deputy Chief Administrative *Officer*, including the confirmation of their appointments and the exercise of disciplinary control over such persons and their removal from office.

(3) Parliament shall by law establish the qualifications and functions of a Chief Administrative Officer and Deputy Chief Administrative Officer."

37. Amendment of article 191 of the Constitution

Article 191 of the Constitution is amended in clause (2) by repealing the phrase "personal graduated tax".

38. Amendment of article 200 of the Constitution

Article 200 of the Constitution is amended by inserting immediately after clause (3) the following-

"(4) Notwithstanding anything in this article or in articles 172 and 176(2) and (3) of this Constitution, the power to appoint persons to hold or act in the office of Town Clerk in the service of a city or a municipality, including the power to confirm appointments, to exercise disciplinary control over persons holding or acting in any such office and to remove those persons from office is vested in the Public Service Commission."

39. Replacement of article 203 of the Constitution

For article 203 of the Constitution there is substituted the following-

"203. Resident District Commissioner

(1) There shall be for each district a Resident District Commissioner who shall be appointed by the President.

(2) For a person to be appointed a Resident District Commissioner he or she shall be a citizen of Uganda and qualified to be a member of Parliament.

(3) The functions of a Resident District Commissioner are-

(a) to monitor the implementation of central and local government services in the district;

(b) to act as chairperson of the district security committee of the district; and

(c) to carry out such other functions as may be assigned by the President or prescribed by Parliament by law."

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

40. Amendment of article 231 of the Constitution

Article 231 of the Constitution is amended by inserting immediately after clause (3) the following-

"(4) The President or any local authority referred to in clause (2) shall at least once every year cause a report to be submitted to Parliament on actions taken by the President or the local authority on reports submitted to the President or the local authority by the Inspectorate of Government, for the information of Parliament.

(5) Parliament shall discuss expeditiously any reports submitted to it under clause (1)."

41. Amendment of article 232 of the Constitution Article

232 of the Constitution is amended in clause (2)-

- (a) by repealing the word "and" at the end of paragraph (c);
- (b) by inserting at the end of paragraph (d) the word "and"; and
- (c) by inserting immediately after paragraph (d) the following-
 - "(e) establishing a special court within the judiciary for combating corruption and prescribing the composition and jurisdiction and procedures of the court and appeal from the court."

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

42. Insertion of new article 235A

Chapter Fourteen of the Constitution is amended by inserting immediately after article 235 the following-

"235A. Leadership Code Tribunal

There shall be a Leadership Code Tribunal, whose composition, jurisdiction and functions shall be prescribed by Parliament by law".

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

43. Replacement of article 244 of the Constitution

For article 244 of the Constitution there is substituted the following-

"244. Minerals and petroleum

(1) Subject to article 26 of this Constitution, the entire property in, and the control of, all minerals and petroleum in, on or under, any land or waters in Uganda are vested in the Government on behalf of the Republic of Uganda.

(2) Subject to this article, Parliament shall make laws regulating-

- (a) the exploitation of minerals and petroleum;
- (b) the sharing of royalties arising from mineral and petroleum exploitation;
- (c) the conditions for payment of indemnities arising out of exploitation of minerals and petroleum; and
- (d) the conditions regarding the restoration of derelict lands.

(3) Minerals, mineral ores and petroleum shall be exploited taking into account the interest of the individual landowners, local governments and the Government.

(4) In this article-

"mineral" means any substance, other than petroleum, whether in solid, liquid or gaseous form occurring naturally in or on the earth, formed by or subject to a geological process;

"petroleum" means-

- (a) any naturally occurring hydrocarbons, whether in gaseous, liquid or solid state;
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons (whether in a gaseous, liquid or solid state) and any other substances; and includes any petroleum as defined by paragraph (a), (b) or (c) that has been returned to a natural reservoir, but does not include coal, shale, or any substance that may be extracted from coal or shale.

(5) For the purposes of this article, "mineral" does not include clay, murram, sand or any stone commonly used for building or similar purposes.

(6) Parliament may regulate the exploitation of any substance excluded from the definition of mineral under this article when exploited for commercial purposes."

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

44. Replacement of article 255 of the Constitution

For article 255 of the Constitution there is substituted the following-

"255. Referenda generally

(1) Parliament shall by law make provision for the right of citizens to, demand the holding by the Electoral Commission of a referendum, whether national or in any particular part of Uganda, on any issue.

(2) Parliament shall also make laws to provide for the holding of a referendum by the Electoral Commission upon a reference by the Government of any contentious matter to a referendum.

(3) Where a referendum is held under this article, the result of the referendum shall be binding on all organs and agencies of the state and on all persons and organizations in Uganda.

(4) A referendum to which clause (3) applies, shall not affect-

- (a) the fundamental and other human rights and freedoms guaranteed under Chapter Four of this Constitution;
- (b) the power of the courts to question the validity of the referendum".

PART XV-AMENDMENT OF CHAPTER NINETEEN OF THE
CONSTITUTION-TRANSITIONAL PROVISIONS**45. Miscellaneous repeals**

The following provisions of the Constitution are repealed-

- (a) article 263—Transitional Government;
- (b) article 264—Particular functions of Transitional Government;
- (c) article 265—Existing Courts of Judicature;
- (d) article 266—Existing offices of Judges;
- (e) article 267—Interim membership of Court of Appeal;
- (f) article 269—Regulation of political organisations;
- (g) article 270—Existing political parties or organisations;
- (h) article 271—First elections;
- (i) article 272—Appointment to certain offices;
- (j) article 274—Modification of existing law by first President;
- (k) article 276--Provisions regarding urban authorities;
- (l) article 277—Existing commissions and committees of inquiry except for commissions and committees of inquiry whose work would still be going on at the time the repeal takes effect;
- (m) article 278—Oaths deemed to have been taken;
- (n) article 285—Revocation of statutory leases to urban authorities;
- (o) article 287—Repeal of 1967 Constitution and Legal Notice No. 1 1986.

46. Insertion of articles on transition

Chapter Nineteen of the Constitution is amended by inserting immediately after article 287 the following-

"288. Term of current Parliament to end with term of the President

(1) Notwithstanding anything in this Constitution, the term of the Parliament in existence at the time this article comes into force, shall expire on the same date as the five year term of the President in office at the time this article comes into force as prescribed by clause (1) of article 105 of this Constitution.

(2) Where the service of a Member of Parliament is terminated as a result of the application of clause (1), that Member of Parliament is entitled to the payment by the State of compensation for loss of employment for the period by which his or her service as a Member of Parliament is shortened.

(3) The amount of compensation to be paid to a Member of Parliament under clause (2) shall be equal to the salary and allowances that the Member of Parliament would have earned as a member if he or she had continued to be a member until the date on which the term of the Parliament in question would normally have ended.

(4) Where a Member of Parliament entitled to compensation under clause (2) dies before the payment to him or her of the compensation, the compensation shall be paid to his or her estate.

289. Transitional provision relating to Kampala

Until Parliament passes a law in accordance with article 5 of this Constitution to provide for the administration and development of Kampala as the capital city for Uganda, Kampala the boundary of which is required to be delineated by article 5 of this Constitution shall be administered as a district in the manner in which Kampala was administered before the commencement of the Constitution (Amendment) Act, 2005.

290. Five year term of local government councils not to apply to existing councils

(1) For the avoidance of doubt, the term of five years prescribed for local government councils by clause (4) of article 181 of this Constitution shall only apply after the expiration of the term of the local government councils which were in existence at the time that that clause came into force.

(2) The term of local government councils in being at the time of the commencement of the Constitution (Amendment) Act, 2005 shall be deemed to be extended to expire at the same time as the term of the President in office at the commencement of that Act.

291. Modification of laws

(1) Subject to any express provision of this Constitution any laws in existence before the commencement of the Constitution (Amendment) Act, 2005 shall continue in force subject to such modifications, adaptations and qualifications as may be necessary to give effect to this Constitution.

(2) The President may by statutory instrument, within two years after the commencement of the Constitution (Amendment) Act, 2005, make such modifications in any law referred to in clause (1), for the purpose of bringing it into conformity with this Constitution.

(3) Where any law referred to in clause (1) is not yet in force, that law may be brought into force in accordance with its terms or shall come into force on such subsequent day as the case may be.

292. Preservation of rights in respect of existing offices

Subject to article 268, any person holding any office under this Constitution before the coming into force of the Constitution (Amendment) Act, 2005 shall, so far as consistent with this Constitution, continue in office in an equivalent office.

293. Existing constituencies

Until Parliament prescribes the constituencies under article 63, the constituencies shall be those into which Uganda was divided before the coming into force of the Constitution (Amendment) Act, 2005.

294. Movement organs continued

Until the first Parliamentary elections for the purpose of the multi party political system are held, the organs under the movement political system as referred to in clause (2) of article 70 of the Constitution shall remain in force and thereafter shall be subject to clause (3) of article 70 and article 73"

PART XVI—AMENDMENT OF SCHEDULES TO
THE CONSTITUTION

47. **Amendment of Second Schedule to the Constitution** The Second Schedule to the Constitution is amended by substituting for the word "Zaire" the words "Democratic Republic of Congo".

48. **Amendment of Third Schedule to the Constitution** The Third Schedule to the Constitution is amended by the insertion in the appropriate places alphabetically of the following-

"Aliba; Aringa;
Banyabutumbi;
Banyaruguru;
Barundi;
Gimara;
Ngikutio;
Reli; and
Shana"

49. **Amendment of Fourth Schedule to the Constitution** The Constitution is amended, in the Fourth Schedule by inserting immediately before the 'Oath of Minister' the following

Act 11 *Constitution (Amendment) Act* **2005**
"OATH OF PRIME MINISTER

"Ibeing appointed Prime Minister of Uganda swear in the name of the Almighty God/solemnly affirm that I will at all times well and truly serve the Republic of Uganda in the office of Prime Minister, and I will support and uphold the Constitution of the Republic of Uganda as by law established; and that I will to the best of my judgment at all times when required, freely give my counsel and advice to the President of Uganda and his/her successors in office as by law established for the good management of the public affairs of the Republic of Uganda; and that I will not directly or indirectly reveal any matter as shall come to my knowledge in the discharge of my duties and committed to my secrecy. [So help me God]."

