



Human Rights Network

**A REVIEW OF THE LOCAL GOVERNMENT
ACT CAP 243 AS AMENDED**

Human Rights Network-Uganda, June 2014

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Introduction and Limitations

The Local Government Act Cap 243 has been amended several times. Thus, in addition to the numerous provisions contained in the Act, the law is also attended by about six amendments. Thus, a consolidated review of the law as it was and the attendant amendments is indeed timely. The approach undertaken in this review is based on the various sections covered by the Act. The review is presented in a simplified form and highlights the key provisions in the Act.

This review as set out below is based on Local Government Act Cap 243, the Local Governments (Amendment) Act 2001, the Local Government (Amendment) (No 2) Act 2001, The Local Governments (Amendment) Act 2005, The Local Governments (Amendment) (No 2) 2006 and the Local Governments (Amendment) Act 2010. The review is qualified by the limits indicated hereunder.

This review is based on our understanding of the law in Uganda. It is necessarily limited to this jurisdiction. The review is also based on the information availed with respect to this particular assignment and is necessarily tailored to respond to the terms of reference. It may not be relied upon beyond, or outside the scope of, the present assignment.

Part I

Part I of the Act provides for the traditional provisions in an Act of Parliament. This includes the interpretation and objectives of the Act. Notably, Section 2 of the Act as amended provides the objectives of the law, these are:

- a. to give full effect to the decentralisation of functions, powers, responsibilities and services at all levels of local governments;
- b. to ensure democratic participation in, and control of, decision making by the people concerned;
- c. to establish affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of addressing imbalances which exist against them;
- d. to establish sources of revenue and financial accountability;
- e. to provide for the election of local councils;
- f. to establish and provide for the composition of interim councils for newly created local government units pending elections of the councils; and
- g. to provide for formation of interim executive committees for interim councils.

The major themes that arise from these objectives include: decentralisation of responsibilities and powers to local governments, democracy, affirmative action

for marginalised groups, and revenue and financial accountability.

Part II

Part II of the Act provides for the district as the main unit under which the local government structure is organised. It provides for the local administration of districts, urban authorities, cities and municipalities. Section 7 of the Act as amended provides for the corporate status of local governments. Section 3 of the Act as amended is particularly important and states as follows:

Section 3

- (1) The system of local government shall be based on the district as a unit under which there shall be lower local governments and administrative units.
- (2) The local governments in a district rural area shall be—
 - (a) the district council;
 - (b) the sub county councils.
- (3) The local governments in a city shall be—
 - (a) the city council;
 - (b) the city division councils.
- (4) The local governments in a municipality shall be—
 - (a) the municipal council;
 - (b) the municipal division councils.

- (5) The local government in a town shall be the town council.

Part III

This section of the Act largely deals with the set-up of the local government system. It provides a clear framework for the managerial structure of local government and local government entities in the district. Section 9 of the Act provides that a council shall be the highest political authority in any local government jurisdiction.

Section 10 of the Act as amended provides for the composition of district councils. The district local government council is composed of a chairperson, a councillor for a particular electoral area, two councillors for the youth (male and female), councillors for people with disabilities (at least one female), two elderly persons (male and female above the age of sixty) and one third of the district council should be composed of female representatives. Under Section 11 of the Act as amended, the district speaker and deputy speaker are elected from the councillors indicated in Section 10. The functions of the district chairperson, who is the political head of the district, are provided in Section 13. Section 14 of the Act as amended provides grounds for the removal of the chairperson from office; these include corruption and incompetence among others. Additionally, section 16 of the Act as amended, provides for the creation of an executive committee for each district. The executive committee shall perform the executive functions of the council. The committee shall be composed of the

following officials: the chairperson, the vice chairperson, not more than three secretaries as the council may approve. Section 17 of the Act provides the functions of this important organ of the council. The committee shall perform the following functions:

- (a) Initiate and formulate policy for approval of the council;
- (b) Oversee the implementation of the Government and the council's policies and monitor and coordinate activities of nongovernmental organisations in a district;
- (c) monitor the implementation of council programmes and take remedial action where necessary;
- (d) Recommend to the council persons to be appointed members of the district service commission, local government public accounts committee, district tender board, district land board or any other boards, commissions or committees that may be created;
- (e) Receive and solve problems or disputes forwarded to it from lower local government councils;
- (f) At the end of each financial year consider and evaluate the performance of the council against the approved work plans and programmes; and
- (g) Carry out any other duty as may be authorised by the council or any law.

It is obvious from the above functions that the role of the executive committee is quite prominent. The core

mandate of the council is performed by the executive committee.

Section 23 of the Act as amended, provides for the composition of lower local governments. These include; A sub-county council, A city division council, A municipal council, A municipal division and A town council. The key positions on these councils are the chairperson, councillors directly elected for the various wards, councillors representing people with disabilities, youth, women and older persons. The Act also emphasises gender equity in the selection of councillors. Sections 25 and 26 of the Act as amended provide the composition of the lower local government executive council and its functions and censure of its members. The functions largely mirror the functions of the executive committee of the district council.

Part IV

This section of the Act provides for the functions and powers of local government councils. Generally the powers and functions of local government councils are provided in Section 30 of the Local Government Act. The section provides the following broad powers;

Section 30:

Subject to the Constitution, a local government council shall, within its area of jurisdiction—

- (a) Exercise all political and executive powers and functions;

- (b) Provide services as it deems fit with the exception of the functions, powers and services listed under Part 1 of the Second Schedule to this Act;
- (c) Protect the Constitution and other laws of Uganda and promote democratic governance; and
- (d) Ensure the implementation and compliance with Government policy.

The specific powers and functions various local governments are also provided in the Act. Further Section 35 of the Act as amended provides for the District Planning Authority which shall be the planning authority of the district. The District Council exercises the mandate of the District Planning Authority. The mandate of the District Planning Committee is complimented by the District Technical Planning Committee which provides technical input and sectoral plans from the lower government for integration into the comprehensive district plan drawn by the District Council.

In terms of legislative powers, the District Council shall have powers to make laws consistent with the Constitution and other laws enacted by Parliament. This is provided in Section 38 of the Local Government Act.

Part V

This provides for the administrative units in local governments. The structure of these units is provided in Section 45 of the Act as amended. For the rural areas, the administrative units are organised on the basis of the county, parish and village. In a similar fashion, the

administrative units for the urban areas are organised on the basis of parish, town board and village. The core functions of these administrative units and the composition of these administrative units is provided in this section of the Act.

Part VI

This section of the Local Government Act provides for the District Public Service. Section 54 of the Act as amended provides for the establishment of the District Public Service Commission. The functions of the District Service Commission include among others; the appointment and recruitment of staff in the local government. It should be noted that amendments to the above provisions have limited the appointment of the Chief Administrative Officer to the Public Service Commission. Also, in the appointment of accountants and procurement officers, the District Service Commission has to comply with Public Service Commission guidelines.

Part VII

This section provides for the office of the Resident District Commissioner and the functions of the aforementioned office. Section 70 of the Local Government Act as amended provides that each district shall have a Resident District commissioner who will be appointed by the president. This senior civil servant has to satisfy the following requirements under the law: he or she should be a Ugandan citizen and qualified to be a member of parliament.

Section 70 of the Act as amended provides the functions of the Resident District Commissioner, these 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 VIII

This section provides for the financial provisions of the Act. Section 74 establishes the Local Government Finance Commission. This Commission is appointed by the President for a term of four years. The Commission is eligible for reappointment. The seven member commission is made up of the following officials:

- (a) Three persons nominated by the district councils;
- (b) One person nominated by the urban councils;
- (c) Three members nominated by the Minister in consultation with the Minister responsible for finance, planning and economic development.

The functions of the commission are provided in Section 74 of the Act. The following functions of the commission are key to planning for the finances of the local governments. These functions are provided in Section 76 of the Act.

- (a) Advise the President on all matters concerning the distribution of revenue between the Government and local governments and the allocation to each local government of money out of the Consolidated Fund;
- (b) In consultation with the National Planning Authority, consider and recommend to the President the amount to be allocated as equalisation and conditional grants and their allocation to each local government;
- (c) Consider and recommend to the President potential sources of revenue for local governments;
- (d) Advise the local governments on appropriate tax levels to be levied by local governments;
- (e) Deal with disputes between local governments over financial matters and tender advice relating thereto to the parties involved, the Minister and the Minister responsible for finance as may be necessary; and
- (f) Perform such other functions as Parliament may prescribe.

Section 80 of the Act gives local governments the powers to levy and collect certain taxes prescribed in the Act. Further Section 86 of the Act as amended requires local governments to keep proper books of accounts for each financial year. Under Section 87, these accounts are audited by the Auditor General or someone appointed by the Auditor General. Further, Section 91 of the Act as amended establishes District Contracts Committees. The functions of these Committees are procurement and disposal of local government assets.

Part IX

This section of the Act provides for inspection, monitoring and coordination of local governments. Section 95 of the Act as amended provides that it is the duty of the ministry responsible for local governments to perform the above functions.

Part X

This section provides for local governments councils elections. Under Section 101 of the Act, the elections are organised by the Electoral Commission. The Act provides elaborate rules for the conduct of elections, the qualifications required for candidates, declaration of results, election offences and the conduct of by-elections among others.

Part XI

This section provides for miscellaneous provisions. Section 173 protects actions done in good faith by members of a local government or council or councillors and staff or persons acting on the instructions of council in the exercise of their official duties from civil liability and claims in the courts of law.

Part XII

This section provides for the creation of interim councils for newly created local governments. This allows these entities to operate until councillors are elected as provided in Part X of the Act. Section 180 of the Act provides for the composition of these interim councils.

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