



PARLIAMENT OF UGANDA

**REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND  
PARLIAMENTARY AFFAIRS ON THE LAW REVISION (MISCELLANEOUS  
AMENDMENTS) BILL, 2022**

**OFFICE OF THE CLERK TO PARLIAMENT**

**PARLIAMENT BUILDING**

**KAMPALA-UGANDA**

**FEBRUARY 2023**

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## EXECUTIVE SUMMARY

On 23<sup>rd</sup> December 2022, The Law Revision (Miscellaneous Amendments) Bill, 2022 was, in accordance with Rule 128 of the Rules of Procedure of Parliament, read for the first time and referred to the Committee on Legal and Parliamentary Affairs.

The law revision process involves the cleaning of the statute book and ensuring that it is up-to-date. In Uganda, the Law Revision Act, Act 4 of 2020 empowers the Attorney General to, in consultation with the Law Reform Commission and by statutory instrument, order a Revised Edition to be prepared by the Commission. The Act further empowers the Attorney General to ensure that a Revised Edition is prepared every ten years from the date of the last Revised Edition.

The object of the Law Revision (Miscellaneous Amendments) Bill, 2022 is to provide for the repeal of specified Acts, to provide for the conversion of fines and other financial amounts in specified laws to currency points; to provide for the conversion of financial amounts expressed in Pounds in specified laws to currency points; to provide for the amendment of several laws to correct the anomalies in those laws and to effect the decisions of the Constitutional Court and the Supreme Court, to transfer provisions in Finance Acts to the relevant laws and to incorporate provisions on winding up in the Collective Investment Schemes Act, the Partnership Act and the Cooperative Societies Act, and for related matters.

In the process of analyzing the Bill, the Committee held consultations with a number of stakeholders namely: Attorney General; Parliamentary Commission Uganda Law Reform Commission (ULRC), Uganda Law Society (ULS), Law Development Centre (LDC), Judiciary; Makerere University, Ministry of Health, School of Law - Makerere University and the Director of Public Prosecutions.

The report examines the amendments proposed by the Bill, its legality, effect and effectiveness and the mischief it intends to cure. The Committee generally supports the Bill, with specific observations and recommendations.

Under Clause 1, the Bill seeks to repeal a number of enactments for various reasons including redundancy, being spent, being affected or superseded by Government policy as well as those affected by amendments to other laws. Whereas the Committee is in support of this clause, it is of the considered opinion that there are a number of legislations listed for repeal that still serve

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practical and legal value to Ugandans and repealing them will deny Ugandans services obtainable through those enactments. The Committee recommended that a number of enactments be removed from schedule 1 of the Bill since they are still relevant. Further as a consequential amendment- the Committee also recommended that certain Acts to be amended to incorporate various provisions scattered in other legislation.

Clause 2 proposed to amend the laws specified in Schedule 2 of the Bill by substituting the fines and other financial amounts in those Act into currency points using the formula in the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act, 2008. The Committee observed that in converting the fines in some Acts listed in the second schedule, there was non-compliance with the modification formulae prescribed in the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act. In that regard the Committee recommended that the fines under some provisions be revised in accordance with the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act. Some of the Acts proposed for modification were noted as either listed for repeal or have been repealed or amended by various enactments and are no longer good law, thus should be disregarded.

Under Clause 3 and 4, the Bill proposed to modify fines and other financial amounts in the Penal Code Act Cap 120. The Committee reviewed the provisions of the Bill and noted that whereas the proposal was welcome, some proposals should be rejected since these provisions were declared unconstitutional and some need to be rethought since a wrong formula was used in modifying the provisions of the Bill.

The Committee recommended the deletion of Clause 5 and schedule 5 of the Bill, that proposed to modify the provisions of the laws by substituting the financial amounts expressed in currency points specified in those provisions with the financial amounts expressed in Uganda shillings, as it contravened Section 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.

Clause 6 of the Bill proposes to modify fees, values and costs prescribed in various enactments listed in the 6<sup>th</sup> schedule to the Bill to reflect the actual fine, fees and values prescribed in other laws that have a bearing on the enactment. Whereas the Committee finds merit in the proposals contained in the Bill, there is need to remove from the schedule 6, enactments which have been included but are not modified through an Act of Parliament or through a

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statutory instrument. The Committee notes that in some instances, the enactments have been included in schedule 6 for modification where such enactments have not been in any way amended directly or indirectly by any legislation. These are being modified by repealing them on grounds that they are not complied with. Non-compliance with a provision of any enactment cannot be a ground for modifying fees, values or fines imposed thereunder except where the enactment is directly amended to remove fines, fees or value.

Clauses 11 and 12 of the Bill make provision to the law relating to bail under the Magistrates Court Act and the Trial on indictments Act. Currently the Magistrates Courts Act and the Trial on Indictments Act require a person to only be released on mandatory bail if he or she has been in detention before trial for 480 days in case of capital offences and for 240 days in all other cases. The Committee notes that the said provisions were found to be unconstitutional for having set bail provisions that were inconsistent with the Constitution.

Clause 14 of the Bill proposed to amend sections of the Penal Code Act that are intended to remove the reference to seditious publication and to restate the offence of publishing false news. In regard to this clause the Committee recommends that the deletion of some sections of the Penal Code Act be in order comply and to give full effect to the decision of the constitutional court. The Committee further recommended new clauses deleting some sections of the Penal Code be introduced since those sections under the Penal Code Act are superseded by specific laws.

Under Clause 16 of the Bill, there are a number of proposals to amend the Succession Act by repealing, substituting and amended in some sections. The Committee observed that the provisions being amended are those that were either introduced or amended under the Succession (Amendment) Act of 2022 and relate to witnessing of wills, determination of contentious matters and the treatment of caveats once lodged in court. The Committee therefore made a number of recommendations that included rejection of the proposals that were redundant and did not introduce anything new.

The Committee noted that whereas Clause 20 of the Bill, that sought to amend a number of sections of the Divorce Act, would go a long way in dealing with the *decision in Uganda Association of Women Lawyers (FIDA) & Others V Attorney General*, they do not entirely address some of the issues raised in other similar decisions.

Clause 21 of the Bill sought to amend the Administration of Parliament Act, Cap 257 by inserting a new section relating to remuneration of Members of Parliament. The Committee recommended with justification that clause 21 be amended by restoring the duty to determine Member's emoluments in Parliament in compliance with Article 85 of the Constitution and section 6 of the Administration of Parliament Act, Cap 257.

Clause 22 of the Bill proposed to amend the Parliament (Powers and Privileges) Act by substituting section 14 with a provision that allows a Member or officer of Parliament to give evidence, without seeking special leave, elsewhere of any contents of any document laid before Parliament or a committee of Parliament. The amendments proposed is therefore intended to give effect to the decision of Court) which outlawed the requirement for special leave. The Committee was of the considered opinion that the amendments proposed in respect of unofficial records of Parliament are redundant in light of the Access to information and the Rules of Procedure of Parliament.

The Committee further noted that in addition to some of the provisions cited above, there are other provisions that Courts have found to be unconstitutional hence recommended that the Bill should be amended to give effect to the decisions of court.

The Committee proposes that the Bill be passed subject to the proposed amendments.

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## 1.0. INTRODUCTION

On 23<sup>rd</sup> December 2022, The Law Revision (Miscellaneous Amendments) Bill, 2022 was, in accordance with Rule 128 of the Rules of Procedure of Parliament, read for the first time and referred to the Committee on Legal and Parliamentary Affairs for scrutiny.

## 2.0. BACKGROUND

According to the Law Reform Commission, Law revision is the process of updating the law without changing its substance. Law revision is aimed at presenting the law in its correct form at any given time thus facilitating the administration of justice, law enforcement, legal education, research, law reform, efficient use of the law and access to justice.

The law revision process involves the cleaning of the statute book and ensuring that it is up-to-date. It involves updating the law by incorporating all the amendments, removing obsolete, repealed and spent provisions of the law and recommending for amendment where necessary. During a law revision exercise, the Commission cannot introduce new matters or ideas in legislation. In Uganda, the law governing law revision is the Law Revision Act, Act 4 of 2020 which empowers the Attorney General to, in consultation with the Law Reform Commission and by statutory instrument, order a Revised Edition to be prepared by the Commission. The Act further empowers the Attorney General to ensure that a Revised Edition is prepared every ten years from the date of the last Revised Edition.

In preparing the revised edition, the Commission is assisted by the following persons appointed by the Attorney General, in consultation with the Commission, by Statutory Instrument-

- (a) one person to represent the Attorney General;
- (b) one person to represent the Solicitor General;
- (c) the First Parliamentary Counsel or his or her representative;
- (d) two persons with considerable knowledge and experience in the revision of laws or legislative drafting; and
- (e) the Clerk to Parliament or his or her representative.

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The powers that are exercised by the Commission in preparing a revised edition are provided under section 10 of the Law Revision Act and the Commission is empowered to-

(a) Omit—

- (i) all Acts, statutory instruments, legal notices or any part of those documents which have been expressly repealed or which have had full effect;
- (ii) all repealing Acts, statutory instruments, legal notices or any part of those documents and all tables and lists of repealed enactments, whether contained in Schedules or otherwise;
- (iii) all amending Acts, statutory instruments, legal notices or any part of those documents where such amendments have been incorporated in the Act, statutory instrument or legal notice to which they relate;
- (iv) all preambles to Acts, Statutory Instruments, legal notices or any part of them, where the omission can, in the opinion of the Commission, conveniently be made;
- (v) all words of enactment in any Act, statutory instrument or legal notice;
- (vi) all provisions appointing the date when an Act, statutory instrument, legal notice or any part of those documents is to come into force, where the omission can, in the opinion of the Commission, conveniently be made;
- (vii) all statutory instruments made under the authority of Acts which have been repealed and not re-enacted;
- (viii) all Appropriation Acts and Supplementary Appropriation Acts;
- (ix) all statutory instruments granting remission of tax, customs tariff duties, excise duties and similar measures to the extent the omission is approved by the Attorney General by statutory instrument;
- (x) all statutory instruments which the Attorney General has, by statutory instrument, specified as inconsistent with any Act repealing and re-enacting the Act under which the statutory instrument was made;
- (xi) all expressions which have become obsolete as a result of constitutional changes or changes specified in Acts, statutory instruments, legal notices and substitute the expressions authorised by those changes;

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- (b) renumber sections, paragraphs and other subdivisions in an amended Act, Statutory Instrument or legal notice;
- (c) redesignate legal notices as Statutory Instruments;
- (d) arrange the Acts, Statutory Instruments and legal notices in any sequence and groups that may be convenient, irrespective of the dates of enactment;
- (e) correct cross references;
- (f) correct grammatical and typographical errors, and for that purpose, to make additions, omissions or alterations;
- (g) make capitalisation consistent;
- (h) make such formal alterations as to names, localities, offices and otherwise as may be necessary to bring an Act, statutory instrument or legal notice into conformity with the circumstances in Uganda;
- (i) to make reviser's notes and footnotes where necessary;
- (j) add such indexes, tables and other editorial features as the Commission considers appropriate;
- (k) provide editorial notes by way of amplification; and
- (l) do all things relating to form and method which, in the opinion of the Commission, are necessary or useful for perfecting the Revised Edition.

In the exercise of its powers under the Law Revision Act, the Commission is barred, in section 11, from making alterations or amendments in the substance of any enactment. This means that the Commission cannot make substantive amendments to any enactment which introduces new matters to that enactment.

Therefore, the powers granted to the Commission during a law revision exercise are limited to the elimination of anomalies in the law, repeal of obsolete and unnecessary laws and the simplification and translation of the law, through renumbering, correcting grammatical errors and other matters relevant to the earlier mentioned powers.

### **3.0. OBJECT OF THE BILL**

The object of the Bill is to provide for the repeal of specified Acts, to provide for the conversion of fines and other financial amounts in specified laws to currency points; to provide for the conversion of financial amounts expressed in Pounds in specified laws to currency points; to provide for the amendment of several laws to correct the anomalies in those laws and to effect the decisions of the Constitutional Court and the Supreme Court, to transfer provisions in

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Finance Acts to the relevant laws and to incorporate provisions on winding up in the Collective Investment Schemes Act, the Partnership Act and the Cooperative Societies Act, and for related matters. The Bill makes provision for the following-

- (a) repeal of ninety Acts of Parliament;
- (b) harmonizes the use of the currency point system in all the laws of Uganda by—
  - (i) converting fines and other financial amounts from shillings into currency points;
  - (ii) converting financial amounts which are not penalties from currency points to Shillings;
  - (iii) converting specified fines from Pounds to currency points;
  - (iv) repealing the provisions in all the Acts that define “currency point” and inserting the provisions in the Interpretation Act;
- (c) modifies low fees, costs and values in specified Acts;
- (d) amends the Cooperative Societies Act, Cap. 112, the Collective Investments Schemes Act, 2003 and the Partnerships Act, 2010 to provide for winding up under these Acts;
- (e) amends the Uganda Printing and Publishing Corporation Act, Cap. 330 to specifically provide that the Corporation is the Government Printer;
- (f) amends the Uganda Registration Services Bureau Act, Cap. 210, the Land Act, Cap. 227 and the Registration of Titles Act, Cap. 230 to correct the use of the titles of the office bearers in those Act;
- (g) amends the Fish Act, Cap. 197, the Hides and Skins (Export Duty) Act, Cap. 339, the Tax Procedures Code Act, 2014 and the Common Market for Eastern and Southern Africa Treaty (Implementation) Act, 2017 to incorporate provisions currently contained in specified Finance Acts;
- (h) amend the Succession Act, Cap. 162 to correct the anomalies in the Act;

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(i) amend the following Acts to reflect the decisions of the Constitutional Court and Supreme Court—

(i) the Evidence Act, Cap. 6 section 122 (Attorney General v. Major General David Tinyefuza (Constitutional Appeal No. 1 of 1997));

(ii) the Trial on Indictments Act, Cap. 23 section 16, the Magistrates Courts Act, Cap. 16 sections 76 and 168 and the Uganda Peoples' Defence Forces Act, 2005 sections 231 and 248 (Foundation for Human Rights Initiative v. Attorney General (Constitutional Appeal No. 20 of 2006) and Hon. Sam Kutesa and 2 others v. Attorney General (Constitutional Reference No. 54 of 2011));

(iii) the Parliament (Remuneration of Members) Act Cap. 259 (Act to be repealed under schedule I to the Bill paragraph 86, except section 1 (1) and 2 which are inserted in the Administration of Parliament Act) (Mwesigye Wilson v. Attorney General and Parliamentary Commission (Constitutional Appeal No. 8 of 2016));

(iv) the Divorce Act, Cap. 249 sections 4 (1), (2), 5, 21, 22, 23, 24 and 26 (Uganda Association of Women Lawyers and Others v. Attorney General (Constitutional Appeal No. 2 of 2003));

(v) the Access to Information Act, 2005 section 2 (1) and the Parliament (Powers and Privileges) Act, Cap. 258 section 14 (Hon. Zachary Olum and Hon. Rainer Kafiire v. Attorney General (Constitutional Appeal No. 1 of 1997);

(vi) the Penal Code Act, Cap. 120 sections 42, 43, 44, 50 (1) and 154 Hon. Zachary Olum and Hon. Rainer Kafiire v. Attorney General (Constitutional Appeal No. 1 of 1997).

#### **4.0. NEED FOR THE BILL**

The current edition of the Laws of Uganda was published in 2000 pursuant to the provisions of the Laws (Revised Edition) Act, 1994 which revised all the Laws of Uganda from 1964 when the last revision was done up to the 31st of December, 2000 which was the cut-off date. Upon that revision, the laws of Uganda were updated up to the year 2000 and no other revision has been made since then.

Since the last major revision of the laws of Uganda, 22 years ago, there has been many changes made to the laws of Uganda, through direct amendments to enactments by Parliament, changes in Government policy as well as court decisions that have found some provisions of the Law of Uganda inconsistent with the standards prescribed in the Constitution. These changes to enactments in Uganda have maintained obsolete laws on the Statute book, thereby affecting access to justice since the correct position of the law cannot be easily ascertained. It is therefore timely for another major revision of the Laws of Uganda (7th Edition) to be done.

In order to facilitate law revision processes in Uganda, Parliament, in 2019, enacted the Law Revision Act, which Act empowered the Attorney General, in consultation with Uganda Law Reform Commission, every ten years, to produce a revised law book of Uganda.

During this process, the Uganda Law Reform Commission examines the laws of Uganda and identified a number of matters that have to be remedied before these can be effected in the laws of Uganda. The Bill is therefore intended to facilitate the process of preparing the Revised Edition of the laws of Uganda by making amendments to the specified laws, where the amendment can only be effected using an Act of Parliament.

The Bill seeks to repeal laws that have become redundant due to the passage of time and laws that have been superseded by other laws or have been affected by changes in Government policy and laws that have served their purpose and are therefore spent. To this end, ninety Acts of Parliament have been identified for repeal.

The Bill further seeks to strengthen the effectiveness of laws by increasing the financial penalties prescribed in specified Acts which are perceived as "weak" due to the low fines. The low fines have therefore been modified and presented in currency points to enable effective application of the affected laws.

The Bill converts fines and other financial amounts into currency point in order to future proof the laws of Uganda and address challenges posed by inflation which has eroded fines and other financial amounts over the years. It is important to note that the expression of fines and other financial amounts in currency points started in 1997 and since then, laws have expressed fines and other financial amounts in currency points and provided in a schedule in each law the value of the currency point and the procedure for amendment of the schedule is prescribed in each law. However, whereas currency points have been adopted in Uganda since 1997, a number of laws that were enacted prior

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to 1997 still provide fines and other financial amounts in Uganda shillings or other freely convertible currencies like the United States Dollar or British Pounds. The Bill now seeks to convert into currency points, all the fines and other financial amounts in laws where such fines or financial amounts are not expressed in currency points.

The Bill seeks to correct anomalies in specified laws including the Uganda Registration Services Bureau Act, Cap 210, the Land Act, Cap 227, the Registration of Titles Act, Cap 230 and the Succession Act Cap 162. The anomalies in these laws have created confusion as to the titles of office holders as well as procedures provided for undertaking certain matters prescribed in those laws. This will improve the effectiveness of those laws. The Companies Act, Cap. 110 was repealed and replaced with the Companies Act 2012.

The Bill seeks to close loopholes in various Acts that arose as a result of amendments to various other laws. For instance, the Companies Act Cap. 110 was repealed and replaced with the Companies Act 2012. The repealed Act had provisions on the winding up of cooperative societies, collective investments schemes and partnerships. The repeal of the Companies Act, Cap 110, left the cooperative societies, collective investments schemes and partnerships without procedures for winding up. The Bill seeks to amend these three Acts by inserting in each Act, the applicable provisions in the repealed Companies Act, Cap. 110. Furthermore, the amendments made to the Succession Act, Cap. 162 under the Succession (Amendment) Act 2022 introduced principles of law which have made implementation of the Act difficult and the provisions therefore have to be amended to remedy these challenges.

The Bill will consolidate amendments made to various laws through other Acts of Parliament in order to provide a single piece of legislation pertaining to those Acts. Currently some provisions imposing tax and levies are in the Finance Acts and not in the laws under which the tax or levy should be imposed. This has made the application of the laws difficult and the Bill therefore seeks to amend the Fish Act, Cap. 197, the Hides and Skins (Export Duty) Act, Cap. 339, the Tax Procedures Code Act, 2014 and the Common Market for Eastern and Southern Africa Treaty (Implementation) Act, 2017 to transfer the provisions related to those laws from the Finance Acts to the relevant Acts.

The Bill further seeks to give full effect to court decisions affecting provisions in various Acts of Parliament. The Constitutional Court and the Supreme Court have declared provisions of the Evidence Act, Cap. 6, the Trial on Indictments Act, Cap. 23, the Magistrates Courts Act, Cap. 16, the Penal Code Act, Cap.

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120, the Divorce Act, Cap. 249, the Access to Information Act, 2005, Parliament (Powers and Privileges) Act, Cap. 258, the Parliament (Remuneration of Members) Act Cap. 259, and the Uganda Peoples' Defence Forces Act, 2005 inconsistent with the Constitution and therefore null and void. The Court decisions have been effected for each of these Acts.

This Bill will therefore go a long way in updating the law book in order to enhance the effective interpretation, application, implementation and understanding of the law book by the law users.

## 5.0. METHODOLOGY

In the process of analyzing the Bill, the Committee met and held discussions with the following stakeholders:

- a) Attorney General;
- b) Parliamentary Commission
- c) Uganda Law Reform Commission (ULRC);
- d) Uganda Law Society (ULS);
- e) Law Development Centre (LDC);
- f) Judiciary;
- g) Makerere University;
- h) Ministry of Health;
- i) School of Law, Makerere University; and,
- j) Director of Public Prosecutions

## 6.0. ANALYSIS OF THE PROVISIONS OF THE BILL

This part of the report examines the amendments proposed by the Bill, its legality, effect and effectiveness and the mischief it intends to cure.

### 6.1. Repeal Of Specific Acts

Clause 1 of the Bill seeks to repeal a number of enactments listed in the first schedule to the Bill. These Acts are being repealed for various reasons including redundancy, being spent, being affected or superseded by Government policy as well as those affected by amendments to other laws.

The Committee has examined the enactments listed in the first schedule and is of the considered opinion that a number of those laws are redundant and spent and therefore serve no practical value on the law Book. These enactments include the Maintenance Orders Enforcement Act, Cap. 17, the Adulteration of Product Act, Cap.27, the Prohibition of Burning of Grass Act, Cap. 33, the

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Enguli (Manufacture and Licensing) Act, Cap. 86, the Shop Hours Act, Cap. 99, the Robbery Suspects Act, Cap. 123, the Rent Restriction Act, Cap. 231, the Sleeping Sickness Act, Cap. 282 and the Tsetse fly control Act, Cap. 283 all of which are redundant on the law book having been superseded by various enactments that make provision for the matters prescribed in those former individual Acts.

The Committee is aware that some enactments have been affected by various court decisions including the Parliamentary (Remuneration of Members) Act Cap 259 which was affected by the decision in *Mwesigye Wilson Vs Attorney General and the Parliamentary Commission Constitutional Petition No. 3 of 2011* wherein court found that Section 5 of the Act is unconstitutional in so far as it contravenes Articles 93, 99, 113 and 117 of the Constitution.

The Committee received memoranda from the Uganda Law Society, The Law Development Centre and the DPP who all supported the repeal of a number of legislations for being redundant, spent and without any practical value to the law user. The DPP noted that some enactments proposed for repeal contained criminal sanctions which are completely obsolete or redundant to the extent that one cannot trace any court record where they have been enforced in recent times.

The DPP further observed that one can hardly trace any law school curriculum where any of the 90 laws earmarked for repeal are listed as instruction materials to our students, except where they are cited as examples of redundant laws that have outlived their usefulness. The DPP also supported the consolidation of various amendments made to enactments which have been amended by Parliament. The DPP opined that various piece meal amendments have been made to a number of laws, including the Penal Code Act, which have made those enactments fragmented and are therefore in need of revision to remove those provisions that were affected by amendments.

Whereas the Committee is in support of the repeal of various enactments for the reasons stated in the Bill, the Committee is of the considered opinion that there are a number of legislations listed for repeal which still serve practical and legal value to Ugandans and repealing them will deny Ugandans services obtainable through those enactments. The Committee is concerned about the repeal of the following enactments without making provision for the matters prescribed in those Acts-

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### 6.1.1.Repeal of the Budget Act

Paragraph 89 of the first schedule proposes to repeal the Budget Act, Act No.6 of 2001 for being superseded by the Public Finance Management Act, 2015.

The Budget Act was enacted in 2001 to, among others, provide for and regulate the budgetary procedures for a systematic and efficient budgetary process. On the other hand, the Public Finance Management Act was enacted in 2015, making provision for the same matters as those provided in the Budget Act.

The repeal of the Budget Act was considered during the enactment of the Public Finance Management Act and rejected by Parliament since some of the provisions of the Budget Act were not included in the Public Finance Management Act. For instance, the chairperson of the Committee that processes the Public Finance Management Act noted, at page 62 of the Hansard of the 26<sup>th</sup> November, 2014, that the Budget Act was still good law and had provided a number of issues which the PFMA did not incorporate. Hon. Lugolobi noted that;

*"Clause 79 is to the effect that we delete the Public Finance and Accountability Act and the Budget Act but in repealing the Budget Act, I have tried to analyze the mapping that was presented in the report. I have noted a number of clauses that were omitted but with a proposal to retain them. The mapping is in the report of the committee. For instance, there is clause 18 (1) which reads: "Where any department, institution, organisation or commission fails to meet any requirement under this Act, Parliament may compel the relevant minister to appear before it and give an explanation on the circumstances leading to the failure." The proposal, I think by the Ministry of Finance in this matrix is that this provision should be retained. I just read one of them but there are a number of them where they propose that it should be retained. I am not quite sure I consulted with him and a number of these have not been imported in to this Bill. So, we may not hurriedly repeal the Budget Act. My view is that having passed this Bill into law, we could proceed to amend the Budget Act accordingly, putting into account the new amendments and proposals in the new Finance Act. I submit."*

The Committee notes that the above reasoning still holds credence since there are provisions in the Budget Act which are not provided in the PFMA. For instance, sections 19, 20 and 21 which create the Budget Committee of Parliament, the Parliamentary Budget Office and its functions are not provided for in the PFMA. The proposal to therefore repeal the Budget Act without

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specifically making provision for the above matters in the PFMA needs to be rethought. The Committee is of the considered opinion that the Budget Act can only be repealed if the contents of sections 19, 20 and 21 are inserted specifically in another Act in order to ensure the existence of the Committee as well as the Office created in those provisions is protected and continued in existence.

### **6.1.2.Repeal of the Evidence (Bankers' Books) Act.**

Item 2 of Schedule 1 of the Bill proposes to repeal the Evidence (Banker's Books) Act, Cap 7. The Evidence (Banker's Books) Act is an Act that is intended to govern the admission of evidence with respect to bankers' books, including ledgers, day books, cash books, account books and all other books used in the ordinary business of a bank. This Act creates privileges in favour of banks and their books in as far as giving evidence in Court by allowing the admission in evidence and in all legal proceedings of entries made in banker's books without first adducing the original document.

The Committee finds this Act to be relevant since the privilege granted to bankers' books will be lost and this will require a person proving any matter in court relating to bankers' books, including ledgers, day books, cash books, account books and all other books used in the ordinary business of a bank, to adduce the original copy of that document, a process that is impractical and cumbersome. The Committee is of the considered opinion that this should be retained on the law book of Uganda since there exists no alternative legislation which specifically grants Banker's Books such privilege as is prescribed in the Evidence (Banker's Books) Act.

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### **6.1.3.Justices of Peace Act Cap 17**

Item 3 of schedule 1 of the Bill makes provision for repeal of the Justices of Peace Act Cap 17. The Justices of Peace Act empowers the Minister to appoint persons, being citizen of Uganda or of a country of the Commonwealth, as a justice of the peace for Uganda or for any part of Uganda. A person appointed a justice of peace has the same powers and duties as a magistrate to administer oaths and affirmations, to release on bail, to remand in custody, to take affidavits, to attest signatures and to certify to copies of documents, and shall exercise those powers in like manner and take the same fees thereof on behalf of the Government.

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The Committee finds the Justices of Peace Act to be relevant in the justice system in Uganda since they assist vulnerable prisoners, the majority of whom are illiterate and destitute and cannot afford legal representation, to seek justice by allowing Justices of Peace, who are in most cases prison wardens to exercise certain powers and provide certain services to prisoners such as commissioning affidavits in prisons, which services are not readily available to prisoners while in detention. It should be noted that without justices for peace, prisoners without means of affording a lawyer to help in the commissioning of documents, in attest signatures and in certifying copies of document may find it difficult to access justice since they will not have persons who can provide such services, at a low cost, within the prison system. Without justices of peace within the prison system, prisoners will be forced seek the services of lawyers in commissioning documents, in attesting signatures and in certifying copies of document thereby making such simple processes more tedious and expensive for inmates. The Committee is concerned that repealing this Act will remove vitals service provided by Justices for Peace without providing how prisoners will seek or receive those services in a timely manner and at an affordable cost. The Committee is therefore of the considered opinion that the repeal of Justices of Peace Act should be rejected.

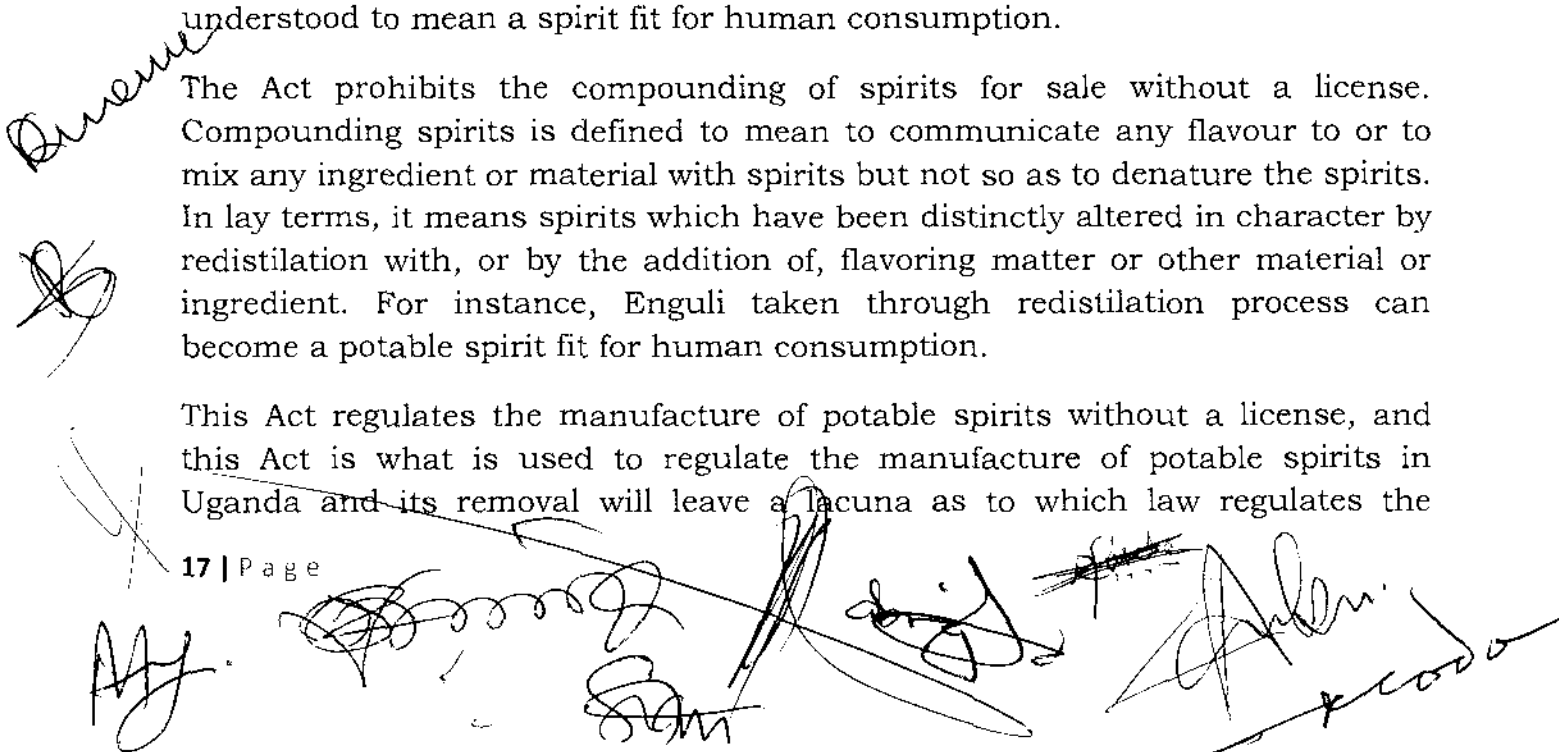
#### 6.1.4.Potable Spirits Act, Cap 97

Item 13 of Schedule 1 of the Bill proposes to repeal the Potable Spirits Act Cap 97 with the justification that the Act is superseded by the National Trade Policy on Liberalisation of trade. The Potable Spirits Act is intended to control the compounding of potable spirits and other purposes connected therewith. Whereas the Act does not define what a potable spirit is, it is generally understood to mean a spirit fit for human consumption.

The Act prohibits the compounding of spirits for sale without a license. Compounding spirits is defined to mean to communicate any flavour to or to mix any ingredient or material with spirits but not so as to denature the spirits. In lay terms, it means spirits which have been distinctly altered in character by redistillation with, or by the addition of, flavoring matter or other material or ingredient. For instance, Enguli taken through redistillation process can become a potable spirit fit for human consumption.

This Act regulates the manufacture of potable spirits without a license, and this Act is what is used to regulate the manufacture of potable spirits in Uganda and its removal will leave a lacuna as to which law regulates the

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manufacture of potable spirits. It will also allow the unregulated manufacture of potable spirits in Uganda. The Committee is concerned that whereas the other Alcohol related laws were superseded by section 5 of the Industrial Licensing Act, Cap. 91 which requires the manufacture of distilled alcoholic beverages to have a licence granted for that purpose by the Industrial Licensing Board, the potable spirits Act is not affected by the Act since it is not listed in the schedule as a scheduled item. The repeal of the Potable Spirits Act Cap 97 will therefore create challenges in enforcement of standards relating to potable spirits in Uganda.

**6.1.5. The Deposit Library and Documentation Centre Act, Cap. 125,**

Item 18 of the first schedule proposes to repeal the Deposit Library and Documentation Centre Act, Cap. 125 with the justification that it's affected by Article 40 (2) of the Constitution and superseded by the Universities and Other Tertiary Institutions Act, 2001, the Public Procurement and Disposal of Public Assets Act, 2003, the National Library Act, 2003 and the Decentralisation policy.

The Deposit Library and Documentation Centre Act makes provision for the deposit and preservation of copies of books written or printed and published in Uganda. The Act establishes a Deposit Library and Documentation Centre which is administered by Uganda Management Institute and in which shall be deposited and kept all copies of books as prescribed by this Act and such other books, publications and material which the Minister may, in his or her discretion, decide to deposit and keep. The Act obligates a publisher of every book published in Uganda and any person who, being ordinarily resident in Uganda, is the author of a book published outside Uganda, to, within one month after the publication, deliver, at his or her own expense or upon demand, a copy of the book to the librarian of the Deposit Library and Documentation Centre, who shall give a receipt for it. This Act creates an Offence against any person who fails to deliver a book on his or her own accord or upon request and such a person is on conviction liable to a fine equivalent to the value of the book.

The Committee is opposed to the repeal of this Act since the Act is still useful. The Committee notes that there is no particular policy of decentralisation that makes this Act redundant. The Committee has also examined the National Library Act, 2003 and finds that the Act does not supersede the Deposit

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Library and Documentation Centre Act since the implementing entities are different, with the Deposit Library and Documentation Centre Act being implemented by Uganda Management Institute while the National Library Act, 2003 is implemented by the National Library of Uganda. These Acts therefore serve different but complementary purposes which will serve as a depository of information and will enhance the preservation of knowledge in Uganda. It will also go a long way in regulating authorship in Uganda. Further, the Committee took cognisance of best practices in other jurisdiction like in the United States of America where the Library of Congress keeps a copy of books published in the US as a repository of knowledge and for future reference.

### **6.1.6. The Makerere University (Deposit Library) Act, Cap. 20**

Item 20 of Schedule 1 of the Bill proposes to repeal the Makerere University (Deposit Library) Act, Cap. 20 with the justification that its affected by Article 40 (2) of the Constitution and superseded by the Universities and Other Tertiary Institutions Act, 2001, the Public Procurement and Disposal of Public Assets Act, 2003, the National Library Act, 2003 and the Decentralisation policy.

The Makerere University (Deposit Library) Act makes provision for the deposit and preservation of copies of books written or printed and published in Uganda. The Act obligates a publisher of every book published in Uganda and any person who, being ordinarily resident in Uganda, is the author of a book published outside Uganda, to, within one month after the publication, deliver, at his or her own expense or upon demand, a copy of the book to the librarian section of Makerere University. This Act creates an Offence against any person who fails to deliver a book on his or her own accord or upon request and such a person is on conviction liable to a fine equivalent to the value of the book.

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The Committee is opposed to the repeal of this Act since the Act is still useful. The Committee notes that there is no particular policy of decentralisation that makes this Act redundant. The Committee has also examined the National Library Act, 2003 and finds that the Act does not also supersede the Makerere University (Deposit Library) Act since the implementing entities are different, with Makerere University (Deposit Library) Act being implemented Makerere University while the National Library Act, 2003 is implemented by the National Library of Uganda. These Acts therefore serve different but complementary purposes which will serve as a depository of information and will enhance the preservation of knowledge in Uganda.

### 6.1.7. The Surcharges (Revenue) Act, Cap. 344

Item 80 of Schedule 1 to the Bill proposes to repeal the Surcharges (Revenue) Act, an Act which imposes surcharges upon delay in certain revenue payments. The Act imposes a surcharge on a person who delays to take out any licence, effect any registration, make any notification or to pay any tax, fee or rate prescribed under paragraph 11 of Part III of the Fifth Schedule to the Local Governments Act and section 11 of the Trade Licensing Act.

The Committee has reviewed the Act and the relevant laws it applies to and it is of the considered opinion that this Act is still relevant to ensure compliance and generate revenue for Government. The relevant laws it applies to, do not make provision for matters prescribed in this Act, nor are there provisions that would impose similar liabilities on any person who delays to comply with his or her duties under the respective Act. In light of the above, the Surcharges (Revenue) Act Cap. 344 is not redundant and should be retained on the law book since it enhances compliances and can be a source of non-tax revenue to Government.

### 6.1.8. The Tax Exemption (Uganda Peoples' Defence Forces, Uganda Police Force and Uganda Prisons Services) Act, Cap. 346

Item 81 of schedule 1 of the Bill proposes to repeal the Tax Exemption (Uganda Peoples' Defence Forces, Uganda Police Force and Uganda Prisons Services) Act, Cap 346, with the justification that the Act is obsolete.

The Tax Exemption (Uganda Peoples' Defence Forces, Uganda Police Force and Uganda Prisons Services) Act, makes provision for and in connection with exemption from certain taxes and it empowers the Minister responsible for Finance, whenever he or she thinks fit, by a statutory order exempt any member of the Uganda Peoples' Defence Forces, the Uganda Police Force or of the Uganda Prisons Service from the payment of any territorial tax. "territorial tax" means a tax, however described, imposed by or under a law made by the administration of a district.

The Committee has examined this matter and is of the considered opinion that this Act is not *obsolete as proposed by the Bill*. This Act should be retained since it serves the purpose of exempting, if ordered by the Minister, any member of the Uganda Peoples' Defence Forces, the Uganda Police Force or of the Uganda Prisons Service from paying taxes imposed under the Local Government Act. The nature of the men and officers of the UPF and UPDF is

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that these can be deployed to any part of Uganda and that deployment will come with payment of certain duties under the Local Government Act, such as local Service Tax. This Act should therefore be retained on the law book since there exists no alternative legislation that would shield the UPF and UPDF from the payment of such taxes.

While conceding to the above matters, the AG proposed additional amendments to Schedule 1 of the Bill in order to save certain provisions in the enactments listed for repeal under schedule 1 which provisions will be lost by the repeal since they are not specifically provided for in any legislation in Uganda. The Committee has examined these matters and notes that some of the enactments listed to be repealed in schedule 1 of the Bill make provision for matters that need to be retained on the law book due to their relevance to tax administration in Uganda. For instance-

- (a) Item 38 of Schedule 1 of the Bill which seeks to repeal the Finance Act (No. 2), 1996, Cap. 185 with the justification that that Act was superseded by the East African Community Customs Management Act, 2004. The Committee notes that whereas that is true, there are provisions of this Act which are not superseded by East African Community Customs Management Act and should be retained on the law book. The provisions that are not superseded include the provisions imposing an import commission on goods imported into the country and the provisions imposing surtax in respect of imported Waters, including spa waters and aerated waters, Lemonade, flavored spa waters and flavored aerated waters, Beer made from malt, still wine and grape not in bottle, other sparkling wine and whisky. The Committee is concerned that these provisions will be lost by the repeal of the Finance Act (No. 2), 1996 unless they are inserted under the **External Trade Act, Cap. 88**.

- (b) Item 34 of schedule 1 proposes to repeal the Finance Act, 1993 with the justification that it is superseded by the applicable law. Under that Act, section 3 exempts a person earning dividends from a company which came into existence through stock exchange from the payment of income tax. This provision is not provided under any tax law in Uganda and repealing the Finance Act without making provision for the matters in section 3 will reverse that exemption. In order to save this provision, ~~section 3~~ ought to be inserted in section 21 of the Income Tax Act.

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(c) Item 35 of schedule 1 of the Bill proposes to repeal the Finance Act (No. 2) 1994, with the justification that that Act was superseded by the East African Community Customs Management Act, 2004. The Committee notes that whereas sections 1 to 5 of the Act were superseded by the East African Community Customs Management Act and sections 7 and 8 by the Tax Procedures Code Act, section 9 of the Act imposing a commercial transaction levy on all goods transportation vehicles payable at the renewal of a licence is not superseded by the East African Community Customs Management Act nor is it contained in any Act. Section 9 is therefore still relevant and should be inserted in the Traffic and Road Safety Act, 1998, Cap. 361 since the repeal of the Finance Act (No. 2) 1994 without making provision for section 9 will adversely impact on the revenue collection measures of the country.

(d) Item 34 of schedule 1 proposes to repeal the Finance Act, 1993, Cap. 181 with the justification that the Act has been superseded by the relevant laws on Tax. The Committee notes that whereas all the provisions of the that Act were inserted in other laws appropriately, section 4 imposing a duty on a person owning a satellite receiver equipment to pay a fee of three hundred thousand shillings to the Ministry responsible for information before a licence is issued to the owner is not provided under any enactment. The repeal of the Act will therefore remove this requirement. The Committee is therefore of the considered opinion that this provision should be retained on the law book under **the Uganda Communications Act, No. 1 of 2013.**

**Recommendations**

**In light of the above, the Committee recommends that schedule 1 of the Bill stands part of the Bill albeit with the following amendments-**

*Remove* (a) **Remove from schedule 1 the following enactments which are still relevant-**

- (i) the Evidence (Bankers' Books) Act, Cap. 7 - item 2;
- (ii) the Justices of Peace Act, Cap. 15 - item 3;
- (iii) the Potable Spirits Act, Cap. 97 - item 13;
- (iv) the Deposit Library and Documentation Centre Act, Cap. 125, Item 18;
- (v) the Makerere University (Deposit Library) Act, Cap. 20-item 20;
- (vi) the Cantonments Act, Cap. 296 - item 66;
- (vii) the Foreign Seamen Deserters Act, Cap. 300- item 67;

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- (viii) the Surcharges (Revenue) Act, Cap. 344-item 80;
- (ix) the Tax Exemption (Uganda Peoples' Defence Forces, Uganda Police Force and Uganda Prisons Services) Act, Cap. 346- item 81.

**(b) As a consequential amendment-**

- (i) Amend the Income Tax Act, Cap. 340 to incorporate section 3 of the Finance Act, 1993.
- (ii) Amend the Traffic and Road Safety Act, 1998, Cap. 361 to incorporate section 9 of the Finance Act (No. 2) 1994.
- (iii) Amend the Uganda Communications Act, No. 1 of 2013 to incorporate section 4 of the Finance Act, 1993, Cap. 181.
- (iv) Amend the Roads Act, No. 16 of 2019 to incorporate section 5 of the Finance Act, 1993, Cap. 181.

**6.2. Conversion of fines and other financial amounts in specified laws, to currency points**

The Bill in clause 2 proposes to amend the laws specified in Schedule 2 of the Bill by substituting the fines and other financial amounts in those Act into currency points using the formula in the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act, 2008.

In 2008, Parliament enacted the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act to, among others, provide for the revision of fines and other financial amounts prescribed in written laws relating to criminal matters in order to cater for the fall in the value of the Uganda currency over the years owing to inflation and other causes; to provide for a standardised ratio between fines and related terms of imprisonment; to convert fines and other financial amounts in written laws in criminal matters into currency points at a prescribed value; to empower the Minister to vary the value of a currency point.

Section 7 (2) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act, 2008 further empowers the Minister to, with the approval of Parliament, modify any written law—

- (a) to give effect to the principles stated in this Act;
- (b) for the purpose of removing any doubt in the application of the provisions of this Act;

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(c) for the purpose of removing any injustice or inconsistency arising out of the application of the principles stated in this Act.

Section 7 (3) further empowers the Minister to, for easy application of any amount converted under this Act into currency points, cause the amount to be rounded upwards or downwards to the nearest whole amount higher or lower.

The Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was necessitated by the need to remedy the fall in the values of fines and other financial amounts which had been eroded by inflation and the devaluation of the Ugandan currency over time, making those fines and other financial amounts meaningless.

It is important to note that in 1987, the Currency Reform Act was enacted to among others allow reform the Ugandan currency by allowing Bank of Uganda to issue new currency notes and coins as legal tender in exchange for the old currency notes and coin, at a special rate. This legislation had the effect of not only devaluing the Ugandan currency but also had an effect on fines and financial amounts in legislations whereby it caused the dropping of two zeroes in every fine and other financial amounts prescribed in every legislation in Uganda. By implication, a fine of UGX 100,000 prescribed in legislation was affected by dropping the last two zeroes, making the fine UGX 1000. This reduced the fines payable by a person for breach of a legal obligation imposed under the relevant Act, created unfairness in sentencing between persons who are serving custodial sentences and those paying fines since the fines prescribed are low. The currency reforms therefore made provisions of some laws non deterrent since the prescribed fines were low.

In order to remedy the effect of the Currency Reform Act and inflationary pressures on the Uganda shilling, Parliament enacted the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act, 2008. The Act was necessitated by the need to remedy-

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- (a) the fall in the values of fines and other financial amounts which had been eroded by inflation and the devaluation of the Ugandan currency over time, making those fines and other financial amounts meaningless.
  - (b) the effects of the Currency Reform Act, 1987 which affected fines and financial amounts in legislations whereby it caused the dropping of two zeroes in every financial amount, thereby having an effect on the fines and financial amounts prescribed in those Acts.
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- (c) A lack of uniformity between the term of imprisonment and penal fines prescribed in various legislations since those fines are less deterrent compared to terms of imprisonment prescribed in the modified legislation. This created unfairness in sentencing between a person who serves a custodial sentence and those who opt to pay a fine.

This Act created uniformity in penalties expressed in fines with those requiring custodial sanctions by prescribing standardized formula for computing a term of imprisonment vis-a-vis a fine in legislation providing the option of either paying a fine or being imprisoned as a punishment for infringing the provision. It also provided a formula for converting fines and other financial amounts that had been affected by the Currency Reform Act by converting them into Ugandan shillings in order to equate them to the prevailing value of the Ugandan shilling. The formulae are prescribed in sections 3, 4, 5 and 6 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act and require as follows-

- (a) **Section 3** prescribe the ratio of fines to imprisonment and requires that where a fine is prescribed in relation to a term of imprisonment, the ratio of fine to imprisonment shall be 2 currency points to each month of imprisonment. This provision applies in circumstances where legislation prescribes the option of a sanction in form of a fine and a custodial sentence. In utilizing this formula, the idea is to ensure that there is uniformity between the fine and custodial sentence by converting the custodial sentence using the ratio of 2 currency points for each month of imprisonment in arriving at the relevant fine payable.
- (b) **Section 4** prescribes a formula for converting fines in legislations without accompanying terms of imprisonment by requiring that where any law prescribes a fine but does not prescribe any term of imprisonment-

- (i) in the case of law in force on 15<sup>th</sup> May 1987, the fine shall be modified by multiplying the fine by a factor of 10,000 and converting it into currency points. (See Section 4 (1) of the Act);
- (ii) In the case of a law in force after 15<sup>th</sup> May 1987 but before 1<sup>st</sup> January, 1990, fine shall be modified by multiplying the fine by a factor of 100 and converting it into currency points. (See section 4 (2) of the Act)

It should be noted that the date of 15<sup>th</sup> May, 1987 denotes the date of commencement of the Currency Reform Act, 1987 and the 1<sup>st</sup> January, 1990 is supposed to denote the end of the period counting from 15<sup>th</sup> May, 1987 during which the deep inflation of the currency abated. In order to utilize this formula, regard must be had to whether the relevant legislation prescribes either a fine or a penalty and the date of commencement of the relevant Act.

(c) **Section 5** prescribes a formula for converting compensation and other financial amounts, not being fines, the amount prescribed-

- (i) In the case of law in force on 15<sup>th</sup> May 1987, the compensation or other financial amounts shall be modified by multiplying it by a factor of 10,000 and converting it into currency points. (See Section 5 (1) of the Act);
- (ii) In the case of a law in force after 15<sup>th</sup> May 1987 but before 1<sup>st</sup> January, 1990, the compensation or other financial amounts shall be modified by multiplying the fine by a factor of 100 and converting it into currency points. (See section 5 (2) of the Act).

(d) **Section 6** prescribes ratios of fines and imprisonment for section 180 of the Magistrate Courts Act and section 110 of the Trial on Indictments Act.

In analyzing the Bill, regard was had to the obligations of the Minister under the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act being-

- (a) Modifying the fines and financial amounts in accordance with the ratios and formulae prescribed in sections 3,4,5 and 6 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act;
- (b) The modified fines being in harmony with the relevant term of imprisonment prescribed for the offence; and
- (c) Convert the modified fines and other financial amounts into currency points, with a currency point being equal to UGX 20,000;

In light of the above, the Committee makes the following observations regarding the amendments proposed in clause 2 and schedule 2 of the Bill in regard to compliance with requirements of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.

**6.2.1. Non-compliance with modification formula in the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act**

In converting the fines in some Acts listed in the second schedule, there was non-compliance with the modification formulae prescribed in sections 3, 4 and 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act. The non-compliance was noted in the following instances-

**6.2.1.1. The Commissioner for Oaths (Advocates) Act**

In modifying the fine prescribed in the second offence under section 6 of the Commissioner for Oaths (Advocates) Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 6 provides as follows-

***“6. Penalty for unlawfully practising***

*Any person who holds himself or herself out as a commissioner for oaths or receives any fee or reward as a commissioner for oaths when he or she is not a commissioner for oaths duly appointed as such in accordance with this Act commits an offence and, in addition to any other penalty or punishment to which he or she may be liable by any law in force, is liable on conviction to a fine not exceeding six hundred shillings and for a second offence in addition to any other penalty or punishment stipulated in this section is liable to a fine of two thousand shillings or imprisonment for a period not exceeding six months or both.”*

The above section has two sanctions, the first is a fine of 600 shillings without prescribing an alternative term of imprisonment and the second sanction is a fine of two thousand shillings or imprisonment for a period not exceeding six months or both.

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In modifying these fines, the first offence is modified using the formula in section 4 (1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act (the Act commenced in 1950) which requires the multiplication of the fine prescribed by a factor of 10,000 and converting it into currency points. The Bill rightly used that formula and modified UGX 600 to be equivalent to UGX 6,000,000 or currency 300 currency points.

However, in modifying the penalties in the second offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. Using the formula in section 3, the Minister should have modified the term of imprisonment of 6 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. **Using the formula in section 3, the amount would have been UGX 240,000 or twelve currency points instead of UGX 20 million or one thousand currency points the Minister indicated in paragraph 2 of the second schedule to the Bill.**

The modification proposed in the Bill creates disharmony in the penalties since the term of imprisonment has been retained at 6 months while the fine has been modified to UGX 20 Million. This means that a person who pays a fine will suffer a harsher penalty than a person who serves a custodial sentence will only suffer 6 months imprisonment. The modification will also will also defeat the intention of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which was enacted to create harmony between custodial sentences and monetary sanctions in legislation.

#### 6.2.1.2. The Notaries Public Act

In modifying the fine prescribed in the second offence under section 5 of the Notaries Public Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 5 provides as follows-

##### **"5. Penalty for unlawfully practising**

*Any person who holds himself or herself out to be a notary public or receives any fee or reward as a notary public, unless he or she is enrolled under this Act, and is the holder*

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*of a certificate then in force, or is a magistrate or the chief registrar of the High Court, commits an offence against this Act and is liable on conviction to a fine not exceeding six hundred shillings, and for a second offence to imprisonment for a period not exceeding six months, in addition to, or in substitution for, a fine which may amount to two thousand shillings; but this section shall not be construed to exempt any person from any prosecution under the provision of any law to which he or she would otherwise be liable."*

In modifying the penalties in the second offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. **Using the formula in section 3, the Minister should have modified the term of imprisonment of 6 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 240,000 or twelve currency points instead of UGX 20 million or one thousand currency points the Minister indicated in paragraph 5 of the second schedule to the Bill.**

The modification proposed in the Bill creates disharmony in the penalties since the term of imprisonment has been retained at 6 months while the fine has been modified to UGX 20 Million. This means that a person who pays a fine will suffer a harsher penalty than a person who serves a custodial sentence will only suffer 6 months imprisonment. The modification will also will also defeat the intention of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which was enacted to create harmony between custodial sentences and monetary sanctions in legislation.

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**6.2.1.3. The Animals (Prevention of Cruelty) Act**

 In modifying the fine prescribed in the second offence under section 11 (2) of the Animals (Prevention of Cruelty) Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 11 (2) provides as follows-

*“Any person performing or taking part in performing any experiment calculated to give pain in contravention of this Act commits an offence and on first conviction is liable to a fine not exceeding one thousand shillings and on a second or subsequent conviction is liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.”*

In modifying the penalties in the second offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. **Using the formula in section 3, the Minister should have modified the term of imprisonment of 3 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 120,000 or six currency points instead of UGX 20 million or one thousand currency points the Minister indicated in paragraph 11 of the second schedule to the Bill.**

The modification proposed in the Bill creates disharmony in the penalties since the term of imprisonment has been retained at 3 months while the fine has been modified to UGX 20 Million. This means that a person who pays a fine will suffer a harsher penalty than a person who serves a custodial sentence will only suffer 3 months imprisonment. The modification will also will also defeat the intention of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which was enacted to create harmony between custodial sentences and monetary sanctions in legislation.

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#### **6.2.1.4. Weights and measurements Act**

In modifying the fine prescribed in the second offence under sections 44 (2) and 44 (4) of the Weights and measurements Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 44 (2) and 44 (4) provides as follows-

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*“Any person who commits an offence under section 24(1), 25, 26, 28, 29 or 38, is liable on conviction to a fine not exceeding two thousand shillings and on a second or subsequent conviction, to a fine not exceeding **five thousand shillings or to imprisonment for a term not exceeding six months** or to both the fine and imprisonment; but a person shall not be liable to the increased penalty under this subsection for a second or subsequent conviction, unless that conviction takes place within five years immediately following the previous conviction.”*

**Section 44 (4)**

*“Any person who commits an offence under the section 24(2) is liable on conviction to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both the fine and imprisonment.”*

In modifying the penalties in the second offence under section 44 (2), section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

On the other hand, in modifying the penalties in section 44 (4), the Minister used a wrong formula. The formula which the Minister ought to have used is section 3 (1).

Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. **Using the formula in section 3, the Minister should, in modifying the penalty in section 44 (2), modified the term of imprisonment of 6 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 240,000 or twelve currency points.**

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**On the other hand, section 44 (4) should have been modified using the fine indicated in the same, which is 4000 as indicated in the Bill and using the formula in section 3, by converting the penalty of six months into currency points at a rate of 2 currency points for each month, which would arise the amount of UGX 240,000 or twelve currency points**

In the same vain, The Bill also makes provision for the modification of none existent provisions, including section 55AS and the first schedule of the Weights and Measurements Act. These should also be deleted.

#### **6.2.1.5. Criminal Procedure Code Act**

In modifying the fine prescribed in section 1 (b) of the criminal procedure code Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 1 (b) provides as follows

**“Cognisable offence”** means any offence—

- (i) which on conviction may be punished by a term of imprisonment for one year or more;
- (ii) which on conviction may be punished by a fine exceeding four thousand shillings;”

In modifying the penalties in the definition of a cognisable offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment and the provision is read as a single sentence.

**Using the formula in section 3, the Minister should have modified the sum of UGX 4000 prescribed in section (1) (b) by equating it to term of imprisonment of 1 year and thereafter converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 480,000 or twenty-four currency points.**

The amendment proposed in the Bill will create an absurdity in the application of the provisions of the Criminal Procedure Code Act by increasing the threshold of cognisable offences, being offences for which a person maybe

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arrested without a warrant from the current threshold of UGX 4000 to UGX Forty Million. This would mean that a police officer could only arrest a person without a warranty if the offence carries a penalty of a fine of more 40 Million. All the other offences prescribing a threshold below 40 million would require a warrant or authorization of court, making the prosecution of crimes difficult.

The modification proposed in the Bill creates disharmony in the penalties since on one hand, the threshold of a cognisable offence is merely one year imprisonment but the equivalent threshold in currency points is 40 Million. This is far beyond the sum equivalent of 1 year imprisonment using the formula in section 3 (1).

### 6.2.1.6. Veterinary Surgeons Act

In modifying the fine prescribed in section 15 of the Veterinary Surgeons Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 15 provides as follows-

#### **"15. Offences and penalties**

Any person who—

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof;
- (b) fraudulently procures or attempts to procure either for himself or herself or for any other person registration or the issue of a licence under this Act; or
- (c) being a registered veterinary surgeon or a licensed veterinary practitioner, allows an unregistered or unlicensed person to practise veterinary surgery on or from premises used by such registered veterinary surgeon or licensed veterinary practitioner for the practice of veterinary surgery, commits an offence and is liable on conviction to imprisonment for a period not exceeding six months or to a fine not exceeding six thousand shillings or to both such imprisonment and fine.

In modifying the penalties, a mathematical mistake was made resulting in the conversion of six months imprisonment into 12 currency points. Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. **Using the formula in section 3, the Minister should have modified the term of imprisonment of 6 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 240,000 or twelve currency points and not six currency points as indicated in the Bill.**

#### 6.2.1.7. Food and Drugs Act

In modifying the second penalty in section 27(1) of the Foods and Drugs Act, the Bill used a wrong formula, thereby arriving at a wrong modification. Section 27 (1) provides as follows-

*"A person who wilfully obstructs any person acting in the execution of this Act, or of any order or warrant made or issued under this Act, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings; but if the court is satisfied that he or she committed the offence with the intent to prevent the discovery of some other offence under this Act, or if he or she has within the twelve months last preceding been convicted of an offence under this subsection, he or she is liable to a fine not exceeding four thousand shillings or to imprisonment for a period not exceeding three months."*

In modifying the penalties in the second offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances.

**Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment. Using the formula in section 3, the Minister should have modified the term of imprisonment of 3 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into**

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**currency points. Using the formula in section 3, the amount would have been UGX 120,000 or six currency points instead of UGX 40 million or two thousand currency points the Minister indicated in paragraph 46 of the second schedule to the Bill.**

The modification proposed in the Bill creates disharmony in the penalties since the term of imprisonment has been retained at 3 months while the fine has been modified to UGX 40 Million. This means that a person who pays a fine will suffer a harsher penalty than a person who serves a custodial sentence will only suffer 3 months imprisonment. The modification will also will also defeat the intention of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which was enacted to create harmony between custodial sentences and monetary sanctions in legislation.

### **6.2.2.Modification of fines and other financial amounts in Act proposed for repeal or that have been amended**

Some of the Acts proposed for modification are either listed for repeal or have been repealed or amended by various enactments and are no longer good law. These include-

- (a) the Adulteration of Produce Act, Cap 27 which is listed as item 5 of the First Schedule to the Bill and is proposed for repeal with a justification that its superseded by the Uganda National Bureau of Standards Act, Cap 327, is again proposed for modification in paragraph 8 of the Second schedule;
- (b) the Produce Protection Act, Cap.32 listed as item 6 in the First Schedule to the Bill, which is proposed for repeal with the justification that it is superseded by the National Trade Policy on liberation of trade is again proposed for modification in paragraph 9 of the Second Schedule to the Bill;
- (c) Prohibition of the Burning of Grass Act, Cap 33 listed as item 7 of the First schedule to the Bill and proposed for repeal with justification that it is superseded by the Local Governments Act, Second Schedule, Part 3, paragraph 3 (n) is again proposed for modification in paragraph 10 of the Second Schedule to the Bill;

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- (d) Section 15 (3) of the Trade (Licensing) Act Cap 101 which was amended in 2015 under the Trade (Licensing) (Amendment) Act, 2015 to modify the sanctions therein from two thousand shillings or six months imprisonment to forty-eight currency points or two years imprisonment is again proposed for modification in paragraph 27 of the Second Schedule to the Bill;
- (e) Sections 13 (2), 20, 21, 22, 23, 36 (2), 60 (3), 89 (2), 94 (2), 96 (2), 97 (2), 109 (2), 128 (1), and 133 of the Public Health Act which were amended and sections 35, 67 (3), 79 (2), 83 (7), 99 (1), and 112 which were repealed under the Public Health (Amendment) Act, 2023;
- (f) Sections 5 (2), 16 (3), 18 (4), 33 (4) and 36 of the Firearms Act which were amended in the Firearms (Amendment) Act, 2006 by converting the fines into currency points and increasing custodial sentences in those sections are again proposed for modification under paragraph 59 of the Second Schedule to the Bill basing on fines as they stood in Cap 299 before the amendment of 2006;
- (g) Rivers Act, Cap 357 which is proposed for repeal under clause 1 of the Bill, specifically under item 87 of the first schedule to the Bill having been superseded by sections 52 and 53 of the National Environment Act, 2019 is again proposed for modification in paragraph 55 of the second schedule to the Bill.

**Recommendation**

***In light of the above, the Committee recommends that schedule 2 stands part of the Bill albeit with the following amendments-***

- (a) the fine for the second offence under 6 of the Commissioner for Oaths (Advocates) Act, the second offence under section 5 of the Notaries Public Act, the second offence under section 11 (2) of the Animals (Prevention of Cruelty) Act, the fine prescribed in the second offence under sections 44 (2) and 44 (4) of the Weights and measurements Act, the fine prescribed in section 1 (b) of the criminal procedure code Act, the fine prescribed in section 15 of the Veterinary Surgeons Act, the second penalty in section 27(1) of the Foods and Drugs Act, should be revised in accordance with section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act;***

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**(b) the following provisions and enactments should be removed from the schedule-**

- (i) the Adulteration of Produce Act, Cap. 27;**
- (ii) the Produce Protection Act, Cap. 32;**
- (iii) the Prohibition of the Burning of Grass Act, Cap. 33;**
- (iv) the Rivers Act, Cap. 357;**
- (v) Sections 13 (2), 20, 21, 22, 23, 36 (2), 60 (3), 89 (2), 94 (2), 96 (2), 97 (2), 109 (2), 128 (1), and 133 of the Public Health Act, Cap. 281**
- (vi) Section 15(3) of the Trade (Licensing) Act, Cap. 101**
- (vii) Sections 5 (2), 16 (3), 18 (4), 33 (4) and 36 of the Firearms Act, Cap. 299**

**6.3. Conversion of fines and other financial amounts in the Penal Code Act, Cap. 120 to currency points**

The Bill in clause 3 proposes to modify fines and other financial amounts in the Penal Code Act Cap 120. The provisions being modified are listed in the third schedule to the Bill.

In modifying the fines and other financial amounts, the Bill is guided by the formula prescribed in the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act, 2008 and expressed in currency points.

The modification of fines and other financial amounts is intended to shield the fines and other financial amounts expressed in currency points instead of being prescribed in Uganda shillings which is susceptible to inflation. The modification will also deal with small and none deterrent fines in the Penal Code Act by making the fines commensurate with the custodial penalties prescribed in the Act.

The Committee has reviewed the provisions of the Bill and notes that whereas the proposal to modify the fines and other financial amounts in the Penal Code is welcome, there is need to remedy the following matters-

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- (a) the proposal to modify the fines in section 40 (1) and (2) of the Penal Code Act needs to be reconsidered since these provisions were declared unconstitutional in the decision of *Andrew Mujuni Mwenda and another Vs AG consolidated constitutional petitions No.12 of 2005 and No. 3 of 2006*. In that decision the Supreme Court found Sections 39 and 40 of the Penal Code Act to be inconsistent with provisions of the Articles 29(1) (a) and 43(2) (c) of the Constitution and are therefore null and void. The finding of the Supreme Court had the effect of striking those provisions off the law book in Uganda, making the provision of no legal effect in Uganda. The proposal to modify them as proposed in the Bill is not in compliance with the decision in *Andrew Mujuni Mwenda and other Vs AG consolidated constitutional petitions No.12 of 2005 and No. 3 of 2006*;
- (b) the modification of the second penalty in section 161 (4) also needs to be rethought since a wrong formula was used in modifying the provisions of the Bill. Section 161 (4) of the Penal Code Act provides that “Any person other than the persons mentioned in subsection (1) who is found in a common gaming house shall be deemed, unless the contrary is proved, to be there for the purpose of unlawful gaming, and commits a misdemeanor and is liable to a fine of one thousand shillings for the first offence, and for each subsequent offence to a fine of three thousand shillings or to imprisonment for three months or to both such fine and imprisonment.”

In modifying the penalties in the second offence, section 4(1) of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act was erroneously used instead of the formula prescribed in section 3 of the Act which is applicable in the circumstances. Section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act applies since the provision contains sanctions of fine and imprisonment.

**Using the formula in section 3, the Minister should have modified the term of imprisonment of 3 months by converting it into currency points using the ratio of 2 currency points for each month of imprisonment and converting the resultant amount into currency points. Using the formula in section 3, the amount would have been UGX 120,000 or six currency points.**

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The proposal by the Minister to modify the fines in section 161 (4) while leaving the terms of imprisonment unchanged creates disharmony between the term of imprisonment and the fine prescribed which would defeat the intention of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which are intended to harmonize the Fines with the term of imprisonment.

### **Recommendation**

***In light of the above, the Committee recommends-***

- (a) that sections 40 (1) and (2) of the Penal Code Act be deleted with the justification that these provisions were declared unconstitutional in the decision of Andrew Mujuni Mwenda and another Vs AG consolidated constitutional petitions No.12 of 2005 and No. 3 of 2006.***
- (b) The formula used in modifying the second penalty in section 161 (4) of the Penal Code Act should be revised in accordance with section 3 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.***

### **6.4. Conversion of fines expressed in shillings in specified laws, to currency points**

Clause 4 of the Bill seeks to modify fines expressed in shillings in specified enactments listed in schedule 4 of the Bill into currency points. In modifying the fines and other financial amounts, the Bill is guided by the value of a currency point prescribed in the Law Revision (Fines and other Financial Amounts in Criminal Matters) Act, 2008.

The modification of fines and other financial amounts is intended to shield the fines and other financial amounts expressed in currency points instead of being prescribed in Uganda shillings which is susceptible to inflation.

Whereas the proposal in the Bill is welcome since it will adopt the policy of Government expressing all fines and financial amounts in currency points as a means of shielding those fines from inflation, the proposal to amend section 27A of the Police Act as proposed in item 15 of schedule 4 of the Bill is open to challenge since this that provision was declared unconstitutional in the decision **of Olara Otunnu Vs AG Constitutional Petition No 12 of 2010**

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which found section 27A (2) and (3) to be unconstitutional for infringing article 28 (12) of the Constitution.

It should be noted that the amendment proposed in item 15 of schedule 4 is to modify the fine of forty thousand shillings prescribed in section 27A (3) of the Police Act yet this provision lost its legal effect and was struck off the law book for infringing the principle of legality prescribed in article 28 of the Constitution. The modification is therefore of no legal effect since the provision it modifies is null and void.

### **Recommendation**

***In light of the above, the Committee recommends that Schedule 4 of the Bill is amended in paragraph 15, by deleting section 27A of the Police Act and all the items that appear in columns 2, 3 and 4 corresponding with the modification of section 27A of the Police Act Cap 303 with the justification that section 27A was declared unconstitutional in the case of Olara Otunnu Vs AG Constitutional Petition No 12 of 2010 for infringing Article 28 (12) of the Constitution, thereby losing its legal effect.***

### **6.5. Conversion of financial amounts, not being criminal penalties, from currency points to shillings**

Clause 5 of the Bill proposes to modify the provisions of the laws specified in Schedule 5 by substituting the financial amounts expressed in currency points specified in those provisions with the financial amounts expressed in Uganda shillings.

The Committee has reviewed the provisions contained in the schedule and is of the considered opinion that the proposal to convert the amounts in the specified Acts from currency points to Uganda shillings reverses a policy of Government which favors the expression of all fines and financial amounts in all legislation in Uganda in currency points rather than in Uganda shillings or any other convertible currency as espoused in sections 2, 3, 4 and 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.

Section 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act provides formulae in converting non penal amounts prescribed in various enactments and prescribes the following modification formula-

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- (a) where any written law in force on the 15th day of May, 1987 prescribes any amount **as compensation or other financial amount not being a fine**, the amount shall be multiplied by a factor of ten thousand and converted into currency points at the value of currency point specified in the Schedule to this Act;
- (b) where any written law which came into force after the 15<sup>th</sup> day of May, 1987 but before the 1<sup>st</sup> day of January, 1990 **prescribes any amount as compensation or other financial amount not being a fine**, the amount shall be multiplied by a factor of one hundred and converted into currency points at the value of currency point specified in the Schedule to this Act.

It should be noted that it has been a policy of Government since 1997 to express fines and other financial amounts in currency points rather than in Uganda shillings. This is intended to shield those fines from being eroded by inflation which affects the Ugandan currency. It is understood that currency points are a better expression of fines and other financial amounts since their value is known, is constant and can easily be increased as and when there is need.

The Government policy pertaining to expressing fines and other financial amounts in currency points rather than in Ugandan shillings was adopted in the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act which Act requires the expression of fines and other financial amounts in currency points rather than in Ugandan shillings.

It should be noted that since 1997, all fines and other financial matters in Acts of Parliament and statutory instruments have been expressed in currency points. In all legislation since 1997, fines and other financial amounts have been expressed in currency points, with a currency point having a value of UGX 20,000. The proposal in schedule 5 to express the financial amounts in Uganda shillings is untenable in law since it contravenes the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.

Furthermore, the proposal to modify the financial amount prescribed in section 11 (3) of the Parliamentary Elections Act as proposed in item 12 of schedule 5 to the Bill needs to be reconsidered since the financial amount referred to in the Bill of "ten currency points" was amended under the Parliamentary Elections Act, 2015 to "one hundred and fifty Currency points or UGX three

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Million shillings. The financial amount quoted in the Bill is no longer good law following the amendment in 2015 and needs to be deleted.

### **Recommendation**

***In light of the above, the Committee recommends that Clause 5 and schedule 5 of the Bill be deleted with the justification that Clause 5 and schedule 5 contravene Section 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.***

### **6.6. Modification of low fees, costs and values in laws in force on 15th May 1987**

Clause 6 of the Bill proposes to modify fees, values and costs prescribed in various enactments listed in the 6<sup>th</sup> schedule to the Bill to reflect the actual fine, fees and values prescribed in other laws that have a bearing on the enactment.

This is intended to ensure harmony in the law book by reflecting the fines, values and fees that are applicable in the relevant enactments arising from amendments made to various other enactments. For instance, some of the values, fines and fees prescribed in the enactments listed in schedule 6 have been affected or amended through statutory instruments and various acts of Parliament yet they continue to reflect the fines, values and fees without taking into account the amendments made to them. The Bill therefore seeks to harmonize the fees, fines and values as currently applicable.

Whereas the Committee finds merit in the proposals contained in the Bill, there is need to remove from the schedule 6, enactments which have been included but are not modified through an Act of Parliament or through a statutory instrument. The Committee notes that in some instances, the enactments have been included in schedule 6 for modification where such enactments have not been in any way amended directly or indirectly by any legislation. These are being modified by repealing them on grounds that they are not complied with. *Non-compliance with a provision of any enactment cannot be a ground for modifying fees, values or fines imposed thereunder except where the enactment is directly amended to remove fines, fees or value. In such enactments, there is nothing to modify since the resultant effect of the proposal in the Bill will be to remove those fees, fines or values entirely and not to replace them with an alternative fee, value or fine.*

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For instance, the provisions in item 2 of schedule 6 pertaining to the Magistrate Courts Act, specifically sections 195 (2) and (4) and section 204 (4) which are being modified by removing the maximum costs that can be awarded by a magistrate court, the value of the award of costs that a person may appeal to the High Court as well as the fine that may be appealed against from a decision of a magistrate grade 1 cannot be removed merely because Court does not follow them without specific and direct amendments being made to the those provisions.

In the same vein, item 3, relating to Trial on Indictments Act, sections 125 (2) and paragraph 9 of the schedule and item 5 relating to Administration of Estates (small estates) (special provisions) Act need to be repealed rather than being modified as proposed in the Bill.

### **Recommendation**

***In light of the above, the Committee recommends clause 6 and schedule 6 to stand part of the Bill albeit with amendment to delete-***

- in item 2, in the Magistrates Courts Act, the modifications proposed to sections 195 (2), 195 (4), 204 (4) and paragraph 31 (8) of the Third schedule and amend the Magistrates Courts Act;***
- in item 3, in the Trial on Indictments Act, the modifications proposed in section 125 (2) and paragraph 9 (1) of the schedule to the Trial on Indictments Act and amend the Trial on Indictments Act;***
- in item 5, in the Administration of Estates (Small Estates) (Special Provisions) Act, the modifications proposed to section 7 (2) of the Administration of Estates (Small Estates) (Special Provisions) Act and amend the Administration of Estates (Small Estates) (Special Provisions) Act;***

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### **6.7. Changes to the law relating to bail**

Clauses 11 and 12 of the Bill make provision to the law relating to bail under the Magistrates Court Act and the Trial on indictments Act.

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Section 76 of the Magistrate Court Act and section 16 of the Trial on Indictments Act are proposed for amendment by reducing the period of pretrial remand and period for determination of mandatory bail to 180 days in cases carrying a death penalty and to 60 days in all other cases. Currently section 76 of the Magistrates Courts Act and 16 of the Trial on Indictments Act require a person to only be released on bail if he or she has been in detention before trial for 480 days in case of capital offences and for 240 days in all other cases.

The above provisions are being harmonized to bring them in compliance with article 23 (6) of the Constitution which sets mandatory bail in the case of an offence which is triable by the High Court at 180 days and 60 days in all other cases. The Committee notes that Sections 76 of the Magistrates Courts Act and section 16 of TIA were found to be unconstitutional in the decision of **Foundation for Human Rights Initiatives v Attorney General (Supreme Court Constitutional Appeal No. 03 of 2009)** for having set bail provisions that were inconsistent with the Constitution.

### **Recommendation**

**In light of the above, the Committee recommends that clauses 11 and 12 of the Bill stand part of the Bill since they give legal effect to the decision of court in *Foundation for Human Rights Initiatives v Attorney General Supreme Court Constitutional Appeal No. 03 of 2009*.**

### **6.8. Amendment to the Penal Code Act**

Clause 14 of the Bill proposes to amend sections 42, 43, 44 and 50 of the Penal Code Act. The amendment proposed in sections 42, 43 and 44 are intended to remove the reference to seditious publication and in section 50 to restate the offence of publishing false news.

The amendments proposed in sections 42, 43 and 44 were necessitated by the decision of court in the case of **Andrew Mujuni Mwenda and other Vs AG (consolidated constitutional petitions No.12 of 2005 and No. 3 of 2006)** wherein Court declared the offence of sedition unconstitutional for infringing Articles 29(1) (a) and 43(2) (c) of the Constitution. Court reasoned that the offence of seditious was prescribed so vaguely that one may not know the boundary to stop at, while exercising one's right under article 29(I) (a) of the Constitution and therefore struck it off.

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The decision in **Andrew Mujuni Mwenda and other Vs AG** affected directly, sections 39 and 40 and indirectly, sections 42, 43 and 44 since those provisions made reference to seditious publication. The Bill now seeks to remove the reference to seditious publication and replace it with publication promoting sectarianism, which is an offence created in section 41 of the Penal Code Act.

The Committee observes that whereas the amendment proposed in clause 42, 43 and 44 are agreeable since they are giving effect to the decision of **Andrew Mujuni Mwenda and other Vs AG**, sections 39 and 40 of the Penal Code which were struck off the law book by court in the same decision are not removed as ought to have been done. The failure to remove those provisions misrepresents the status of the law book and allows the retention on the law book, of provisions that are redundant and which carry no legal effect.

On the proposed amendment to section 50 of the Penal Code Act, the Committee notes that section 50 of the Penal Code Act was declared unconstitutional by the Supreme Court **Constitutional Appeal No. 2 of 2002; Charles Onyango Obbo and Andrew Mujuni Mwenda Vs AG**.

Section 50 of the Penal Code provides that "Any person who publishes any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace commits a misdemeanor." The section also provides a defence to a charge of publishing false news if the accused proves that prior to publication, he or she took such measures to verify the accuracy of such statement, rumour or report as to lead him or her reasonably to believe that it was true."

In declaring Section 50 unconstitutional, court observed that criminalizing false news under Section 50 (1) of the Penal Code Act would not exist side by side with the rights of freedom of speech and expression, which includes freedom of the press and other media guaranteed by Article 29(1)(a) of the Constitution in a free and democratic society, because the strict enforcement of section 50 of the Penal Code Act would tantamount to taking away the rights guaranteed under Article 29(1)(a) of the Constitution.

In the same vein, court observed that the right to freedom of expression extends to holding, receiving and imparting all forms of opinions, ideas and information. It is not confined to categories, such as correct opinions, sound ideas or truthful information. Subject to the limitation under Article 43, a person's expression or statement is not precluded from the constitutional protection simply because it is thought by another or others to be false,

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erroneous, controversial or unpleasant. Everyone is free to express his or her views. Indeed, the protection is most relevant and required where a person's views are opposed or objected to by society or any part thereof, as "false" or "wrong"

In finding section 50 to contravene article 43 (2) (c), court observed that *protection of the fundamental human rights therefore, is a primary objective of every democratic constitution, and as such is an essential characteristic of democracy. In particular, protection of the right to freedom of expression is of great significance to democracy. It is the bedrock of democratic governance. Meaningful participation of the governed in their governance, which is the hallmark of democracy, is only assured through optimal exercise of the freedom of expression. This is as true in the new democracies as it is in the old ones.*

Turning to the gist of section 50, court noted that in order to establish the offence under section 50, the prosecution has to prove that the accused published the statement, rumour or report, the statement, rumour or report is false and the published statement, rumour or report is likely to cause fear and alarm to the public or to disturb the public peace. Court found that by the definition of the offence, liability for conviction, let alone for prosecution, does not depend on any actual occurrence of public fear or alarm or disturbance of public peace. Liability for prosecution depends on the state prosecutor's perception of the impact the expression is likely to have on the public; and liability for conviction depends on whether the court is persuaded to share the same perception.

On the proposal in the Bill, the Committee notes that whereas the provision removes the subjective test that had made section 50 inconsistent with the Constitution to now require the published statement, rumour or report to cause actual fear and alarm to the public or to disturb the public peace, the retention of the requirement as to the truthfulness of the statement makes the provision contravene the limitation imposed in article 43 since freedom of expression, as noted in the decision of **Charles Onyango Obbo and Andrew Mujuni Mwenda Vs AG**, is not concerned about correct opinions, sound ideas or truthful information.

The Committee also notes that the provision infringes Article 28 (12) on legality by retaining words that are incapable of exact definition. The provision uses the word "rumour" and to "alarm" in the offence, words that are not defined and are incapable of exact definition. Article 28 (12) requires that except for contempt of court, no person shall be convicted of a criminal offence unless the

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offence is defined and the penalty for it prescribed by law. Article 28 (12) therefore requires that the elements of the offence are clearly spelt out in order to assist a person temper his or her action in order not to be caught up by the provision. The word rumour or what amounts to be a rumour should be defined in order for the provision to be comply with the principal of legality enshrined in the constitution.

The Committee is also of the considered opinion that section 50 is redundant since the mischief it intends to cure can easily and effectively be dealt with under various provisions of the Penal Code including sections 83, 179, 180, 181 and 182, dealing with criminal defamation, libel and incitement to violence respectively. This makes the provisions of section 50 redundant.

On amendments to section 154 of the Penal Code Act, regard is had to the decision of court in **Law & Advocacy for Women in Uganda Vs AG Constitutional petition No. 13 of 2005** wherein section 154 of the Penal Code Act was challenged for infringing the standards of equality prescribed in the Constitution since the provision treated a married man differently from a married woman in the offence of adultery.

Section 154 provides that "any man who has sexual intercourse with any married woman not being his wife commits adultery and is liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding two hundred shillings; and, in addition, the court shall order any such man on first conviction to pay the aggrieved party compensation of six hundred shillings, and on a subsequent conviction compensation not exceeding twelve hundred shillings as may be so ordered.

The Section also provided that any married woman who has sexual intercourse with any man not being her husband commits adultery and is liable on first conviction to a caution by the court and on a subsequent conviction to imprisonment for a term not exceeding six months.

The Section provided different treatment to different persons depending on their marital status wherein, a married man commits no adultery with an unmarried woman yet a married woman commits adultery if she has sexual intercourse with with any man whether married or not. The Bill now proposes to remedy this by expanding the provisions of section 154 (1) to equally apply to both married persons so that any sexual intercourse between a married person with any other person not being his or her spouse results in criminal prosecution for the offence of adultery. The Committee notes that the penalties in section 154 are proposed for modification in schedule 3 of the Bill by

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increasing the fine from UGX 200 to UGX 480,000 on the first offence and for a subsequent offence to UGX 12,000,000. The Bill also proposes to increase the compensation awarded from UGX 600 shillings to UGX 6,000,000.

On this matter, the DPP proposed a total deletion of section 154 reasoning that there are practical challenges in both enforcement and prosecution of this offence. The DDP opined that the challenges in prosecuting this offence arise from the fact that this is an offence between two consenting adults and where one is charged, the best witness to testify in the case is the other party who, in most cases, does not cooperate with prosecution to incriminate the other party. The Committee agrees with the DPP on this matter and supports the decriminalization of the adultery so that it remains a ground for divorce as provided in the Divorce Act.

### **Recommendation**

***In light of the above, the Committee recommends as follows-***

- (a) Section 39 and 40 of the Penal Code Act be deleted in order to give full effect to the decision of Andrew Mujuni Mwenda & The Eastern African Media Institute (U) Ltd Vs. AG (Constitutional Petition No 12 of 2005);***
- (b) Section 50 of the Penal Code be deleted in order to comply with the decision of the Supreme Court in Constitutional Appeal No. 2 of 2002; Charles Onyango Obbo and Andrew Mujuni Mwenda Vs AG.***
- (c) New provisions deleting sections 161, 162, 163, and 164 of the Penal Code be introduced since those sections, which prohibit Gaming houses, betting, gaming machines, are superseded by section 26 of the Lotteries and Gaming Act, 2016 which allows the acts prescribed under those sections, upon obtaining a license.***
- (d) Sections 168 (l) (a), (c) and (d) be specifically repealed from the Penal Code Act in compliance with the decision in Francis Tumwesige Ateenyi Vs AG Constitutional Petition No. 36 of 2018 which declared sections 168 (l) (c) and (d) of the Penal Code Act as void for being inconsistent with the Constitution.***
- (e) Section 154 of the Penal Code Act be repealed.***

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*(3) Where a person who lodges a caveat or a petitioner for probate or letters of administration does not comply with the provisions of subsection (1) or (2), the caveat and the petition for probate or letters of administration shall lapse.*

*(4) Where a caveat lodged under subsection (2) lapses, the person who lodged the caveat shall not lodge another caveat in respect of the same estate."*

Section 255A requires a petitioner or a person who lodges a caveat to take steps within six months to remove the caveat or prove the objections contained in the caveat. Where this is not done, the provision requires that the caveat and the petition for probate or letters of administration shall lapse and it further bars a person to lodge another caveat in case the caveator did not take steps to prove the contents of a caveat.

This provision was introduced by the Committee from the submission of the Judiciary who noted that the provisions of section 253 to 255 of the Succession Act were in need of urgent amendment owing to the legal and practical challenges embedded in them. For instance, the Judiciary informed the Committee that sections 253 to 255 of the Succession Act are inadequate in dealing with the proceedings that arise after a caveat has been lodged. The lack of procedural guidance has impeded the quick disposal of succession disputes.

The Judiciary observed that whereas caveating affords an aggrieved person an avenue of settling matters that arise before the grant of probate or letters, these have been used frustrate the just and quick disposal of petitions for award of probate and letters since there are no time lines on the duration of a caveat as well as the procedure for disposing of such a caveat. The Judiciary also observed that section 255 creates implementation challenges since it bars any proceedings in the matter until after the caveator has been notified. The Judiciary noted that the biggest challenge with this is that court has given it differing interpretations, resulting in forum shopping by court users.

In addition to the above, the Committee observes that the provision makes it mandatory to give notification to the caveator before any proceedings can take place but does not prescribe the nature of notification. It is also redundant and makes the proceedings litigious and unnecessarily long in the sense that it requires the caveator to be

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served with notice compelling him/her to remove the caveat if he/she does not lift it on his/her own. When the notice expires before the caveator has removed the caveat, the applicant would then file a suit, serving the caveator with court process.

Indeed, the above interpretation has been recognised by court in various decisions, including the cases of **Namungo V Kiryankusa [1980] HCB 66 and Margret Kabahunguli V Eliazali Tibekinga & Another HCAC 08/95** where court held that before the suit is filed, the caveator must be served with notice of the intended suit to compel him/her to remove the caveat if he/she does not lift it on his/her own. The notice is served on the caveator/intended defendant, stating the matter in dispute and referring to the caveat. When the notice expires before the caveator has removed the caveat, the applicant would then file the suit becoming the plaintiff against the caveator who would become the defendant. The suit would then proceed as a normal suit as envisaged by section 265 of the Succession Act.

From the foregoing, the introduction of section 255A was a conscious decision of the Parliament and was intended to bring clarity to the proceedings arising after a caveat is lodged to ensure that caveat processes are not merely used to delay the grant of letters or probate which had been identified by the judiciary as one of leading causes of delays in probate and administration proceedings. Repealing that provision will result in delays that are currently occasioned in administration causes before courts of law.

*Revenue*  
The proposal to substitute section 265 of the Succession Act is redundant in light of the amendments made to section 255A of the Succession Act. Section 265 of the Succession Act deals with contentious matters and requires that in any case before the High Court in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit according to the provisions of the law relating to civil procedure.

The Bill seeks to replace that provision with the following provision-

*“265. Procedure in contentious cases*

*In any case before the High Court in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit according to the law relating to civil procedure, in which the petitioner for*

*probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared to oppose the grant shall be the Defendant."*

It should be noted that the above amendment had been proposed by Government during the amendment to the Succession Act and were rejected for two reasons. First, the proposal to have either person before court in a contentious case either be the petitioner or defendant causes practical challenges since the provision does not prescribe who will make this determination. The proposal presupposes a typical suit yet this is not the case. Usually, when a person registers a caveat against the grant of probate or administration, a person aggrieved may apply for the removal of the caveat. In dispensing with this application, Court may inquire into the contention, adopting the procedures laid out in the civil procedure laws and regulations.

The second reason concerned the amendments that were made to the Succession Act under section 255A which introduced a procedure for handling caveats which in most cases creates the contentious matters referred to in section 265. It should be noted that a matter becomes contentious in the High Court once a person appears to oppose the grant of probate or letters and files a caveat. The introduction of section 255A gave credence to the amendment that was made to section 265 since it deals with other contentious matters and in such a situation, the Civil Procedure Rules would apply to such matters by determining who becomes a petitioner or defendant and not the law.

### **Recommendation**

***In light of the above, the Committee recommends that-***

- (a) The amendment proposed to section 265 be rejected since it is redundant and does not introduce anything new to the Act.***
- (b) The deletion of section 255A be rejected with the justification that section 255A serves the purpose of guiding the disposal of caveats lodged in contentious matters; and***
- (c) The amendment proposed to section 50 (2) of the Act be adopted since it remedies a mistake inherent in the section.***

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## 6.10. Amendments to the Divorce Act

Clause 20 of the Bill seeks to amend sections 4, 5, 21, 22, 23, 24, 25 and 26 of the Divorce Act.

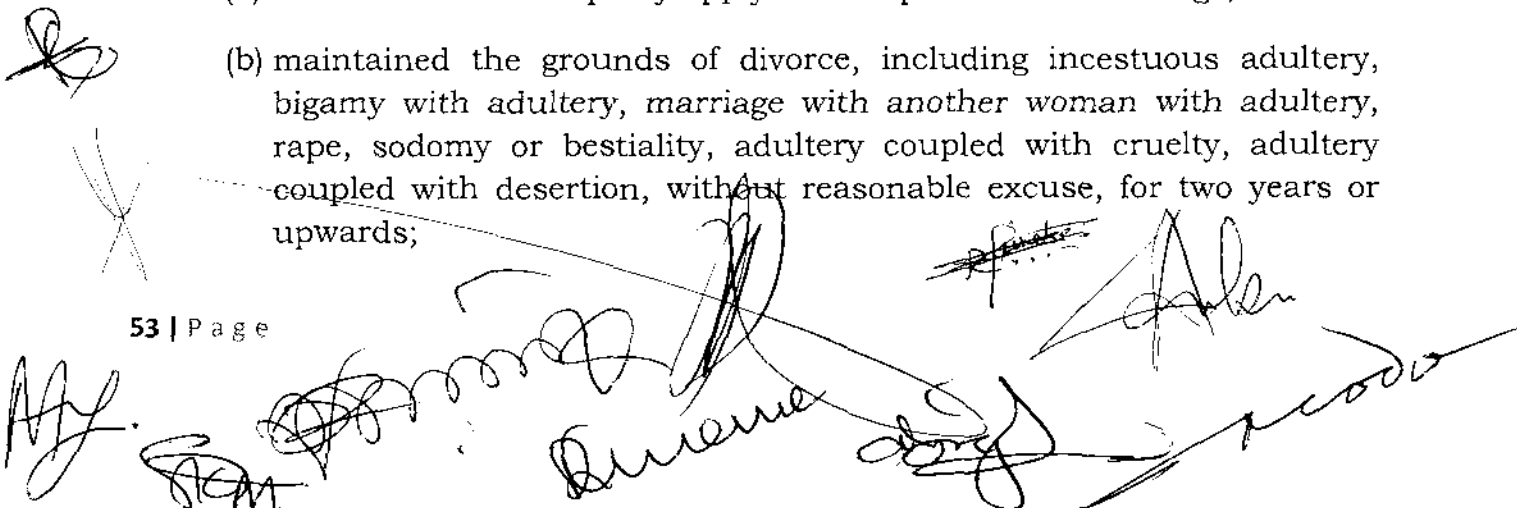
The amendments are intended to give effect to the decision of court in **Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General Constitutional Petition No 2/2003** wherein sections 4 (2), 5, 21, 22, 23 24, 25 and 26 of the Divorce Act were declared unconstitutional by Court for falling below the standards of equality required in Article 21 of the Constitution as well as infringing Article 31(1)(b) of the Constitution which provides that a man and a woman are entitled to equal rights in marriage, during marriage and at its dissolution.

Before the decision, in **Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General**, section 4 of the Divorce Act had prescribed different grounds for divorce for spouses in a marriage. While a man would merely prove adultery, the woman had to prove that her husband has changed his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman and has been guilty of incestuous adultery, bigamy with adultery, marriage with another woman with adultery, rape, sodomy or bestiality, adultery coupled with cruelty or adultery coupled with desertion, without reasonable excuse for two years or upwards.

The effect of the decision in **Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General** is that each of the grounds for divorce specified in the Divorce Act is available equally to both the husband and the wife as was found by court in **Dr. Specioza Wandira Kazibwe V Engineer Charles Nsubuga Kazibwe Divorce Cause No. 03/2003**. In that case, court held that both adultery and cruelty are distinctive grounds, each in its own right, upon any of which a *decree nisi* may issue. Courts may also look at the facts in totality to determine whether a marriage has irretrievably broken down.

The Bill now proposes in clause 16 to amend the Divorce Act as follows-

- (a) to make section 4 equally apply to both parties to a marriage;
- (b) maintained the grounds of divorce, including incestuous adultery, bigamy with adultery, marriage with another woman with adultery, rape, sodomy or bestiality, adultery coupled with cruelty, adultery coupled with desertion, without reasonable excuse, for two years or upwards;

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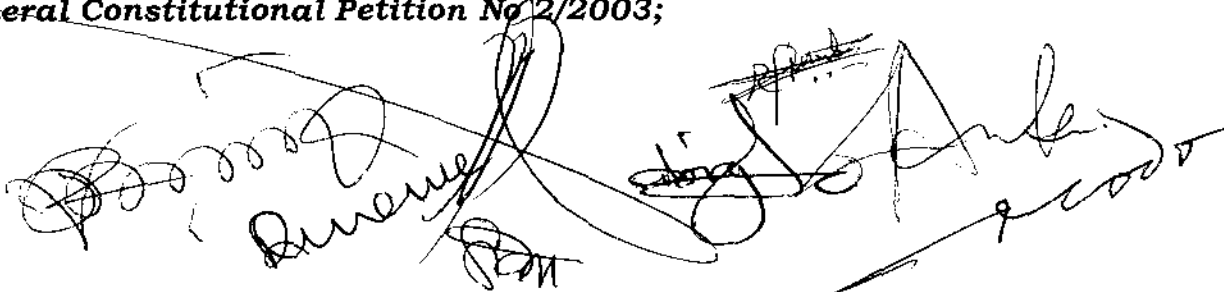
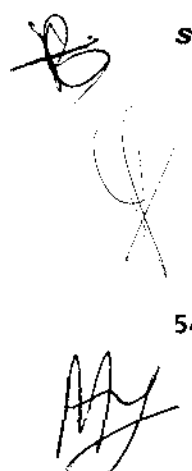
- (c) In section 21, the provision has been expanded to afford both parties a right to claim for damages from any person on grounds that the person committed adultery with the husband or wife;
- (d) in section 22, provision has been made for the payment of costs by a correspondent for adultery to a wife or husband as the case may be;
- (e) section 24 has been expanded to equally apply to both parties to provide permanent alimony to either the husband or wife as the case may be on a decree absolute declaring a marriage to be dissolved, or on a decree of judicial separation obtained by either party to a marriage;
- (f) Section 26 is proposed for deletion since it unjustly allowed the property of a wife who is adulterous to be settled for the benefit of the husband, or of the children of the marriage, or of both.

The Committee has examined the provisions above and is of the considered opinion that whereas these amendments go a long way in dealing with the **decision in Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General**, they do not entirely address some of the issues raised in other similar decisions. For instance, the Committee notes that the Bill continues the requirement for proof of one or more grounds for divorce a long side the ground of adultery contrary to the decision in **Dr. Specioza Wandira Kazibwe V Engineer Charles Nsubuga Kazibwe Divorce** wherein Court held that both adultery and cruelty are distinctive grounds, each in its own right, upon any of which a *decree nisi* may issue. The import of this decision is that grounds of divorce of adultery, desertion and others prescribed in section 4 (2) are independent of each other and need not be present alongside adultery for one to sustain a petition in divorce.

### **Recommendation**

**In light of the above, the Committee recommends that clause 20 of the Bill stands part of the Bill, albeit with amendment to the proposed section 4-**

- **To merge subsection (1) and (2) since they now apply to the same subject matter in compliance with the decision in Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General Constitutional Petition No 2/2003;**



- **To comply with the decision in *Dr. Specioza Wandira Kazibwe V Engineer Charles Nsubuga Kazibwe* where Court held that both grounds for divorce are distinctive grounds, each in its own right, upon any of which a decree nisi may issue.**

### **6.11. Amendment to the Administration of Parliament Act, Cap. 257**

Clause 21 of the Bill seeks to amend the Administration of Parliament Act, Cap 257 by inserting a new section relating to remuneration of members of Parliament. Clause 21 proposes to introduce a new provision in the Administration of Parliament Act on remuneration of Members of Parliament and proposes-

- Members of Parliament to be paid, in respect of their office as a member, or such other office which a person holds by virtue of being a member of Parliament, salary and gratuity as may be determined by Government
- In case of a Member of Parliament, be paid the salary differential if his or her salary earned as a member of the Uganda Peoples' Defence Forces is less than the salary of the member of Parliament or no salary at all if he or she earns a salary in the Uganda Peoples' Defence Forces equal to or more than the salary specified for a Member of Parliament;
- Members of Parliament to be paid gratuity at the end of each period of 12 months of service in office or upon death.

The law relating to the emoluments and benefits of Members of Parliament, the Speaker and Deputy Speaker of Parliament include the Constitution of the Republic of Uganda, 1995, the Parliament (Remuneration of Members) Act Cap 259 and the Administration of Parliament Act Cap 257.

Article 82 of the Constitution creates the office of Speaker and Deputy Speaker of Parliament and grants, in clause 8, the Speaker and Deputy such salaries, allowances and gratuities as may be prescribed by Parliament. On the other hand, Article 85 of the Constitution requires a Member of Parliament to be paid such emoluments and such gratuity and shall be provided with such facilities as may be determined by Parliament. Sections 1 and 2 of the Parliament (Remuneration of Members) Act grants Members of Parliament and the Speaker the salary and gratuity specified in the Schedule to the Act. Section 5 of the same Act allows Parliament, by resolution, to amend the Schedule to the Act.

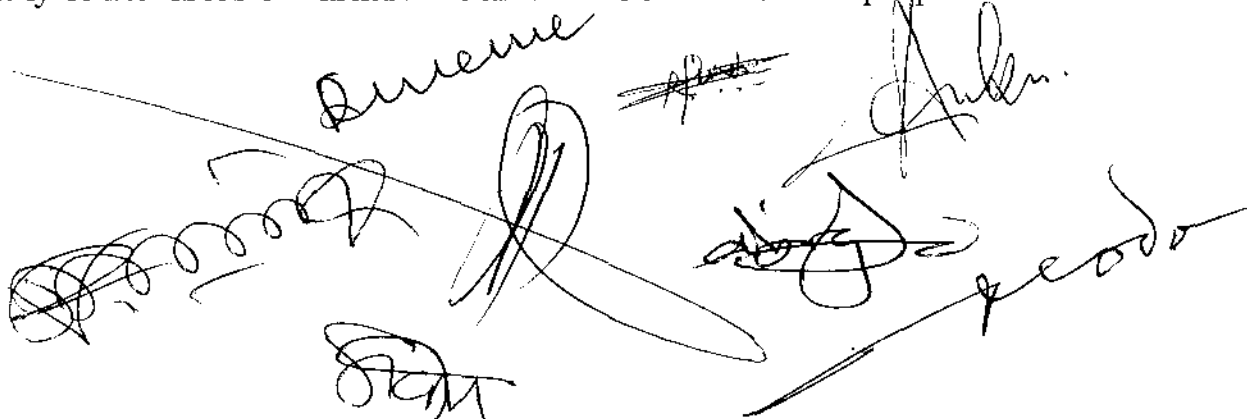
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It should be noted that the legality of the provisions of the Parliament (Remuneration of Members) Act were affected by the decision of court in **Mwesigye Wilson Vs Attorney General and the Parliamentary Commission Constitutional Petition No. 3 of 2011** wherein court found that section 5 of the Parliament (Remuneration of Members) Act Cap 259 is unconstitutional for contravening Articles 93, 99, 113 and 117 of the Constitution.

The Committee agrees with the amendment of the Administration of Parliament Act to introduce provisions relating to Members' emoluments that were contained in the Parliament (Remuneration of Members) Act. However, the Committee finds the proposal in the Bill empowering Government to determine emoluments of Members of Parliament to contravene the following provisions-

- (a) Article 82 (8) of the Constitution provides that; the Speaker and Deputy Speaker shall receive such salaries, allowances and gratuities as may be prescribed by Parliament.
- (b) Under article 85 (1) of the Constitution, a Member of Parliament shall be paid such emoluments, such gratuity and pension, and shall be provided with such facilities as may be determined by Parliament.
- (c) Article 87A creates the Parliamentary Commission with the mandate to determine the emoluments and benefits of the Speaker and Members of Parliament.
- (d) Under section 6 (g) of the Administration of Parliament Act, the Parliamentary Commission makes recommendations to Parliament and with the approval of Parliament, determines the allowances payable and privileges available to the Speaker, Deputy Speaker and members of Parliament.
- (e) Sections 1 and 2 of the Parliament (Remuneration of Members) Act grants the Speaker and members of Parliament, salary and gratuity specified in the Schedule to the Act.

On the basis of the above provisions, it is clear that subsection (1) of the proposed section 32A which seeks to mandate Government to determine the salary and gratuity of members of Parliament conflicts with Articles 82 and 85 of the Constitution and with section 6 of the Administration of Parliament Act. Parliament is the only constitutionally mandated body to determine the salary and gratuity of members of Parliament and not Government as proposed in the Bill.



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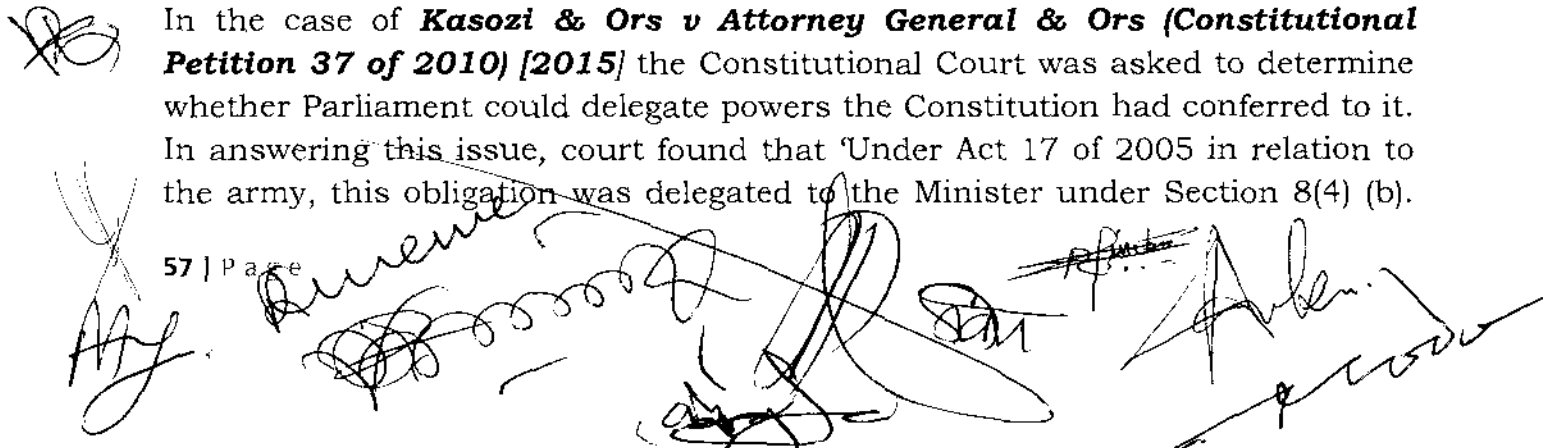


The Committee also observes that whereas the provision in the bill seeks to give effect to the decision in **Parliamentary Commission v Mwesigye Wilson Supreme Court Constitutional Appeal No. 8 of 2016**, the amendment is based on misapplication of the decision of court. The Court was concerned with the process of determining the emoluments of members of Parliament and not the competent authority to determine such emoluments. The Court referred to the holding of the Constitutional Court and held that-

***“The resolution for increase of emoluments must be moved on behalf of government since it would create a charge on the Consolidated Fund”. Indeed, court was of the view that; “...the provision under Article 93 of the Constitution is more about the entry point when a motion, a bill or amendment that has the effect of an increase of the charge on the Consolidated Fund must be introduced on behalf of Government and not Parliament. Thereafter the rest of the appropriation process under Articles 152 to 156 comes into play. It must pass through article 93. It is evident that if section 5 of the Act is left on our statute books, it is bound to be used by Parliament to violate the Constitution. The idea is that the appellant should not increase the emolument of members of Parliament in disregard of the mandatory requirement under article 93 because of Articles 82 and 85 of the Constitution together with the impugned section 5 of the Act...”***

Therefore, the proposals contained in the Bill go beyond the determination of Court in **Parliamentary Commission v Mwesigye Wilson** case. The proposed remuneration of Members and particularly the proposal to have Government determine the remuneration is unconstitutional; it is an affront on the doctrine of separation of powers and will erode the independence of Parliament if adopted. (See also **Krispus Ayena Odongo v Attorney General and Parliamentary Commission Constitutional Petition No. 30 of 2017**).

The Committee further finds that since the power to determine the emoluments of a Member of Parliament is delegated by the Constitution to Parliament, Parliament cannot delegate these powers to any other person as attempted in this Bill. Any attempt to do so has been found by Court to be unconstitutional. In the case of **Kasozi & Ors v Attorney General & Ors (Constitutional Petition 37 of 2010) [2015]** the Constitutional Court was asked to determine whether Parliament could delegate powers the Constitution had conferred to it. In answering this issue, court found that ‘Under Act 17 of 2005 in relation to the army, this obligation was delegated to the Minister under Section 8(4) (b).

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Did Parliament have the authority to delegate what had been delegated to it? We agree with the petitioners that Parliament did not have this authority. Its duty under the Constitution was to enact the relevant law that would provide the procedure of election of the representatives of the army. In constitutional and administrative law, it is a generally accepted principle of interpretation that one cannot delegate a duty that was cast upon one to perform. This is what is often referred to as the principle of ***delegata potestas non potest delegari*** (Latin) meaning no delegated powers can be further delegated.” The principle in that case is that Parliament cannot delegate functions, like in this case, where the Constitution has granted it specific functions.

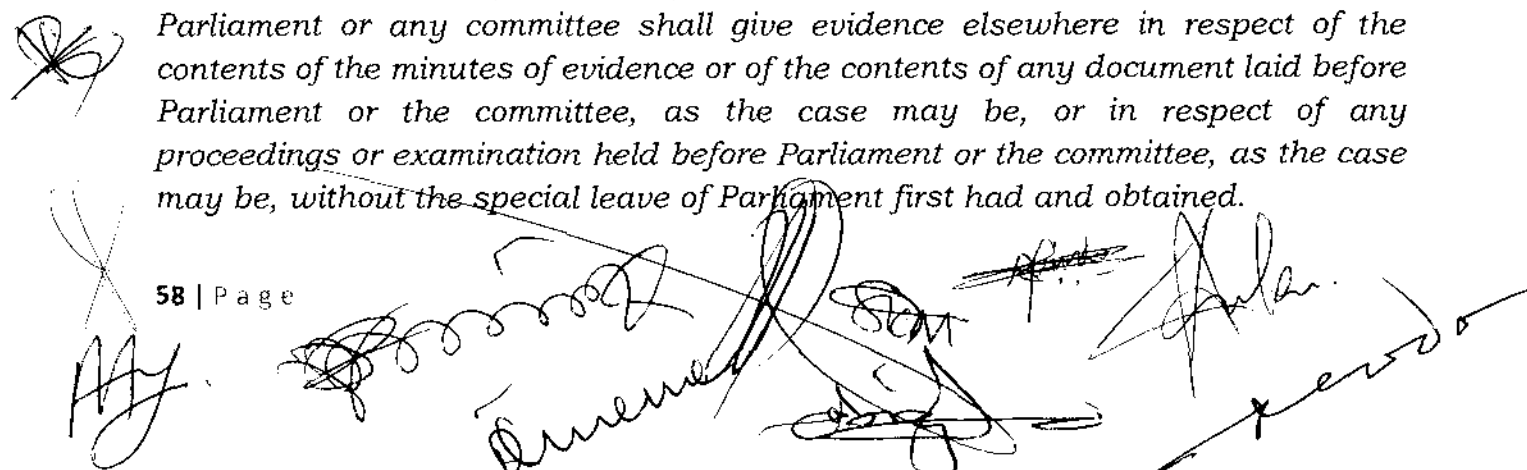
### **Recommendation**

***In light of the above, the Committee recommends that clause 21 is amended in the proposed section 32A by restoring the duty to determine Member’s emoluments in Parliament in compliance with Article 85 of the Constitution, section 6 of the Administration of Parliament Act, Cap 257.***

### **6.12. Access to documents before Parliament and its committees**

Clause 22 of the Bill proposes to amend the Parliament (Powers and Privileges) Act by substituting section 14 with a provision that allows a member or officer of Parliament and a person employed to take minutes of evidence before Parliament or any committee of Parliament to, in accordance with the Access to Information Act, give evidence elsewhere in respect of any contents of the minutes of evidence or of any document laid before Parliament or a committee of Parliament, as the case may be, or in respect of any proceedings or examination held before Parliament or a committee of Parliament, without the special leave of Parliament first had and obtained.

Section 14 which relates to ***Evidence of proceedings in Parliament or committee provides that except as provided in this Act, no member or officer of Parliament and no person employed to take minutes of evidence before Parliament or any committee shall give evidence elsewhere in respect of the contents of the minutes of evidence or of the contents of any document laid before Parliament or the committee, as the case may be, or in respect of any proceedings or examination held before Parliament or the committee, as the case may be, without the special leave of Parliament first had and obtained.***

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*The provision also requires the special leave referred to be given during a recess or adjournment by the Speaker or, in his or her absence or other incapacity or during any dissolution of Parliament, by the Clerk.”*

The amendments proposed to section 14 is therefore intended to give effect to the decision of Court in **Zachary Olum and Anor v Attorney General (Constitutional Petition 6 of 1999)** which found that special leave of Parliament was not required to access documents before Parliament.

Whereas the amendment proposed to section 14 is noble, it is redundant in light of the Access to Information Act, the Rules of Procedure of Parliament and wrongly assumes that the rules dealing with access to documents before Parliament are the same as those that apply to access to documents before Committees of Parliament.

It is important to note that Article 41 of the 1995 Constitution of the Republic of Uganda provides for the right of every citizen to access information in the possession of the state or any other agency of the state which includes Parliament. The right to access to information has henceforth been operationalised under the Access to Information Act, 2005, an Act that applies to all Government Ministries, Departments, Agencies, including applying to different arms of Government.

Section 5 of the Access to information Act, 2005, guarantees a citizen’s right to access information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

Section 4 of the Access to Information Act defines the term “record” to mean “any recorded information, in any format, including an electronic format in the possession and control of a public body, whether or not that body created it.”

It is now settled by court, in various decisions, including in **Attorney General v. David Tinyefuza, Constitutional Appeal No.1 of 1997** followed in **Spear Motors Ltd Vs. AG and 2 others, HCCS NO. 06920F 2007** that records, including Hansards of Parliament, Parliamentary recordings, Parliamentary reports and other such documents can be accessed by any interested person within the ambits of the Access to Information Act since they are public records.

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From the reading of section 4 and 5 of the Access to information Act and the relevant jurisprudence on the subject matter, the Committee can infer that a document becomes accessible if the document is in possession and control of Parliament and the document has formed part of the record of Parliament. A document forms part of the record of Parliament when it is laid in Parliament.

Unlike documents laid in Parliament which automatically become public documents upon laying on table in Parliament and from that point are accessible, documents laid in Committees of Parliament do not automatically become accessible upon laying. These become accessible only in a few circumstances, namely-

- (a) Upon being laid in Parliament, thereby becoming part of the record of the House as required in Rule 216 and 219 of Procedure of Parliament;
- (b) Under Rule 215 by the person who laid it in the Committee, upon approval of the Committee;
- (c) Under Rule 216 (2) to a Member of Parliament; and
- (d) Under Rule 211 (2), by a witness who has given evidence in the Committee by way of enabling such a witness to suggest corrections to his or her evidence due to inaccurate reporting.

Rule 216 bars the access to information before Committees of Parliament and it provides that

*“(1) A Committee shall have power to authorise the Clerk to Parliament to supply a copy of its report to an officer of a Government department, to a witness who has given evidence to a Committee, or to its Sub-committee as the Committee considers appropriate, to lobby journalists and to other representatives as the Committee deems fit, after the report has been laid on Table, **but before then, a Member or any other person shall not publish such report. (Emphasis mine)***

***(2) Evidence or a document received by a Committee shall not be published or otherwise disclosed to any person other than a Member of Parliament, until the report of the Committee is presented to the House.”***

Rule 216 is based on the fact that such evidence before Parliamentary Committees is not public and cannot therefore be accessed since they have not become part of the record of the Parliament. These documents become part of record of the House once they are laid in Parliament, accompanying the report of the Committee and minutes of its proceedings under Rule 219 of the Rules

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of Procedure of Parliament. The proposal to grant access to the documents in the custody of Parliamentary Committees will result in the access to documents that are not yet part of the record of Parliament and might interfere in the conduct of Committee work and specifically contravene the above stated Rules of Procedure of Parliament.

Furthermore, clause 22 erroneously assumes that all officers of Parliament are competent to give evidence in courts of law in relation to documents laid before Parliament or its Committee yet this is not true.

Section 2 of the Access to Information Act designates every Chief Executive Officer of a public body as an Information Officer responsible for granting access to information covered by the Act. In the case of Parliament, the information officer is the Clerk to Parliament. In the same vein, Rule 227 (1) (b) of the Rules of Procedure designates the Clerk to Parliament as the custodian of all records and other documents belonging or presented to Parliament. This therefore means that the Clerk to Parliament is the only competent person to give evidence in relation to documents he or she has custody. Except where an officer of Parliament has been authorised by the Clerk, such officer has no right to give evidence in relation to any document in the custody of the Clerk and doing so, might fall under the prohibition of hearsay evidence under the Evidence Act.

In light of the above, the Committee is of the considered opinion that the amendments proposed in clause 22 to the Parliament (Powers and Privileges) Act are redundant in light of sections 4 and 5 of the Access to information and Rules 211, 215, 216 and 219 of the Rules of Procedure of Parliament.

### **Recommendation**

***In light of the above, the Committee finds no legislative value in the amendments proposed to clause 22 and recommends its deletion.***

***Furthermore, the Committee recommends that in order to give full effect to the decision in Zachary Olum and Anor v Attorney General (Constitutional Petition 6 of 1999), Section 14 of the Parliament (Powers and Privileges) Act be deleted since it is redundant and of no legal effect.***

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**6.13. None inclusion of provisions declared unconstitutional by court in other laws**

Whereas the object of the Bill is to amend various laws to, among others, give effect to various decisions of court pertaining to those acts, the Bill excludes from amendment, provisions which Courts have found to be unconstitutional.

For instance, in **Andrew Mujuni Mwenda & The Eastern African Media Institute (U) Ltd Vs. AG (Constitutional Petition No 12 of 2005)**, court declared section 39 and 40 of the Penal Code Act unconstitutional since they contravened the provisions of Articles 29(1) (a) and 43(2) (c) of the Constitution. The finding of the Supreme Court had the effect of striking those provisions off the law book in Uganda, making the provision have no legal effect in Uganda.

**In Constitutional Petition No.09 of 2005: Muwanga Kivumbi Vs AG**, Court declared section 32(2) of the Police Act unconstitutional while court in **Human Rights Network and 4 others v AG, Constitutional Petition no. 56 OF 2013** declared S. 8 of the Public Order Management Act unconstitutional.

*Court in Olara Otunnu Vs AG (Constitutional Petition No 12 of 2010) found section 27A (2) and (3) to be unconstitutional for infringing article 28 (12) of the Constitution.*

Furthermore, in **Constitutional petition No. 13 of 2014, Centre for Domestic Violence Prevention & 8 ors -VS- AG**, declared Sections 2, 11, 13, and 15 of the Anti-Pornography Act, which defined and created the offence of pornography unconstitutional.

The above decisions made sections 39, 40 and 50 of the Penal Code Act, section 8 of the Public Order Management Act and section 32 and 27A (2) and (3) of the Police Act unconstitutional and of no legal effect. It therefore goes without mention that, since these provisions are have no legal effect, they must be removed from the law book of Uganda through amendment. Their retention on the law book, yet they have no legal effect makes no sense and needs to be rethought.

The Committee is aware that Hon. Hajj Asuman Basalirwa sought and was granted leave to introduce a similar Bill to remove those provisions from the law book that were declared unconstitutional. Hon. Hajj Asuman Basalirwa submitted the contents of his Bill to the Law Reform Commission and the Attorney General who, in their response conceded to the inclusion of those

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amendments proposed by Hon. Hajj Asuman Basalirwa save for those amendments that are beyond the scope of the Bill, being law revision.

The Attorney General, in rejecting the proposals by Hon. Hajj Asuman Basalirwa, specifically the proposal to repeal the Nakivubo War Memorial Stadium Trust Act and section 161 creating the offence of idle and disorderly, reasoned that a law revision exercise is intended to clean up the laws in order to provide an up-to-date Statute Book. Law revision is not intended to change the substance of the law as proposed in the above-mentioned proposals by Hon. Hajj Asuman Basalirwa. The AG opined that some of the proposals made by members to the Bill require reform of the law as opposed to a revision exercise. For example, the amendments proposed to the Nakivubo War Memorial Stadium Trust Act, Cap. 47 require reform of that Act and Government will introduce a substantive amendment if necessary.

### **Recommendation**

***In light of the above, the committee recommends that the Law Revision (Miscellaneous Amendments) Bill, 2022 be amended to give effect to the following decisions of court-***


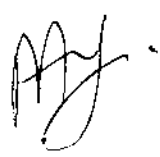
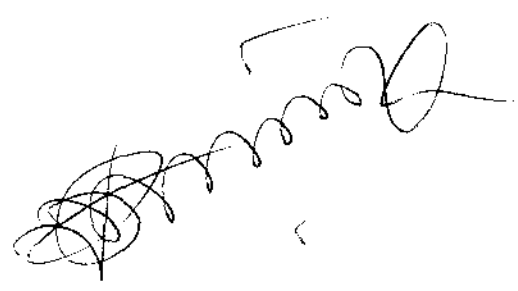


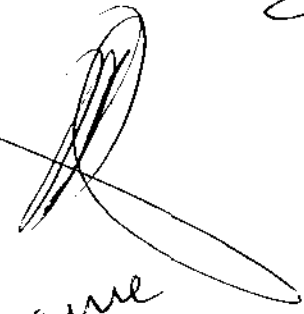
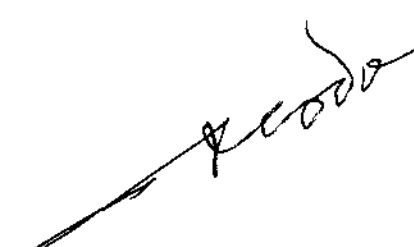
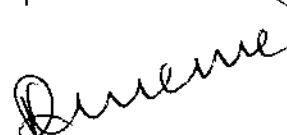
- (a) Andrew Mujuni Mwenda & The Eastern African Media Institute (U) Ltd Vs. AG (Constitutional Petition No 12 of 2005), which declared section 39 and 40 of the Penal Code Act unconstitutional;***
- (b) Constitutional Petition No. 09 of 2005, Muwanga Kivumbi Vs Attorney General, which declared section 32(2) of the Police Act unconstitutional;***
- (c) Human Rights Network and four others v Attorney General, Constitutional Petition no. 56 OF 2013 which declared section 8 of the Public Order Management Act unconstitutional;***
- (d) Olara Otunnu Vs AG, Constitutional Petition No 12 of 2010 which found section 27A (2) and (3) of the Police Act to be unconstitutional for infringing article 28 (12) of the Constitution.***
- (e) Francis Tumwesige Ateenyi Vs AG Constitutional Petition No. 36 of 2018 which declared sections 168 (l) (c) and (d) of the Penal Code Act as void for being inconsistent with the Constitution.***

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**(f) Constitutional petition No. 13 of 2014, Centre for Domestic Violence Prevention & 8 Ors -VS- AG, which declared unconstitutional, provisions that defined and created the offence of pornography.**




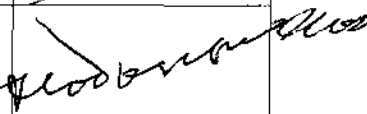
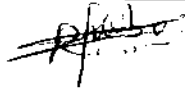
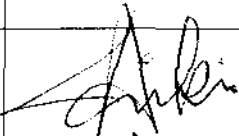
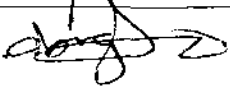
**CONCLUSION**

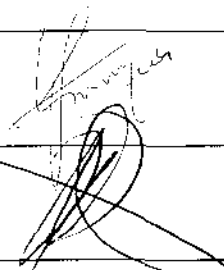
The Committee proposes that the Bill be passed subject to the proposed amendments attached to this report.

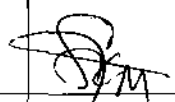
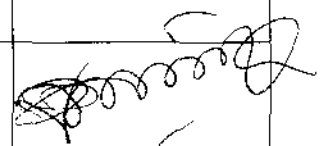
  
  
  
  




**SIGNATURES OF MEMBERS ENDORSING THE REPORT OF THE  
SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON  
THE LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL, 2022**

No.	Name	Constituency	Party	Signature
1.	Hon. Rwakoojo Robina Gureme - Chairperson	Gomba West County	NRM	
2.	Hon. Mutembuli Yusuf - Deputy Chairperson	Bunyole East	NRM	
3.	Hon. Okiror Bosco	Usuk County	NRM	
4.	Hon. Nkwasiibwe Zinkuratre Henry	Ruhaama County	NRM	
5.	Hon. Odoi Benard	Youth Eastern	NRM	
6.	Hon. Fox Odoi Oywelowo	West Budma North East	NRM	
7.	Hon. Oseku Richard Oriebo	Kibale County	NRM	
8.	Hon. Baka Stephen Mugabi	Bukooli County North	NRM	
9.	Hon. Cherukut Emma Rose	DWR Kween	NRM	
10.	Hon. Kajwengye Twinomugisha Wilson	Nyabushozi County	NRM	
11.	Hon. Okia Joanne Aniku	DWR Madi Okollo	NRM	
12.	Hon. Obigah Rose	DWR Terego	NRM	
13.	Hon. Achayo Lodou	Ngora County	NRM	

14.	Hon. Kasaija Stephen	Burahya County	NRM	
15.	Hon. Teira John	Bugabula North County	NRM	
16.	Hon. Silwany Solomon	Bukhooli Central	NRM	
17.	Hon. Ssekikubo Theodore	Lwemiyaga County	NRM	
18.	Hon. Kwizera Paul	Kisoro Municipality	NRM	
19.	Hon. Werikhe Christopher	Bubulo West	NRM	
20.	Hon. Malende Shamim	DWR Kampala	NUP	
21.	Hon. Lubega Medard Sseggon	Busiro East	NUP	
22.	Hon Ssekitoleko Robert	Bamunanika County	NUP	
23.	Hon. Ssemujju Ibrahim	Kira Municipality	FDC	
24.	Hon. Adeke Anna Ebaju	DWR Soroti	FDC	
25.	Hon. Lt. Gen. Mugira James	UPDF Representative	N/A	
26.	Hon. Asuman Basalirwa	Bugiri Municipality	JEEMA	
27.	Hon. Alum Santa Sandra Ogwang	DWR Oyam	UPC	

28.	Hon. Musherure Shartsi Nayebare Kutesa	Mawogola North County	INDP.	
29.	Hon. Katuntu Abdu	Bugweri county	INDP.	
30.	Hon. Niwagaba Wilfred	Ndorwa County	INDP.	
31.	Hon. Acrobert Kiiza Moses	Bughendera County	INDP.	

**PROPOSED AMENDMENTS TO THE LAW REVISION (MISCELLANEOUS AMENDMENTS) BILL, 2022**

**CLAUSE 5: CONVERSION OF FINANCIAL AMOUNTS, NOT BEING CRIMINAL PENALTIES, FROM CURRENCY POINTS TO SHILLINGS**

Delete clause 5.

**Justification**

- *Clause 5 and Schedule 5 propose to convert financial amounts not being fines in specific legislation from currency points to Uganda Shillings contrary to section 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act. This will expose the financial amounts expressed in Uganda shillings to inflation since the Uganda shillings faces inflationary pressures which erodes the value of financial amounts yet if the same financial amounts are expressed in currency points, they are shielded from inflation since the value of a currency point is known and is constant.*
- *Clause 5 and schedule 5 reverses a policy of Government to express all fines and financial amounts in all legislations in Uganda in currency points.*

**CLAUSE 9: AMENDMENT OF THE INTERPRETATION ACT, CAP 3**

Clause 9 of the Bill is amended by inserting after paragraph (a), the following—

“Section 44A. Statutory Instrument may prescribe fees, charges and fines in convertible currency

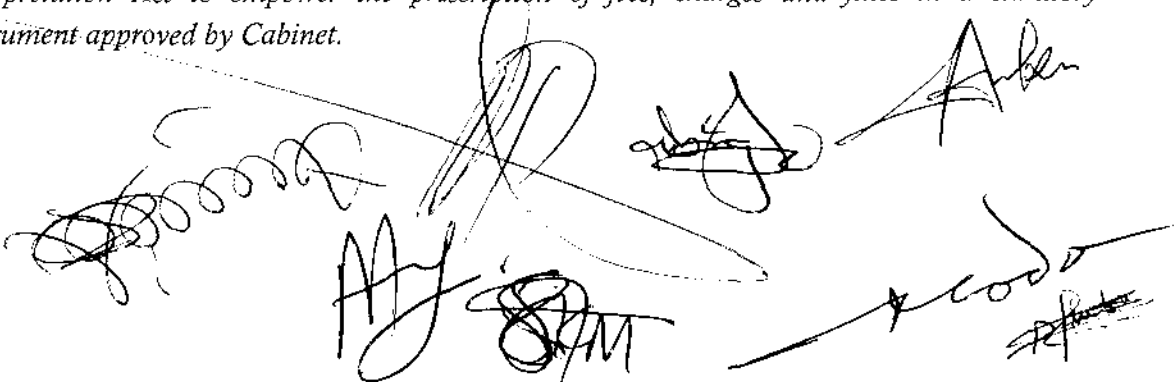
A statutory instrument, approved by the Cabinet, may prescribe fees, charges and fines in convertible currency.”

**Justification**

- *The proposed section is currently section 1 of the Finance Act, 1987, Cap. 175. The Finance Act, 1987 which contains only this provision is to be removed from the Statute Book under Schedule 1 paragraph 28 and this will create a lacuna in law if not included in the Interpretation Act to empower the prescription of fees, charges and fines in a statutory instrument approved by Cabinet.*



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**CLAUSE 10: AMENDMENT OF THE EVIDENCE ACT, CAP. 6**

Clause 10 of the Bill is amended by-

- (a) Inserting immediately after the word "amended", the words "in section 122";
- (b) Inserting immediately after the word "as", the word "subsection"; and
- (c) Substituting for the proposed subsection (2), the following-

"(2) Notwithstanding subsection (1), the officer shall, in accordance with the requirements of the Access to Information Act, permit a person to give evidence derived from unpublished official records relating to any affairs of State."

**Justification**

- *For clarity, to specify which section of the Evidence Act is amended and in the proposed subsection (2), for better drafting.*

**CLAUSE 11: AMENDMENT OF THE MAGISTRATES COURTS ACT, CAP. 16**

Clause 11 of the Bill is amended by inserting immediately after paragraph (b), the following-

- "(c) in section 195, by repealing subsections (2) and (4);
- (d) in section 204, by repealing subsection (4);
- (e) in the third schedule, by repealing paragraph 31 (8);"

**Justification**

- *The amendment proposed to section 195 (2) and (4) is to remove a restriction on the quantum of costs that may be awarded in order to ensure that costs are determined on cases by case basis, to recognise a practice of court on award of costs and allowing appeals to the High Court against any award of costs and to harmonise the section with schedule 6 of the Bill.*
- *The amendment in section 204 (4) is intended to recognise a practice of court which allows appeals in cases where a court presided over by a chief magistrate or a magistrate grade I has passed any sentence of imprisonment or a fine.*
- *The repeal of paragraph 31 (8) is intended to recognise a practice of court in approving execution of court awards.*
- *Consequential amendment arising from amendment of schedule 6 of the Bill.*

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**CLAUSE 12: AMENDMENT OF THE TRIAL ON INDICTMENTS ACT, CAP. 23**

Clause 12 is substituted for the following-

**"12. Amendment of the Trial on Indictments Act, Cap. 23**

The Trial on Indictments Act is amended-

- (a) in section 16 by-
  - (i) replacing "four hundred and eighty days" appearing in paragraph (a), with "one hundred and eighty days";
  - (ii) replacing "two hundred and forty days" appearing in paragraph (b), with "sixty days";
- (b) in section 125, by repealing subsection (2);
- (c) in the schedule, by repealing paragraph 9 (1);"

**Justification**

- *To harmonise the provision with amendments in the 6<sup>th</sup> schedule to the Bill*
- *To recognise a practice of court relating to the quantum of costs that may be awarded by a High Court and the punishment for persons summoned as assessors for none attendance.*

**CLAUSE 14: AMENDMENT OF PENAL CODE ACT CAP. 120**

Clause 14 of the Bill is amended-

- (a) by inserting immediately before paragraph (a), the following-  
"by repealing sections 39, 40, 161, 162, 163, 164, 168 (l) (c) and (d),"
- (b) by substituting for paragraph (c), the following-  
"(c) by repealing section 50"
- (c) by repealing section 154.

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## Justification

- To give effect to the decision of *Andrew Mujuni Mwenda & The Eastern African Media Institute (U) Ltd Vs. AG (Constitutional Petition No 12 of 2005)*, court declared section 39, 40 of the Penal Code Act unconstitutional since they contravened the provisions of Articles 29(1) (a) and 43(2) (c) of the Constitution.
- Sections 161, 162, 163, and 164 which prohibit Gaming houses, betting, gaming machines are affected by section 26 of the Lotteries and Gaming Act, 2016 which allows the acts prescribed under those sections, upon obtaining a license.
- The repeal of section 50 is to comply with the decision of the Supreme Court in *Constitutional Appeal No. 2 of 2002; Charles Onyango Obbo and Andrew Mujuni Mwenda Vs AG* wherein court found the restrictions on freedom of speech in section 50 go beyond what is justifiable in a free and democratic society or what is provided for in the Constitution and therefore, contravened article 43 (2) (c). The amendment proposed in the Bill continues the use of the words and phrases such as "rumour" which are incapable of exact definition, thereby contravening the principle of legality as expressed in article 28 (12) of the Constitution. The amendments proposed to section 50 are redundant since the mischief intended to be cured in section 50 can effectively be managed under various other provisions including sections 83, 179, 180, 181 and 182 dealing with criminal defamation, libel and incitement to violence under the Penal Code Act.
- To remove sections 168 (l) (a), (c) and (d) which were affected by the decision in *Francis Tumwesige Ateenyi Vs AG (Constitutional Petition No. 36 of 2018)* which declared sections 168 (l) (c) and (d) of the Penal Code Act as void for being inconsistent with the Constitution.
- The repeal of section 154 of the Act is a recommendation of the DPP who pointed at the practical challenges in prosecuting this offence.

## INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 14


The Bill is amended by inserting immediately after clause 14, the following-

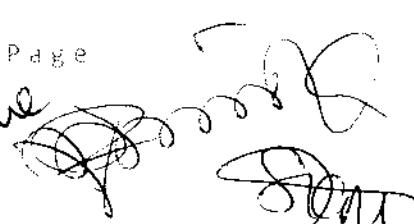
**"Amendment of the Administration of Estates (Small Estates) (Special Provisions) Act Cap 156**


The Administration of Estates (Small Estates) (Special Provisions) Act is amended by repealing section 7 (2)."

## Justification

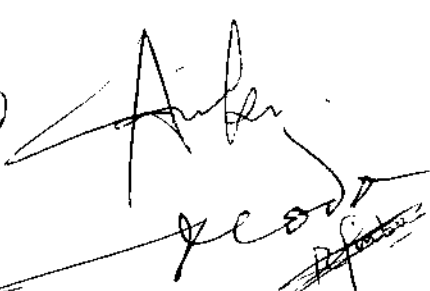
- The repeal is a consequential amendment arising from amendments to schedule 6 of the Bill.
- To remove a provision that is redundant.

  
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**CLAUSE 15: AMENDMENT TO THE SUCCESSION ACT, CAP. 162**

Clause 15 is amended by deleting paragraphs (b) and (c).

**Justification**

- *The proposal to delete section 255A from the Succession Act will create a legal vacuum on how to treat caveats lodged against a grant of probate or letters. Section 255A clarifies on the proceedings that accrue after a caveat is lodged against the grant of letters or probate and brings finality to caveat proceedings by requiring the caveat to lapse after six months from the date of lodging of the caveat unless proceedings are taken, by the petitioner for probate or letters or the caveator to remove the caveat or prove the objections in the caveat. Without this process in section 255A delay will be occasioned in processing letters and probate since the caveator is not required to prove the grounds in the caveat.*
- *The proposal in section 265 where either person before court in a contentious case can either be the petitioner or defendant is based on a wrong assumption that in all contentious cases, a petitioner for letters or probate is the petitioner while the caveator is the defendant yet this not the case. In some instances, the caveator can be the petitioner by taking out process to confirm his or her objection and in that case, the petitioner for letters or probate becomes the defendant. This was recognised section 255A which allows either the caveator or the petitioner for probate or letters to apply to prove the caveat or remove the caveat as the case may be.*

**CLAUSE 16: AMENDMENT OF THE FISH ACT, CAP. 197**

For clause 16, there is substituted the following-

**“Clause 16. Amendment of the Fisheries and Aquaculture Act, 2023**

The Fisheries and Aquaculture Act, 2023 is amended by inserting immediately after section 79 the following—

**“79A. Imposition of fish levy.**

- (1) A fish levy is imposed on fish exports originating from or caught in the fishing waters of Uganda.
- (2) The fish levy shall be payable at the following rates—
  - (a) large fish species (fresh, salted or smoked) at USD 05 cents per kilogram Free On Board (F.O.B);
  - (b) fish bladder (maws) at eight percent of the total value;

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- (c) small pelagic (Mukene, Mmeziri, Ragoge and Nkejje) at USD 02 cents per kilogram for export;
- (d) industrial by-products (fish frames, fat, skin, fish off cuts and fish oil) at USD 02 cents per kilogramme for export.

(3) The levy shall be paid by the exporter to the Uganda Revenue Authority at the time of export out of Uganda.”

**Justification**

- *The Fish Act has been repealed by the Fisheries and Aquaculture Act, 2023, making the insertion of the provisions on Fish levy in the Fish Act legally impossible.*

**CLAUSE 19: AMENDMENT OF THE REGISTRATION OF TITLES ACT, CAP 230**

Clause 19 of the Bill is amended by inserting immediately after paragraph (b), the following-

**“36. Amendment to the Registration of Titles Act, Cap. 230**

The Registration of Titles Act is amended in the Twenty-second Schedule by inserting immediately after paragraph 3 (e) the following paragraphs-

(f) On registration fees in respect of transfer of land	30000
(g) On Consent to transfer land	20.000
(h) On application for extension of lease	20.000
(i) On registration of Court Order	20.000
(j) On registration fees for a mortgage	40.000
(k) On Certification of a Mortgage	4.000”

**Justification**

*This is a consequential amendment arising from the repeal of the Finance Act, 2013 under schedule item 45.*

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**CLAUSE 20: AMENDMENT OF THE DIVORCE ACT, CAP. 249**

Clause 20 is amended by substituting for paragraph (a), the following-

“(a) in section 4,

(i) by substituting for subsection (1) the following-

**“4. Grounds for divorce**

A husband or wife may apply by petition to the court for the dissolution of the marriage on the ground that since the solemnisation of the marriage his wife or her husband—

- (a) has been guilty of adultery;
- (b) has changed his or her profession of Christianity for the profession of some other religion, and gone through a form of marriage with another man or woman;
- (c) has been guilty of bigamy;
- (d) has been guilty of rape, sodomy or bestiality;
- (e) has been guilty of cruelty; or
- (f) has been guilty of desertion, without reasonable excuse, for two years or upwards.”

(ii) by repealing subsection (2).

**Justification**

- *To merge subsection (1) and (2) since they now apply to the same subject matter in compliance with the decision in **Uganda Association of Women Lawyers (FIDA) & 5 Others V Attorney General Constitutional Petition No 2/2003**;*
- *To comply with the decision in **Dr. Specioza Wandira Kazibwe V Engineer Charles Nsubuga Kazibwe Divorce** where Court held that both grounds for divorce are distinctive grounds, each in its own right, upon any of which a decree nisi may issue. The import of this decision is that grounds of divorce of adultery, desertion and others prescribed in section 4 (2) are independent of each other and need not be present alongside adultery for one to sustain a petition in divorce.*
- *Subsection 2 of section 4 is redundant since it has been merged in subsection 1.*

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**CLAUSE 21: AMENDMENT OF ADMINISTRATION OF PARLIAMENT ACT,  
CAP. 257**

Clause 21 is amended-

(a) by replacing the first two lines of the clause with the following—  
“The Administration of Parliament Act is amended-”

(b) by inserting immediately before the proposed section 32A, the following-

“(a) by inserting immediately after section 24 the following—

**“24A. Establishment of a Parliamentary Budget Office**

- (1) There shall be a Parliamentary Budget Office within the Parliamentary Service consisting of full time and part time budget and economics experts as may be required from time to time.
- (2) The functions of the Budget Office shall be to provide Parliament and its Committees with objective and timely analysis required for economic and budget proposals and the information and estimates required for the Parliamentary budget process, and without prejudice to the generality of the foregoing the Budget Office shall—
  - (a) provide budget related information to all Committees in relation to their jurisdiction;
  - (b) submit reports on but not limited to, economic forecasts, projections and options for reducing the budget deficit;
  - (c) identify and recommend on Bills that provide an increase or decrease in revenue and the Budget;
  - (d) prepare analytical studies of specific subjects such as financial risks posed by Government sponsored enterprises and financial analysis; and
  - (e) generally, give advice to Parliament and its Committees on the National Budget and the economy.”

(c) by numbering the current provision as paragraph (b), with the following head note-

“(b) by inserting immediately after section 32, the following-

(d) in the proposed section 32A-

- (i) in the proposed subsection (1), by substituting for the word “Government”, the word “Parliament”; and
- (ii) in the proposed subsection (1), by inserting immediately after the word “dissolution” the words “of Parliament”.

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## Justification

- *The provisions in the proposed clause 24A referring to the establishment of the Budget Office are sections 20 and 21 of the Budget Act, 2001. The Budget Act is to be removed from the Statute Book under Schedule 1 paragraph 89 because all the other provisions of the Act were inserted in the Public Finance Management Act, 2015.*
- *In accordance with articles 82 (8) and 85 of the Constitution and section 6 (g) of the Administration of Parliament Act, to empower Parliament to determine the salary and gratuity payable to a Member of Parliament in accordance with article 85 of the Constitution and section 6 of the Administration of Parliament Act.*
- *To remove the word "Government" in the proposed section 32A (1) since the word is ambiguous and does not clarify who, in Government will determine the salary and gratuity of members of Parliament.*
- *For clarity and better drafting*

## CLAUSE 22: AMENDMENT OF THE PARLIAMENT (POWERS AND PRIVILEGES) ACT, CAP. 258

For clause 22, there is substituted the following-

### **"Amendment of the Parliament (Powers and Privileges) Act, Cap. 258**

*The Parliament (Powers and Privileges) Act is amended by repealing section 14."*

## Justification

- *To give effect to the decision of Court in Zachary Olum and Anor v Attorney General (Constitutional Petition 6 of 1999) by deleting section 14 of the Parliament (Powers and Privileges) Act to remove the requirement for special leave of Parliament to have been obtained and had before the disclosure of information in the custody of Parliament in compliance with the requirements of the Access to Information Act.*
- *The proposed amendment to section 14 is redundant since the procedure for accessing documents before Parliament is articulated under the Access to Information Act and under Rule 211, 215, 216 and 219 of the Rules of Procedure of Parliament.*
- *The provision erroneously assumes that all officers of Parliament are competent to give evidence in courts of law in relation to documents laid before Parliament yet the Access to Information Act designates the Chief Executive Officer of a Public Body as an Information Officer responsible for granting access to information covered by the Act and in the case of Parliament, the information officer is the Clerk to Parliament in whose care and charge records of Parliament are placed under Rule 227.*

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- *The provision wrongly assumes that documents in possession of Committees of Parliament are accessible upon their being laid in the Committee yet this is not true since documents in possession of the Committee become accessible upon being laid in Parliament, thereby forming part of the record of Parliament in accordance with section 4 of the Access to Information Act.*

### **INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 22**

Immediately after clause 22, there is inserted the following-

#### **“Amendment of the Police Act, Cap. 303**

The Police Act is amended by-

- (a) Section 27A (2) and (3);
- (b) repealing section 32 (2) and (3);
- (c) repealing section 33;
- (d) repealing section 34;
- (e) repealing section 35;
- (f) repealing section 36; and
- (g) repealing section 37.

#### **Justification**

- *to remove provisions that were affected by the decision in Olara Otunnu Vs AG, Constitutional Petition No 12 of 2010 which found section 27A (2) and (3) to be unconstitutional for infringing article 28 (12) of the Constitution.*
- *Remove provisions that were affected by the decision in Constitutional Petition No.09 of 2005 Muwanga Kivumbi Vs Attorney General, which declared section 32(2) of the Police Act unconstitutional;*
- *The repeal of sections 33, 34, 35, 36 and 37 of the Police Act is a consequential amendment arising from the repeal of Section 32 of the Police Act.*

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**CLAUSE 29: AMENDMENT OF THE TAX PROCEDURES CODE ACT, 2014**

Clause 29 of the Bill is amended by inserting immediately before paragraph (a), the following and numbering the provision accordingly-

“(a) by inserting immediately after section 14 the following—

**“14A. Recovery of tax from successor and duty to notify discontinuance of business**

(1) Where a person carrying on any business liable to duty, levy or tax has been succeeded by another person, and where the duty, levy or tax due and payable by the person succeeded cannot be recovered from him or her, it shall be payable by and recoverable from the person succeeding him or her.

(2) If the person succeeding fails to pay the duty, levy or tax on the date fixed by the Commissioner General, then the provisions of the law relating to the collection and recovery of duty, levy or tax shall apply to the collection and recovery of the amount due as if it were the duty or tax due and payable by the person succeeding.

(3) Any person intending to discontinue any business liable to duty or tax shall give to the Commissioner General a notice of his or her intention thirty days before the date of discontinuance, and where the person fails to give the notice required by this section, the Commissioner General may direct that a sum not exceeding ten currency points be recovered from that person by way of penalty.”

“(b) by inserting immediately after section 27 the following—

**“27A. Tax liability of statutory corporations**

(1) No statutory corporation shall gain any exemption from any tax imposed generally by any written law, whether the tax is expressed as a tax, levy, duty or otherwise unless the corporation is expressed in or under the law as exempt from the tax or entitled to such remission as may be granted under the law; except that in respect of income tax any exemption purported to have been granted otherwise than in accordance with this section shall be deemed to be of no effect.

(2) Any provision of any written law which is inconsistent with subsection (1) shall be deemed to be amended to the extent of the inconsistency.

(3) In granting any exemption or remission under subsection (1), the authority empowered in that behalf shall distinguish between statutory corporations which are

business enterprises and which shall, as far as possible, be treated as private persons, and statutory corporations which provide utility services and which shall in principle be exempt or entitled to remission.”; and

“(c) in section 40A, by inserting immediately after subsection (1), the following—

“(1a) For the avoidance of doubt, customs duty shall be levied on goods for use by the Government.”

### Justification

- Section 14A proposed for insertion in the Tax Procedures Code Act providing for the recovery of tax from successors is currently section 6 of the Finance Act (No. 2) 1994, Cap. 183. The Finance Act (No. 2) 1994 is to be removed from the Statute Book under Schedule 1 paragraph 36 because sections 1 to 5 were superseded by the East African Community Customs Management Act while sections 7 and 8 are in the Tax Procedure Code Act.
- Section 27A proposed for insertion in the Tax Procedures Code Act providing for the liability of statutory corporations is currently section 1 of the Finance Act, 1974, Cap. 173. The Finance Act, 1974 is to be removed from the Statute Book under Schedule 1 paragraph 26 because all the provisions of the Act were superseded by the Public Finance Management Act, 2015.
- The proposed amendment of section 40A of the Tax Procedures Code Act to provide for the payment of taxes for goods for use by the Government is currently section 2 of the Finance Act, 1993, Cap. 181. The Finance Act, 1993 is to be removed from the Statute Book under Schedule 1 paragraph 34 because all the provisions of the Act have been inserted appropriately in the Acts to which they relate. “Sales tax” that was payable by the Government under the Finance Act has been removed because there is no such tax on the Statute Book.

### INSERTION OF NEW CLAUSES IMMEDIATELY AFTER CLAUSE 30

Immediately after clause 30, there is inserted the following-

#### **“Amendment of the External Trade Act, Cap. 88**

The External Trade Act is amended—

(a) by inserting immediately after section 10, the following—

#### **“10A. Imposition of import commission**

(1) There shall be charged and collected by the Uganda Revenue Authority on any goods imported an import commission of 2 percent of the value of the goods.

(2) The import commission charged under subsection (1) shall not apply to exempted goods and goods which are zero-rated.

**10B. Surtax**

(1) There shall be charged, levied and collected a surtax in respect of imported goods set out in the second column of the Schedule to this Act at rates correspondingly specified in the third column of the Schedule.

(2) The surtax referred to in subsection (1) shall be in addition to the normal duty chargeable and shall be levied on the CIF value, import duty, sales tax and any sum rebates included from the country of origin."

(b) by inserting the following Schedule appropriately—

"SCHEDULE

Section 10A

Surtax

Column 1	Column 2	Column 3
Tariff No.	Description	Rate
22.01.10	Waters, including spa waters and aerated waters	30%
22.01.90	Other	30%
22.02.10	Lemonade, flavoured spa waters ad flavoured aerated waters	30%
22.02.90	Other	30%
22.03.00	Beer made from malt	50%
22.05.10	Still wine and grape must, not in bottle	60%
22.05.90	Other sparkling wine	60%
22.09.10	Whisky	50%
22.09.90	Other	60%"

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**“Amendment of the Income Tax Act, Cap. 340**

The Income Tax Act is amended in section 21(1) by inserting immediately after paragraph (ah) the following—

“(ai) dividends earned from a company which came into existence through stock exchange;”

**“Amendment of the Traffic and Road Safety Act, 1998, Cap. 361**

The Traffic and Road Safety Act is amended by inserting immediately after section 84 the following—

**“84A. Commercial transaction levy for goods vehicles**

A goods transportation vehicle shall at the renewal of a licence, pay commercial transaction levy as follows—

- (a) for twelve months, forty-five shillings per kilogram of gross weight;
- (b) for eight months, thirty shillings per kilogram of gross weight; and
- (c) for four months, fifteen shillings per kilogram of gross weight.”

**“Amendment of the Uganda Communications Act, No. 1 of 2013**

The Uganda Communications Act is amended by inserting immediately after section 22, the following—

**“22A. Licence fee for satellite receiver equipment**

A person owning a satellite receiver equipment shall pay a fee of fifteen currency points to the Commission before a licence is issued to the owner.”

**“Amendment of the Roads Act, No. 16 of 2019**

The Roads Act is amended—

(a) by inserting at the beginning of Part IX the following section—

“76A. Road user charges on foreign registered vehicles

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There shall be charged and collected by the Uganda Revenue Authority on foreign registered vehicles travelling in Uganda the road user charge specified in the Schedule 7 to this Act.”

(b) by inserting after Schedule 6, the following Schedule—

*“Schedule 7*

*Section 76A*

**Road Transit Charges**

<b>Vehicle</b>	<b>Road user charges in US dollars per 100 km</b>
<b>Buses</b>	<b>\$5</b>
<b>Trucks with 3 axles</b>	<b>\$6</b>
<b>Trucks with more than 3 axles</b>	<b>\$10</b>

**“Amendment of the Computer Misuse Act, 2011, Act 2 of 2011**

The Computer Misuse Act is amended by repealing section 25.

**Amendment of the Public Order Management Act, 2013, Act 9 of 2013**

The Public Order Management Act is amended by repealing section 8.”

**Transitional provision**

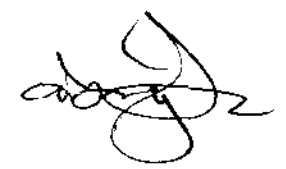
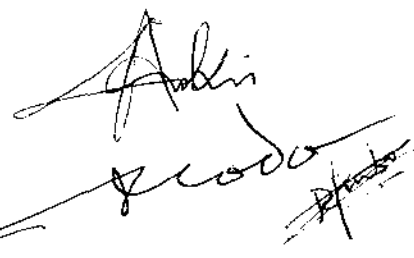
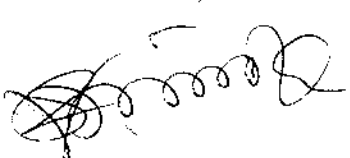
(1) Where at the commencement of this Act,

(a) any proceedings are pending before any court for the prosecution of the offences repealed under this Act, the proceedings shall terminate;

(b) any proceedings commenced-

(i) before 27<sup>th</sup> May 2008 for breach of sections 32 (2) and (3), 33, 34, 35, 36 and 37 of the Police Act,

*Revenue*



- (ii) before 18<sup>th</sup> April, 2019 for breach of section 27A (2) and (3) of the Police Act;
- (iii) before 26<sup>th</sup> March, 2020 for breach of section 8 of the Public Order Management Act;
- (iv) before 2<sup>nd</sup> December, 2022 for breach of 168 (l) (c) and (d) of the Penal Code Act;
- (v) before 13<sup>th</sup> August 2021 for breach of the Anti-Pornography Act, 2014;
- (vi) before 10<sup>th</sup> January, 2023 for breach of section 25 of the Computer Misuse Act, 2011; or
- (vii) are pending in any court or are being investigated by police,

the proceedings shall be discontinued and the accused person shall, if he or she is in custody or on remand, be unconditionally released.

### Justification

- *The amendments proposed to the External Trade Act, Cap. 88 in section 10A is intended to incorporate the provisions in the Finance Act (No. 2), 1996, Cap. 185. The Act is to be removed from the Statute Book under Schedule 1 paragraphs 38. The proposed section 10B (1) and the Schedule are currently section 11 and the Schedule, respectively in the Finance Act (No. 2), 1991, Cap. 179 and the proposed section 10 (2) is currently section 1 of the Finance Act, 1993. Both Acts are to be removed from the Statute Book under Schedule 1 paragraphs 32 and 34 because all the other provisions of the Finance Act (No. 2), 1991 were superseded by the East African Community Customs Management Act while the other provisions of the Finance Act, 1993 have been inserted appropriately in the Acts to which they relate.*

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- The amendments proposed to **the Income Tax Act, Cap. 340** are intended to incorporate section 3 of the Finance Act, 1993. The Finance Act, 1993 is to be removed from the Statute Book under Schedule 1 paragraph 34 because all the other provisions of the Finance Act, 1993 have been inserted appropriately in the Acts to which they relate.
- The amendment proposed to **the Traffic and Road Safety Act, 1998, Cap. 361** is to incorporate section 9 of the Finance Act (No. 2) 1994. The Finance Act, (No. 2), 1994 is to be removed from the Statute Book under Schedule 1 paragraph 36 because sections 1 to 5 of the Act were superseded by the East African Community Customs Management Act, sections 7 and 8 by the Tax Procedures Code Act while section 6 is to be inserted in the Tax Procedures Code Act under clause 29 of the Bill.
- The amendment proposed to **the Uganda Communications Act, No. 1 of 2013** is to incorporate section 4 of the Finance Act, 1993, Cap. 181. The Finance Act, 1993 is to be removed from the Statute Book under Schedule 1 paragraph 34 because all the provisions of the Finance Act, 1993 have been inserted appropriately in the Acts to which they relate. The provision stated that the payment was to be made to the Ministry responsible for information, however in line with the Uganda Communication Act "Ministry responsible for information" has been replaced with "Commission".
- The amendment proposed to **the Roads Act, No. 16 of 2019** is to incorporate section 5 of the Finance Act, 1993, Cap. 181. The Finance Act, 1993 is to be removed from the Statute Book under Schedule 1 paragraph 34 because all the provisions of the Finance Act, 1993 have been inserted appropriately in the Acts to which they relate.
- Section 8 of the Public Order Management Act was affected by the decision in *Human Rights Network and 4 others v Attorney General, Constitutional Petition No. 56 of 2013* which declared section 8 of the Public Order Management Act unconstitutional.
- Section 25 of the Computer Misuse Act was declared unconstitutional in the case of *Andrew Karamagi and Robert Shaka vs AG Constitutional Petition No. 5 of 2016* for infringing article 29 of the Constitution and is therefore unjustifiable as it curtails the freedom of speech in a free and democratic society.
- The insertion of a transitional provision is to provide for disposal of cases commenced before the provisions under which they were initiated were declared unconstitutional. The dates specified above are those on which the judgments that declared them unconstitutional were delivered.
- To provide for termination of proceedings and the release of accused persons charged with offences created under provisions that were declared unconstitutional.

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**SCHEDULE 1: REPEAL OF SPECIFIED ACTS**

Schedule 1 of the Bill is amended-

- (a) by deleting item 2 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Evidence (Bankers' Books) Act, Cap. 7;
- (b) by deleting item 3 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Justices of Peace Act Cap 17;
- (c) by deleting item 13 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Potable Spirits Act Cap 97;
- (d) by deleting item 18 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Deposit Library and Documentation Centre Act, Cap. 125;
- (e) by deleting item 20 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Makerere University (Deposit Library) Act, Cap. 20;
- (f) by deleting item 66 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Cantonments Act, Cap. 296;
- (g) by deleting item 67 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Foreign Seamen Deserters Act, Cap. 300;
- (h) by deleting item 80 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Surcharges (Revenue) Act, Cap. 344; and
- (i) by deleting item 81 and all the items that appear in columns 2 3, and 4 corresponding with the repeal of the Tax Exemption (Uganda Peoples' Defence Forces, Uganda Police Force and Uganda Prisons Services) Act, Cap. 346.
- (j) by inserting immediately after item 90 the following;

No.	Citation of Act	Title of Act	Justification for repeal
91.	Act 1 of 2014	The Anti-Pornography Act, 2014	Affected by the decision in Constitutional petition No. 13 of 2014, Centre for Domestic Violence Prevention & 8 ors -VS- AG

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## Justification

- To remove from repeal, specified enactments which are still relevant in Uganda today since there exists no alternative legislation making provision for matters regulated under the specified enactments which had been proposed for repeal in clause 1 and schedule 1 of the Bill.
- To harmonize schedule 1 with schedule 2.
- To remove from the statute book the Anti-Pornography Act since Sections 2, 11, 13 and 15 of the Act were declared unconstitutional thereby rendering the Act redundant.

## SCHEDULE 2: CONVERSION OF FINES AND OTHER FINANCIAL AMOUNTS IN SPECIFIED LAWS TO CURRENCY POINTS

Schedule 2 of the Bill is amended-

- (a) in item 2, under the Commissioner For Oaths (Advocates) Act, by substituting “twenty Million”, appearing in the fourth column for “two hundred and forty thousand” and “one thousand” appearing in the fifth column for “twelve”;
- (b) in item 5, under the Notaries Public Act, by substituting “twenty Million”, appearing in the fourth column for “two hundred and forty thousand” and “one thousand” appearing in the fifth column for “twelve”;
- (c) by deleting item 8 and all the items that appear in columns 1,2 3, 4 and 5 corresponding with the modification of the Adulteration of Produce Act, Cap 27;
- (d) by deleting item 9 and all the items that appear in columns 1,2 3, 4 and 5 corresponding with the modification of the Produce Protection Act, Cap.32;
- (e) by deleting item 10 and all the items that appear in columns 1,2 3, 4 and 5 corresponding with the modification of the Prohibition of the Burning of Grass Act, Cap 33;
- (f) in item 11, under section 11 (2) of the Animals (Prevention of Cruelty) Act, by substituting “twenty million”, appearing in the fourth column for “one hundred and twenty thousand” and “one thousand” appearing in the fifth column for “six”;
- (g) in item 27, under the Trade (Licensing) Act Cap 101, by deleting section 15 (3) and all the items that appear in columns 2 3, 4 and 5 corresponding with the modification of section 15 (3) of the Trade (Licensing) Act;



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(h) in item 28, under the Weights and measurements Act-

(i) in section 44 (2), by substituting "Fifty Million", appearing in the fourth column for "Two hundred and forty thousand" and "two thousand five hundred" appearing in the fifth column for "twelve";

(ii) in section 44 (4), by substituting "Forty Million", appearing in the fourth column for "Two hundred and forty thousand" and "two thousand" appearing in the fifth column for "twelve";

(iii) by deleting section 55AS and all the items that appear in columns 3, 4 and 5 corresponding with the modification of section 55AS;

(i) in item 30, under the Criminal procedure Code Act, by substituting "forty million" appearing in the fourth column with "four hundred and eighty thousand and "two thousand" appearing in the fifth column, with "twenty four";

(j) in item 45, in section 15 of the Veterinary Surgeons Act, by substituting "one hundred and twenty thousand", appearing in the fourth column for "Two Hundred and Forty Thousand" and "six" appearing in the fifth column for "twelve";

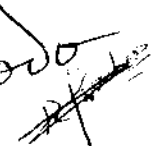
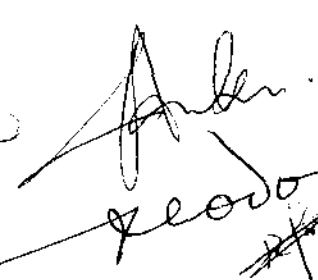
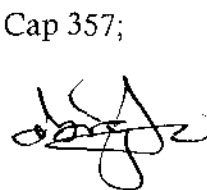
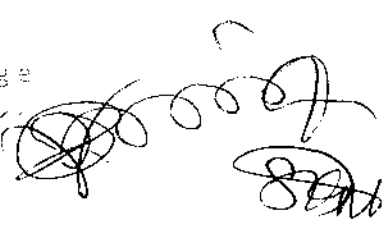
(k) in item 46, in section 27(1) of the Food and Drugs Act, by substituting "forty Million", appearing in the fourth column for "One Hundred and Twenty Thousand" and "two thousand" appearing in the fifth column for "six";

(l) in item 48, under the Public Health Act, by deleting sections 13 (2), 20, 21, 22 (1), 23, 35, 36 (2), 60 (3), 67 (3), 79 (2), 83 (7), 89 (2), 94 (2), 96 (2), 97 (2), 99 (1) 109 (2), 112, 128 (1), and 133 and all the items that appear in columns 2 3, 4 and 5 corresponding with the modification of those sections under the Public Health Act;

(m) in item 51, under the Firearms Act, by deleting sections 5 (2), 16 (3), 18 (4), 33 (4) and 36 and all the items that appear in columns 2 3, 4 and 5 corresponding with the modification of those sections under the Firearms Act;

(n) in item 52, under the Police Act, by deleting sections 35 (5) and 37 and all the items that appear in columns 2 3, 4 and 5 corresponding with the modification of those sections under the Police Act;

(o) by deleting item 55 and all the items that appear in columns 1,2 3, 4 and 5 corresponding with the modification of the Rivers Act Cap 357;



(p) by inserting the following new items appropriately-

Citation	Title of Act	Provision	Fine	Modified fine	Fine in currency points
Cap 300	Foreign Seamen Deserters Act	Section 3	Three hundred Uganda shillings	Three million Uganda shillings <i>(Section 4(1) of the Law Revision (Fines and other financial amounts in criminal matters) Act, No. 14 of 2008)</i>	150
Cap 125	Deposit Library and Documentation Centre Act	Section 4	One hundred Uganda shillings	One million Uganda shillings <i>(Section 4(1) of the Law Revision (Fines and other financial amounts in criminal matters) Act, No. 14 of 2008)</i>	50
Cap 133	Makerere University (Deposit Library) Act	Section 3	One hundred Uganda shillings	One million Uganda shillings <i>(Section 4(1) of the Law Revision (Fines and other financial amounts in criminal matters) Act, No. 14 of 2008)</i>	50
Cap 296	Cantonments Act	Section 5	Two hundred Uganda shillings	One hundred twenty thousand <i>(Section 3(1) of the Law Revision (Fines</i>	6

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				<i>and other financial amounts in criminal matters)Act, No.14 of 2008)</i>	
		Section 6	One hundred Uganda shillings	One million Uganda shillings <i>(Section 4(1) of the Law Revision (Fines and other financial amounts in criminal matters)Act, No.14 of 2008)</i>	50
			Two hundred Uganda shillings	One hundred twenty thousand <i>(Section 3(1) of the Law Revision (Fines and other financial amounts in criminal matters)Act, No.14 of 2008)</i>	6
		Section 11	One hundred Uganda shillings	Forty thousand <i>(Section 3(1) of the Law Revision (Fines and other financial amounts in criminal matters)Act, No.14 of 2008)</i>	2

**Justification**

- To correct mathematical mistakes arising from the use of a wrong formula in modifying the second offence under section 6 of the Commissioner for Oaths (Advocates) Act, the second offence under section 5 of the Notaries Public Act, the second offence under section 11 (2) of the Animals (Prevention of Cruelty) Act, the fine prescribed in the second offence under sections 44 (2) and 44 (4) of the Weights and measurements Act, the fine prescribed in section 1 (b) of the

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*criminal procedure code Act, the fine prescribed in section 15 of the Veterinary Surgeons Act, the second penalty in section 27(1) of the Foods and Drugs Act.*

- *To include in schedule 2 enactments that had been proposed in schedule 1 for repeal and which, the Committee has found, still have a legislative purpose and should be modified instead of being repealed.*
- *to harmonize schedule 2 with schedule 1 by removing enactments that are proposed for repeal in schedule 1 but had been proposed for modification under schedule 2;*
- *to remove from schedule 2 enactments that have been repealed as well as provisions that have been affected by amendments to the enactments proposed for modification.*

**SCHEDULE 3: CONVERSION OF FINES AND OTHER FINANCIAL AMOUNTS IN THE PENAL CODE ACT TO CURRENCY POINTS**

Schedule 3 of the Bill is amended-

- (a) by deleting section 40 (1) and all the items that appear in columns 2, 3 and 4 corresponding with the modification of the section 40 (1) of the Penal Code Act;
- (b) by deleting section 40 (2) and all the items that appear in columns 2 3 and 4 corresponding with the modification of the section 40 (1) of the Penal Code Act;
- (c) in section 154(1), by deleting all the items that appear in columns 1,2 3 and 4 corresponding with the modification of section 154 (1) of the Penal Code Act Cap 120;
- (d) by deleting section 161 (4), and all the items that appear in columns 2, 3 and 4 corresponding with the modification of the section 161 (4) of the Penal Code Act;

**Justification**

- *Section 40 (1) and (2) of the Penal Code Act were declared unconstitutional in the decision of Andrew Mujuni Mwenda and other Vs Attorney General consolidated constitutional petitions No.12 of 2005 and No. 3 of 2006.*
- *The deletion of section 154 (1) of the Penal Code Act is a consequential amendment arising from the amendment of clause 14 of the Bill.*

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- *The deletion of section 161 is a consequential amendment arising from the amendment of section 14 of the Bill.*

**SCHEDULE 4: CONVERSION OF FINES FROM SHILLINGS TO CURRENCY POINTS, PRESCRIBED IN SPECIFIED LAWS IN FORCE AFTER 15TH MAY 1987**

Schedule 4 of the Bill is amended in paragraph 15, by deleting section 27A of the Police Act and all the items that appear in columns 2 3 and 4 corresponding with the modification of section 27A of the Police Act Cap 303.

**Justification**

- *Section 27A was declared unconstitutional in the case of **Olara Otunnu Vs Attorney General Constitutional Petition No 12 of 2010** for infringing article 28 (12) of the Constitution, thereby losing its legal effect.*

**SCHEDULE 5: CONVERSION OF FINANCIAL AMOUNTS, NOT BEING CRIMINAL PENALTIES, FROM CURRENCY POINTS TO SHILLINGS**

Delete schedule 5

**Justification**

- *Schedule 5 proposes to convert financial amounts not being fines in specific legislation from currency points to Uganda Shillings contrary to section 5 of the Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act.*
- *It exposes the financial amounts expressed in Uganda shillings to inflation since the Uganda shillings faces inflationary pressures which erodes the value of financial amounts yet if the same financial amounts are expressed in currency points, they are shielded from inflation since the value of a currency point is known and is constant.*

**SCHEDULE 6: MODIFICATION OF LOW FEES, COSTS AND VALUES IN LAWS IN FORCE ON 15TH MAY 1987**

Schedule 6 of the Bill is amended-

- (a) in item 2, in the Magistrates Courts Act, by deleting all the items that appear in columns 2 3, 4, 5 and 6 corresponding with the modification of section 195 (2), 195 (4), 204 (4) and paragraph 31 (8) of the Third schedule to the Magistrates Courts Act;

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- (b) in item 3, in the Trial on Indictments Act, by deleting all the items that appear in columns 2 3, 4, 5 and 6 corresponding with the modification of section 125 (2) and paragraph 9 (1) of the schedule to the Trial on Indictments Act;
- (c) in item 5, in the Administration Of Estates (Small Estates) (Special Provisions) Act, by deleting all the items that appear in columns 1, 2 3, 4, 5 and 6 corresponding with the modification of section 7 (2) of the Administration Of Estates (Small Estates) (Special Provisions) Act.

**Justification**

- *The provisions identified above which propose to totally repeal the provisions identified in the enactments is misplaced here and have been inserted where they fall more appropriate since the effect of the amendments is not a modification, but a total repeal of the provision.*

**SCHEDULE 7: CONVERSION OF FINANCIAL AMOUNTS EXPRESSED IN POUNDS IN SPECIFIED LAWS, TO CURRENCY POINTS**

Schedule 7 is amended by inserting the following appropriately-

Citation	Title of Act	Provision	Fine	Modified fine	Fine in currency points
Cap 97	Potable Spirits Act	Section 2(2)	Five hundred Pounds	Two million four hundred thousand Uganda shillings  (five hundred pounds converted to Uganda shillings at a rate of UGX. 4800 to one pound sterling)	120

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				(Section 3(1) of the Law Revision (Fines and other financial amounts in criminal matters) Act, No. 14 of 2008)	
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**Justification**

- *Consequential amendment arising from amendment of schedule 1 of the Bill by removing from the list of enactments for repeal, the Potable Spirits Act.*

*I beg to submit.*

