**Tuesday, 1 March 2016**

*Parliament met at 2.25 p.m. in Parliament House, Kampala.*

PRAYERS

*(The Speaker, Ms Rebecca Kadaga, in the Chair.)*

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to the First Sitting of the Third Meeting of the Fifth Session of the Ninth Parliament. I also welcome you back from the long recess and from the national exercise of renewing the mandate of the country’s leaders. We also wish the local lower councils well in the forthcoming elections that will see us conclude the renewal of the mandate.

On this note, I would like to remind the Attorney-General that the country is waiting for the elections for LCI councils. I think that should be the real conclusion because the electorate would like to see that level of leadership also renewed.

I would like to congratulate our incumbent Members, who were able to go through the lengthy and gruelling exercise. I welcome the Members of the Tenth Parliament who will be joining us in May 2016. I would like to thank the outgoing Members for their contribution and wish them well. We have a great team, both in the plenary and committees as well as in terrorising the region in the sporting arena. The Parliament of Uganda is a reference point for many issues, including the Budget Office and the work done especially in promoting maternal health.

We are still on duty until mid-May 2016. There is a bit of work to do by way of legislations, reports and so on. However, there is an area, which I would like the Committee on Rules, Discipline and Privileges to handle; there are areas we have identified that require amendments. I think it is not fair to ask the new House to amend the Rules of Procedure. I think the existing House has the advantage of experience and practice which should enable us to handle that.

I would like to ask that the Committee on Rules, Discipline and Privileges completes the report they have been handling. Of course, this is not to bar the Tenth Parliament from making additional changes, but I think there is some work which we should do to assist the Tenth Parliament.

Honourable members, as we begin this last lap, it is extremely annoying to see the *Daily* *Monitor* newspaper publishing ridiculous articles about the institution of Parliament, inciting the public against the Members of Parliament even before they have begun their work. Last Sunday, there was a silly publication about the so-called benefits of Members of Parliament among which is something I have never heard of and yet I have been here for a long time – dress allowance. I have never heard about a dress allowance in this House. This is a tropical country; there is no winter here. I do not know why anyone would require a dress allowance. I really hope the *Daily* *Monitor* newspaper will apologise for ridiculing this House.

I would like to give notice that the Business Committee will meet on Thursday, 3 March 2016 at 10 O’clock in our usual room. I also give notice that the Appointments Committee will convene on 9March to vet some newly appointed judges of the High Court.

Honourable members, I have been informed by the Independent Electoral Commission that elections have not been held in the following constituencies and all these will be held on the 9th of March:

Bufumbira East County in Kisoro District;

Woman Member of Parliament for Buyende District;

Woman Member of Parliament for Yumbe District;

Busiki County Member of Parliament in Namutumba District;

Dokolo South Member of Parliament in Dokolo District;

Mawogola County South Member of Parliament in Ssembabule District;

Woman Member of Parliament for Kween District;

Member of Parliament for Kitagwenda County in Kamwenge District;

Member of Parliament for Kibale County in Kamwenge District; and

Woman Member of Parliament for Kyegegwa District.

Elections for all these areas will be held on 9 March. Please, inform your voters about this exercise.

In the public gallery, we have a delegation from the Uganda Child Rights NGO. I do not know where they are. Please, stand up. There they are. They have come to observe the proceedings of the House. Thank you for coming and you are welcome. *(Applause)*

I welcome His Excellency the Vice-President. I congratulate you upon your election. *(Applause)*

2.31

**MR ARINAITWE RWAKAJARA (NRM, Workers Representative):** Thank you very much, Madam Speaker. I rise on a matter of national importance.

Article 61(2) of the Constitution states, *“The Electoral Commission shall hold presidential, general parliamentary and local government council elections within the first thirty days of the last ninety days before the expiration of the term of the President.”*

Madam Speaker, the 30 days end on 12 March. As we talk, the workers’ constituency does not have a roadmap for elections. Recently, we took a petition to the Electoral Commission and they said it is the Ministry of Finance that has refused to give them money to conduct the elections. That means Parliament will not be fully constituted and we have only 10 days to the deadline.

Madam Speaker, as workers, we demand to understand what is happening. I also think this Parliament, especially those who have come back, need to understand and fight for this so that the Tenth Parliament can be complete. I thank you very much.

**THE SPEAKER:** I do not know whether the minister has something to say about the elections of the workers representatives.

2.34

**THE MINISTER OF GENDER, LABOUR AND SOCIAL DEVELOPMENT (Mr Muruli Mukasa):** Thank you very much, Madam Speaker. What hon. Arinaitwe Rwakajara said is true. After we passed the law here regarding the issue of non-unionised workers, we were required by that law, as the ministry in charge of labour, to ensure that a register of non-unionised workers is developed. We contacted the Ministry of Finance to give us the necessary financial assistance. We also consulted the Electoral Commission and we worked out a tentative timetable to make sure we are not out of step with the constitutional requirement.

Unfortunately, just like hon. Arinaitwe Rwakajara has said, there is no budget yet for that activity. As we talk, a crisis is looming on our hands. However, we are still engaging the Ministry of Finance to come to our rescue so that by 11March this year, the elections will have taken place for us to have duly elected workers’ representatives. That is the problem, Madam Speaker, as we talk. Thank you.

**THE SPEAKER:** Are you committing that by the 12th the Members will have been elected? Otherwise, the House will not be fully constituted. Is the Ministry of Finance, Planning and Economic Development saying anything?

2.35

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Fred Omach):** Madam Speaker, as you know, I have just passed through “Masaka”. (*Laughter*) Therefore, I am speaking here as the outgoing Member of Parliament for Jonam Constituency. That is the “Masaka” I am talking about.

I will consult on this issue and then we will report back to Parliament. However, permit me to congratulate you for a well-deserved comeback to the Tenth Parliament. *(Applause)* That also goes to the Vice-President and all of you who have made it; *aluta continua*! For those of us who passed through “Masaka”, please take heart, - (*Laughter*)- it is not the end of the world. In everything, there is God and His plan is always above all others. May God bless you all.

**THE SPEAKER**: Thank you very much for that, minister. Of course we shall miss you, but God will take care of you. Are you rising on the workers’ issue, hon. Kabasharira?

**MS KABASHARIRA:** Thank you, Madam Speaker. I just wanted to seek a simple clarification. I thought Parliament is always one, much as we have workers, people with disabilities, the youth and the rest of us. We have all gone through elections, including the presidential elections and they were all budgeted for. Did I hear clearly from the minister that there was no budget for the workers’ elections? How did they pass the one for the other elected bodies? How did it happen that there was a budget for the rest of us but no budget for workers’ elections? Are they exclusively considered? What was the problem? I would like that clarification from the minister. Thank you.

**MS ABABIKU:** Thank you, Madam Speaker and colleagues. I have only one concern; from what we have heard, the issue of the budget is a stumbling block in having the elections for the workers’ representatives.

Madam Speaker, we have listened to the explanation but I think the commitment is so loose. I would love that the ministers commit themselves to bringing a comprehensive response because it is going to leave a big gap and our colleagues, the incumbent workers’ representatives, are already complaining.

Madam Speaker, as you have said, the election process has been so hectic and expensive. Keeping colleagues continuously campaigning without certainty of when elections are going to be held is a big problem. Therefore, the ministers should really help us by coming out with a clear statement as to when they will harmonise their decisions. The statement that the Minister of Finance, Planning and Economic Development is still discussing about how to get funds is so perturbing to me. Thank you.

**MS NYAKECHO:** Thank you, Madam Speaker -*(Interjections)*- I am not hon. Geoffrey Ekanya, honourable Members. (*Laughter*)

Madam Speaker, I would like to seek a bit of clarification from the minister. Elections are not something spontaneous but something that has to happen at the end of every term. I would like to find out from the minister why this has happened? The ministry had an opportunity, in case the money was not there, to present a supplementary request. Why didn’t you present a supplementary request to this House if you knew the money was not there to carry out these elections? That is the humble question I want to put to the minister.

**THE SPEAKER:** Honourable Minister, I am also finding difficulties accepting the explanation about the money because Article 78 of the Constitution is very clear; it is not new. It describes the categories of Members of Parliament and the workers are not new; they are part of this House. Therefore, I do not see how there cannot be money for their election. We are not satisfied.

**MR MURULI MUKASA:** Madam Speaker, if the issue of non-unionised workers had not come up as a result of the court ruling, there would have been no problem with the election of workers’ representatives. Belatedly, this issue came up, it was debated here and we agreed with the court ruling – belatedly, really - that the non-unionised workers must be represented. Parliament, in its wisdom, advised how this could be actualised and we discussed this matter fairly late as we were preparing to close business at the end of the year.

When the law was passed, we went ahead to ask for money from the Ministry of Finance so that our ministry could initiate the process of creating a register of all those willing non-unionised workers who could participate in creating the electoral college that would eventually end up in the final election at the national level. Therefore, we engaged the Ministry of Finance. We worked out how much it would require, starting from the sub-counties, right up to the regional and national levels, but the Ministry of Finance responded and said that they did not have the money. We talked to the Electoral Commission and they said they had money for the normal exercise minus the non-unionised workers. Therefore, the onus fell on us to try and convince the ministry to give us the little money that was required.

Up until a few days ago, the Secretary to the Treasury wrote back to us saying there was no money. That notwithstanding, we have gone ahead to again engage the Ministry of Finance to make sure the money is found because we are time bound. We are going to find ourselves in a crisis because come 11March, we may not have a fully constituted Parliament just because one segment will not yet be in place. That is the crisis and dilemma under which we find ourselves.

Precisely, Madam Speaker, that is the explanation. Otherwise, we have set the timetable and we are ready. If we got the money now, I can assure you we would have the elections for workers’ representatives held on the 11th of this month.

**THE SPEAKER:** Honourable minister, can we get feedback from you on Thursday about the progress?

**THE MINISTER OF STATE FOR GENDER, LABOUR AND SOCIAL DEVELOPMENT (YOUTH) (Ms Evelyn Anite):** Thank you, Madam Speaker. I have additional information to give my senior minister.

When we received the letter from the Secretary to the Treasury about the status of funds that they would advance to carry out the elections for the workers’ representatives, we had a meeting with the Electoral Commission staff yesterday in the morning. They asked us for a roadmap and we gave them a tentative one starting from 3 to 11March 2016. They then asked us to come up with a budget and promised us that by the end of business today, they would be able to let us know if they can be able to finance the budget we submitted to them to carry out the elections.

The information in the letter from the Secretary to the Treasury is that the Electoral Commission should work within its budget - the money they have given them - to carry out the election. That is why the Electoral Commission Chairman had to ask the Ministry of Gender, Labour and Social Development to submit its budget. We submitted it and we are waiting for a final response from the Electoral Commission. Thank you.

**THE SPEAKER:** We shall wait for your feedback on the issue because it is important to us.

2.45

**MR ODOO TAYEBWA (FDC, Ishaka Municipality, Bushenyi):** Thank you, Madam Speaker. Today I have come to attend this sitting in good faith. However, I am not in the mood of attending because I have been perturbed by the incidents that are happening right now at Kasangati where our former FDC flag bearer, Dr Kizza Besigye, is now being harassed. The journalists are being arrested and there is now a fight taking place. I feel like I am not in the mood of attending this session today. Therefore, I beg to be excused so that I can have a better conscience.

BILLS

SECOND READING

THE CHILDREN (AMENDMENT) BILL, 2015

**THE SPEAKER:** Honourable members, as you recall, we had a debate on this matter and we were due to go to committee stage. I put the question that the Bill be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE CHILDREN (AMENDMENT) BILL, 2015

Clause 1

**THE CHAIRPERSON:** Honourable members, I put the question that clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

Clause 2

**MS KOMUHANGI:** Thank you, Madam Chairperson. Clause 2 has issues to do with interpretation. The committee proposes to include the following definitions-

**THE CHAIRPERSON:** No, we normally do interpretation at the end. Let us go to clause 2

**MS KOMUHANGI:** That is clause 2. Clause 2 is on definitions, Madam Chairperson.

**THE CHAIRPERSON:** Let us stand over it in case there are other amendments to the interpretation. We shall do it later.

**MS KOMUHANGI:** Okay.

Clause 3

**THE CHAIRPERSON:** Honourable members, I put the question that clause 3 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 3, agreed to.*

*Clause 4, agreed to.*

Clause 5

**MS KOMUHANGI:** Madam Chairperson, clause 5 is about the right to a name and nationality. The amendment is to provide for this clause to appear under clause 4. The justification is that all rights of children should appear under the same clause.

Clause 4 is about rights of children and the other one is about the right to a name and nationality. It is also a right. That is why we are amending it so that it appears under clause 4.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 4 be amended as proposed.

*(Question put and agreed to.)*

*Clause 4, as amended, agreed to.*

Clause 5

**MS KOMUHANGI:** Madam Chairperson, the committee proposes to insert a new clause immediately after clause 8 to read as follows: “Insertion of section 8B in the principal Act…” Honourable colleagues, those who have the principal Act should open and probably follow.

“The principal Act is amended by inserting a new section 8B immediately after section 8 to read as follows:

‘8B. Prohibition of sexual exploitation

(1) A person shall not engage a child in any work or trade that exposes the child to activities of sexual nature whether paid for or not.

(2) For avoidance of doubt, it shall be unlawful for any person to use-

(a) inducement or coercion in the encouragement of a child to engage in any sexual activity;

(b) children in prostitution or other unlawful sexual practices; and

(c) children in pornographic performances or materials.

A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding five years.’”

The justification is that the Bill should have a comprehensive clause that protects children affected by pornography or who have been sexually abused or likely to be exposed to sexual abuse and exploitation, including prostitution and pornography. I beg to move, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 5 be amended as proposed by the chair.

*(Question put and agreed to.)*

*Clause 5, as amended, agreed to.*

Clause 6

**MS KOMUHANGI:** The committee proposes to insert a new part immediately after Part II to read as follows:

“Insertion of a new Part IIA in the principal Act

The principal Act is amended by inserting Part IIA immediately after Part II to read as follows:

‘Part IIA - The National Children Authority

1. Establishment of the authority

(1) There shall be established an authority which shall be called the National Children Authority (NCA).

(2) The authority shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue or be sued in its own name.

(3) The authority may, for and in connection with its functions under this Act, purchase, hold, manage and dispose of any property, whether movable or immovable, and enter into any contract and other transactions as may be expedient and may do and suffer any other act or thing as in law or may be done or suffered by a body corporate.

2. Functions of the National Children Authority

(1) The functions of the authority are to-

(a) advise the Government on the formulation of a national policy and child rights programmes;

(b) create awareness on the right of a child to be protected from abuse and develop methods of preventing child abuse;

(c) consult the relevant ministries, local authorities, districts and divisions, public and private sector organisations and recommend all such measures as are necessary for the purpose of preventing child abuse and for protecting and safeguarding the interests of the victims of such abuse;

(d) recommend legal, administrative or other reforms required for the effective implementation of the national policy for the prevention of child abuse;

(e) monitor the implementation of laws relating to all forms of child abuse;

(f) monitor the progress of all investigations and criminal proceedings relating to child abuse;

(g) recommend measures to address the humanitarian concerns relating to children affected by armed conflict and the protection of such children including measures for their mental and physical wellbeing and their re-integration into society;

(h) take appropriate steps, where necessary, for securing the safety and protection of children involved in criminal investigations and criminal proceedings;

(i) receive complaints from the public relating to child abuse and where necessary refer such complaints to the appropriate authorities;

(j) advise and assist the Government, local authorities and Non-Governmental Organisations to coordinate campaigns against child abuse;

(k) prepare and maintain a national database on child abuse;

(l) consultation with the relevant ministries and other authorities to supervise and monitor all religious and charitable institutions, which provide child care services to children;

(m) conduct, promote and coordinate research in relation to child abuse and child protection;

(n) provide information and education to the public regarding the safety of children and the protection of the interests of the child;

(o) engage in dialogue with all sections connected with tourism with the view to minimizing the opportunities of child abuse;

(p) organise and facilitate workshops, seminars and discussions relating to child abuse; and

(q) liaise and exchange information with foreign governments and international organisations with respect to the detection and prevention of all forms of child abuse.

3. Board of directors and its functions

(1) There is established a board of directors as the governing body of the authority, which shall consist of the following- (a) a chairperson, who shall be appointed by the minister;

(b) one representative from the Ministry of Gender, Labour and Social Development;

(c) one representative from the Ministry of Education and Sports;

(d) one representative from the Ministry of Internal Affairs; (e) the executive director of the authority, who shall be secretary of the board and shall be an ex officio member of the board.

(2) The minister may appoint two other persons who are not public officers as additional members of the board because of their special knowledge and experience in children affairs provided that the persons being appointed have no part-time or fulltime activities or interests which conflict with or impair fulfilment of their duties as board members;

(3) The board shall be responsible for monitoring and protection of the best interest of the child and shall determine policies relating to staffing and procurements of the authority.

(4) The minister may give directions to the board regarding the performance of its functions, and the board shall comply with such directions.

4. Qualifications for appointment

The members of the board, other than the ex officio members, shall be appointed from among persons who qualify for appointment by virtue of their professional knowledge and experience in children affairs or in such other matters of children as the minister may determine.

5. Tenure of office

A member of the board other than an ex officio member shall hold office-

(a) on such terms and conditions as are specified in the instrument of appointment;

(b) in the first instance, for a period not exceeding three years; and

(c) shall be eligible for reappointment only for a subsequent period not exceeding three years.

6. Minister’s power to suspend or terminate appointment

The Minister may terminate or suspend the appointment of a member-

(a) for the member’s inability to perform the functions of his or her office;

(b) for misbehaviour;

(c) if the member is declared or becomes bankrupt or insolvent;

(d) if the member is convicted of a criminal offence in respect of which a maximum penalty exceeding six months imprisonment may be imposed;

(e) if the member, without prior permission of the chairman or without reasonable cause to the satisfaction of the minister, is absent from six meetings of the board in any financial year; or

(f) for any other sufficient cause.

7. Registration of members

(1) An appointed member of the board may resign his or her office by a letter addressed to the minister and such resignation shall be effective from the date on which it is received by the minister.

(2) Where a member of the board dies, resigns or is removed from office, the minister shall appoint another member in his or her place.

8. Meetings and common seal of the board

(1) The common seal of the board shall be in such form as the board may determine.

(2) The application of the common seal on any document shall be authenticated by the signature of the chairperson and one other member of the board; and in the absence of the chairperson, any two members of the board authorised by the board shall authenticate the application of the seal on his or her behalf.

(3) The signature of the chairperson and the other members of the board shall be independent of the signing by any other person who may sign any such document as a witness.

(4) A document purporting to be an instrument issued by the board and to be sealed by the common seal of the board, authenticated in the manner prescribed by subsection (2) shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

(5) The provisions of the fourth schedule to this Act shall apply to the meetings of the board and other matters provided for in that schedule and the minister may, by statutory instrument, amend the schedule.

9. Remuneration or allowances of members

The members of the board shall be paid remuneration or allowances out of the fund of the authority at such rates as may be determined by the minister.

10. Specialised committees

(1) The authority shall set up the following specialised committees for the efficient performance of its functions under this Act-

(a) a specialised committee on capacity building;

(b) a specialised committee on policy, research, planning and data management;

(c) a specialised committee on child development and participation; and

(d) a specialised committee on child survival.

(2) The authority may also set up such other specialised committees as it may consider necessary for the efficient performance of its functions under this Act.

(3) Every specialised committee set up under this section shall consist of five members of the authority including a chairperson.

(4) The authority may prescribe the procedure of a specialised committee.

11. Functions of the specialised committees

(1) The functions of each specialised committee are to recommend and report to and advise the authority on all policy matters relating to the committee’s specific sector of child survival, development and protection.

(2) The authority may also delegate any of its functions to a specialised committee, subject to any limitations imposed by the authority.

12. Management and staff of the authority

The authority shall have a secretariat to assist it in carrying out its functions under this Act.

13. The functions of the secretariat

(1) The functions of the secretariat shall be-

(a) to review and advise on policies and strategies regarding children;

(b) to establish and advise on development priorities and targets and the selection of projects in the social service sector and other areas concerning children;

(c) to review and prepare annual plans of action and budgets for the implementation of the programme of action and other child-based programmes;

(d) to undertake analytical social and economic studies relating to the needs and problems of children;

(e) to liaise with ministries, institutions, non-governmental organisations and donor agencies concerned with children, with a view to coordinating their activities and providing them with technical guidance and direction;

(f) to carry out such other functions within the objects and functions of the authority as may be necessary or expedient for the proper implementation of the provisions of this Act as the authority may direct.

(2) The carrying out of the functions of the secretariat shall be subject to the directions of the council on matters of policy and shall be deemed to be done on behalf of the authority.

14. Executive Director

(1) The authority shall have an officer to be designated the executive director.

(2) The executive director shall be appointed by the minister in consultation with the authority and shall hold office upon such terms and conditions as may be specified in the instrument of appointment.

(3) The executive director shall be a person who has substantial experience and knowledge of children affairs.

(4) The minister, in consultation with the authority, may remove the executive director from office for inability to perform the functions of his or her office by reason of infirmity of body or mind or any other sufficient course, or misbehaviour.

(5) Where the executive director is temporarily incapacitated by illness or other cause from the performance of his or her functions or where the office of the executive director is vacant, the deputy executive director shall act as executive director for the duration of the incapacity or until the vacancy is filled; and

(6) Where it is not possible for the deputy executive director to act as executive director, the minister may, on the recommendation of the authority appoint an officer of the authority qualified in terms of subsection (3) to perform the functions of the executive director for the duration of the executive director’s incapacity or until the vacancy in the office of the executive director is filled.

15. Functions of the Executive Director

(1) The executive director shall be the head of the authority and head of the secretariat.

(2) The executive director shall act as the secretary of the authority.

(3) The executive director shall, subject to the control of the authority, be responsible for-

(i) the day-to-day administration of the affairs of the authority and of the secretariat;

(ii) the funds and properties of the authority;

(iii) the organisation, discipline and control of the employees of the authority and of persons engaged by the authority.

(4) The executive director shall, unless the authority in any particular case otherwise directs on grounds stated by it in writing, be entitled to attend all meetings of the authority but shall not have the right to vote on any matter to be decided by the authority at any meetings.

16. Deputy Executive Director

(1) The authority shall have an officer to be designated the deputy executive director.

(2) The deputy executive director shall be appointed by the minister in consultation with the authority and shall hold office upon such terms and conditions as may be specified in the instrument of appointment.

(3) The deputy executive director shall be a person who has substantial experience in and knowledge of matters relating to children.

(4) The minister, in consultation with the authority, may remove the Deputy Executive Director from office for-

(i) inability to perform the functions of his or her office by reason of infirmity of body or mind or for any other sufficient cause or;

(ii) misbehaviour.

(5) The deputy executive director shall assist the executive director in carrying out his or her functions under this Act and shall carry out such specific functions as the executive director or the authority may direct.

17. Other employees of the authority

(1) The authority may appoint such other employees as may be necessary for the proper and efficient discharge of the functions of the authority and the secretariat under this Act.

(2) The employees of the authority appointed under this section shall hold office upon such terms and conditions as the authority may determine.

(3) Without prejudice to the general effect of subsection (2), the authority may, under that subsection, provide for the payment to its employees of salaries, allowances, pension or other terminal benefits and may require them to make contribution to any pension, provident fund or superannuation scheme.

(4) The authority may, subject to conditions and restrictions imposed by it, delegate to the chairperson or the executive director any of its powers to appoint or remove any employee under this section.

(5) Public officers may be seconded to the service of the authority on such terms and conditions as may be agreed between the authority and the employers of those public officers.

18. Experts and consultants

(1) The authority may, acting on the advice of the executive director, engage the services of experts and consultants in respect of any of the functions of the authority in connection with which they are considered to have special competence.

(2) Experts and consultants engaged under this section may be paid such fees and allowances and may be afforded such facilities as the authority may determine.

19. Funds of the authority

(1) The funds of the authority shall consist of grants-

(i) grants from the Government;

(ii) loans from the Government or from any person or organisation within or outside Uganda;

(iii) grants, gifts and donations that may be received by the authority from any source within or outside Uganda; and

(iv) any sums that may become payable to the authority in the discharge of its functions under this Act.

(2) All income and monies of the authority shall be deposited to the credit of the authority in a bank approved by the minister and shall not be withdrawn except with the approval of, and in the manner determined by, the authority.

20. Borrowing powers

(1) The authority may, with the prior approval of the minister, obtain loans and other credit facilities required for meeting its obligations and for carrying out its functions under this Act.

(2) The authority may, with the prior approval of the minister, borrow by way of overdraft or otherwise such sums as may be required for meeting the current obligations of the authority or for the discharge of its functions.

(3) A loan or credit facility obtained by the authority under this section shall be approved by Parliament, and when so approved, the principal sum and interest of that loan shall be a charge on the Consolidated Fund.

21. Estimates of income and expenditure of the authority

(1) The executive director shall, not later than three months before the end of each financial year, cause to be prepared and submitted to the board for approval, estimates of the income and expenditure of the authority for the following financial year.

(2) No expenditure shall be made out of the funds of the authority unless the expenditure is part of that approved by the board under the estimates for the financial year in which the expenditure is to be incurred.

22. Financial year of the authority

The financial year of the authority shall be, in respect of any accounting period, the period of 12 months ending on 30th June.

23. Accounts

(1) The authority shall keep proper books of accounts of all its income and expenditure and proper records in relation to them.

(2) Subject to any directions given by the minister, the authority shall cause to be prepared in respect of each financial year, and not later than three months after the close of the financial year, a statement which shall include a report on the performance of the authority during that financial year, and the statement shall comprise of-

(a) a balance sheet and a statement of income and expenditure of the authority in respect of that financial year; and

(b) any other information in respect of the financial affairs of the authority as the minister may in writing require.

24. Audit

(1) The accounts of the authority shall, in respect of each financial year, be audited by the Auditor-General or by an auditor appointed by the Auditor-General.

(2) The authority shall ensure that within four months after the close of each financial year, the statement of accounts described in section 24 is submitted for auditing.

(3) The Auditor-General and any auditor appointed by him or her shall have access to all books of accounts, vouchers and other financial records of the authority and will be entitled to have any information and explanation required by him or her in relation to them as he or she may deem fit.

(4) The auditor shall, within two months after receipt of the statement of account under subsection (2), audit the accounts and deliver to the authority a copy of the audited accounts together with his or her report on them stating any matter which in his or her opinion should be brought to the attention of the minister.

(5) The auditor shall deliver to the minister a copy of the audited accounts together with his or her report on them.

25. Investment of surplus funds of the authority

Any funds of the authority not immediately required for any purpose under this Act shall be invested in such manner as the council may, with the approval of the minister, determine.’”

Madam Chairperson, clause 6 ends here.

**THE CHAIRPERSON:** Honourable members, as you recall, we had a robust debate on this matter but let us hear the views on the proposals.

**MR MURULI MUKAS**A**:** Thank you very much, Madam Chairperson. I am at pains to oppose this amendment on various grounds. One, its sustainability may be very difficult as this proposed authority, unlike other authorities, is a non-profit authority. It will have to make recourse from time to time to the Consolidated Fund. It may, of course from past experience with other votes or charges on the Consolidated Fund, suffer various cuts in which case the proposed or anticipated benefits of the authority may not be realised.

Madam Chairperson, this authority places a charge on the Consolidated Fund and if we recall in the certificate of financial implication that was given, this matter was not properly considered by the Ministry of Finance. This proposed authority effectively kills the children’s council because most of the activities which are being proposed to be carried out by this authority were under the mandate of the children’s council.

Madam Chairperson, this may set a very expensive precedent because once this is in place, we may have other authorities coming into place like the older persons’ authority, PWD or housewives authority *–(Interruption)*

**MR SSEWUNGU:** Thank you, Madam Chairperson. I am at pains raising a point of order against the honourable minister. He comes in to talk about a women’s authority as if he thinks that women are not necessary and then he mentions all those other issues. The issue of children is pertinent; when you talk about the National Council for Children, does that mean that you should not fund them? Is the honourable minister in order to fight against this authority with certification given by the committee and yet he is the one supposed to even support it from the onset?

**THE CHAIRPERSON:** Honourable members, I think the minister has forgotten that he is in charge of the women, children, elderly and the housewives.

**MR MURULI MUKASA:** Madam Chairperson, I would think that there are really very viable remedies to some of the weaknesses which my colleague pointed out a minute ago. One of the remedies would be to strengthen the national children’s council by giving it a vote and adequate staff *–(Interruption)*

**MR OKOT OGONG:** Madam Chairperson, I did not want to raise this issue, but the minister is aware that at second reading, we finished the debate on the principles of the Bill. We are now at the third stage of going through the amendments in the Bill. Is it in order for the minister to take us back to the general debate of the Bill instead of considering the basic principles or provisions in the Act?

**THE CHAIRPERSON:** Honourable members, the question is that a new clause 6 be introduced as proposed.

*(Question put and agreed to.)*

**MR EKANYA:** Madam Chairperson, I beg that we recommit this clause which we have just passed because it contravenes the Constitution and several other laws, which were passed here.

**THE CHAIRPERSON:** Which ones, for the purpose of the *Hansard*?

**MR EKANYA:** About the fund, for example, we took a decision here in the Public Finance Act that we cannot have a department of Government engage in investment. All Government departments, if they want to borrow, should go through the Ministry of Finance and then come to Parliament. Any surplus funds are appropriated back to the Consolidated Fund account. There is a provision here in clause 6, which I have seen, which contravenes that -

**THE CHAIRPERSON:** You address the provision- As he is organising himself, on page 8, we need to correct that clause about the deputy secretary general; I do not know how it came into this?

**MS KOMUHANGI:** As you collect your data, let me put this right. Madam Chairperson, you are right we need to correct clause 17 (4); it should read “deputy executive director” not “deputy secretary general”.

**MR EKANYA:** Thank you very much. Madam Chairperson, that is clause 25 and I beg that it be deleted. It says, “Any funds of the authority not immediately required for any purpose under this Act shall be invested in such manner as the board may, with the approval of the minister, determine.” This contravenes the policy of Government. Number two – *(Interruption)*

**MS KOMUHANGI:** Madam Chairperson, I request hon. Ekanya to quote the law he is basing his argument on.

**THE CHAIRPERSON:** What is the basis of your objection?

**MR EKANYA:** The Public Finance Management Act, 2015 says that it is the responsibility of Parliament to do appropriation and no Government department is supposed to engage in investment.

Two, there is a clause here about the executive director. Madam Chairperson, it says that the executive director shall be the head of the authority and the head of the secretariat. This is also in contravention of Government policy because the head of this authority should be the chairperson of the board; it cannot be the executive director, who is at the same time the head of the secretariat. So there is a contravention; I beg that we change that - *(Interjections)* - The executive director is the head of the secretariat and so he or she cannot be the head of the authority.

There is also a clause which says, *“The minister, in consultation with the authority, may remove the executive director from office…”* This also contravenes the role and responsibility of the board of the authority. If you give too much – It is the minister who appoints the entire board and then also appoints the executive director, and he or she can remove the chairperson or members of the board including the executive director. So the entire board, including the staff, will be working only for the minister and there is no supervision or checks and balances. Therefore, the removal of the executive director should be done by the minister on recommendation of the board. That is how institutions work. Those are the clauses I had in mind.

**THE CHAIRPERSON:** Honourable members, on the question of finance, I think we should be consistent. We have said that nobody should borrow money independent of the authority of this House. So we will have to address the deletion of clause 19(2), (3) and (4).

**MR LUBOGO:** Thank you, Madam Chairperson. The committee chairperson knows that where the executive director is unable to perform his or her functions, the minister shall appoint another person to perform those duties for that period when the executive director is unable to. However, in the amendment, there is a provision for a deputy executive director. So I am wondering why they have a substantive deputy executive director and yet the minister again has the responsibility to appoint a person to perform the duties of the executive director when they are unable to do it. I think it should automatically fall to the deputy executive director. So I would think that that proposal is unnecessary.

**THE CHAIRPERSON:** Which clause are you addressing?

**MR LUBOGO:** Let me check for the exact clause. *(Laughter)*

**THE CHAIRPERSON:** Maybe you want to address clause 14.

**MR KABAJO:** Madam Chairperson, I would imagine that what they are looking at here is a situation where both the executive director and the deputy are indisposed. I think the best way to handle this is to rephrase it by saying, “Where both the executive director and the deputy are incapacitated or for any reason unable to perform their roles, then the minister…” That is when the minister can come in. Otherwise, under normal circumstances, the deputy executive director would stand in where the executive director is absent. So I would propose the rephrasing of this.

**THE CHAIRPERSON:** That is what clause 14(6) is saying; you read it. It says, *“Where it is not possible for the deputy executive director to act as the executive director, the minister may, on the recommendation of the authority, appoint an officer of the authority qualified in terms of subsection (3) to perform the functions of the executive director for the duration of the executive director’s incapacity…”* Doesn’t that answer your question?

**MR KABAJO:** I think it covers it. However, what he was trying to raise was that it should come out clearly that when the executive director is unable to perform their duties, then the deputy immediately comes in. I think that is missing in the text.

**MR SSEWUNGU:** Madam Chairperson, under the functions of the National Children’s Authority, in paragraph (k) the committee only says, *“Prepare and maintain a national database on child abuse.”* I would suggest that we need also to have a function known as “knowing the national data of children”. We cannot only talk about child abuse and yet we do not know the data about our children. What is the total number of children in the country, for example? I think that should be a new clause or they can just add it within here.

Madam Chairperson, because I may not come back, let me go to the last issue that I want to amend, which is on page 10. It says, *“The authority shall ensure that within four months after the close of each financial year, the statement of account described in section 24 is submitted for auditing.”* We can correct just that one; other than saying section 24, we can say section 24(1).

**MS KOMUHANGI:** Madam Chairperson, “24” is a subtitle under “Audit”. I do not know what he wants to do with 24(1) because it is “Audit”.

**MR SSEWUNGU:** Madam Chairperson, you see, it is 24 as a section but we said in 24(1) that, *“The accounts of the authority shall, in respect of each financial year, be audited by the Auditor-General or an auditor appointed by the Auditor-General.”* When you come to 24(2) you say, *“The authority shall ensure that within four months after the close of each financial year, the statement of account described in section 24 is submitted for audit.”*

**THE CHAIRPERSON:** What is your problem, hon. Ssewungu?

**MR SSEWUNGU:** I thought it was referring to what is taking place in 24(1) –

**THE CHAIRPERSON:** The other one is saying that every year, they shall be audited while 24(2) is saying that within the four months after the closure of each financial year, ensure that the statement is submitted.

**MR SSEWUNGU:** I concede.

**MR EKANYA:** Madam Chairperson, audit has now moved from financial audit. I see here we are focusing only on financial audit and there is no performance audit and value-for-money audit. You see, the life of the children is about their life; so we need the annual performance reports and the performance audit reports.

Therefore, I want to propose an amendment so that through the national council we get the performance report annually. I do not know whether the chairperson took care of this. All Government departments submit two reports, the finance audit report and the annual performance report, which I do not see here, committee chairperson.

**MS KOMUHANGI:** The performance report is there; just look at clause 23 under “accounts”. Clause 23(2) reads, *“Subject to any directions given by the Minister, the authority shall cause to be prepared in respect of each financial year, and not later than three months after the close of the financial year, a statement which shall include a report on the performance of the authority during the financial year and the statement shall comprise of…”* I do not know whether it satisfies you, hon. Ekanya.

**MR EKANYA:** Yes. The practice is that this report is always submitted to Parliament through the minister. So maybe you need to add it there.

**THE CHAIRPERSON:** Okay, honourable members, with the amendments proposed, I put the question that clause 6 be amended as proposed.

*(Question put and agreed to.)*

*Clause 6 as amended, agreed to.*

Clause 7

**MR PETER NYOMBI:** Madam Chairperson, I wish to propose two amendments to clause 7. The first is in relation to paragraph (g) under 43C which requires the applicant to continuously stay in Uganda for at least one year. This clause would be in conflict with clause 3 of the same Bill which lays down the most important factor to be considered while taking decisions affecting children.

Clause 3 provides that in taking decisions relating to children, their welfare is the most important factor. For a child, normally legal guardianship orders are granted –

**MS KOMUHANGI:** I am sorry but I wish the honourable member could quote which Bill he is reading from.

**MR PETER NYOMBI:** I am reading from the Children (Amendment) Bill, 2015.

**MS KOMUHANGI:** Which one now? We are not on the same page. I have been trying to follow your argument - for example, clause 7 goes until (3) but you are talking of (7).

**MR PETER NYOMBI:** I am talking about clause 7.

**THE CHAIRPERSON:** I think that what you are saying is that there was a conflict between clauses 3 and 7.

**MR PETER NYOMBI:** Yes. I am saying that there is a conflict between this paragraph (g) under 43C and clause 3. I was giving an example that if a child is sick and needs to be rushed to a hospital, normally legal guardianship orders are sought. However, if you require an intending legal guardian to stay here for one year, then it is not in the interest of the welfare of the child.

**MS ALASO:** I thank you very much, Madam Chair. I would like you to guide me because my proposal is to the effect that this whole clause be deleted before we even go to the specific amendments.

**THE CHAIRPERSON:** Do you want clause 7 to be deleted?

**MS ALASO:** Yes; this insertion here under clause 7 (1)(a) on guardianship. The whole aspect of legal guardianship has troubled me and so I wish to propose a deletion of that entire thing called “legal guardianship” *–(Interjections)-* Yes, and I will give justification, if you allow me at this stage, so that if I am not able to convince the committee chairperson, hon. Komuhangi, I will participate subsequently in the amendment. For now, let me give my view if you will allow me, Madam Chairperson.

**THE CHAIRPERSON:** Can we go systematically? I think that we have not yet reached there. Let us go systematically and we shall come to it. You will come up again when we reach it.

**MS ALASO:** For deletion of the entire clause? *(Laughter)*

**THE CHAIRPERSON:** You will address your proposals when we come to it.

**MS ALASO:** Madam Chairperson, we are already there.

**MS KAMATEEKA:** I thank you, Madam Chairperson. Hon. Peter Nyombi said that clause 7 contradicts clause 3; that clause 3 considers the best interests of a child and so to require that one stays for one year would disadvantage a child who has to be rushed out for medical treatment, for example.

The information that I would like to give to this House is that this proposal was put here so as to ensure that indeed the person intending to adopt a child acts in the best interest of that child by staying around so that their behaviour can be observed and credibility established. It is also possible that maybe the child could bond with this person who intends to adopt the child. If the need arises to rush a child out of the country for treatment, that is an exceptional circumstance. We do not have to rush to have a child adopted because that child needs to go for medical treatment. I beg to submit.

**MR PETER NYOMBI:** Madam Chairperson, I think there is a mix-up in understanding the difference between legal guardianship and adoption. Legal guardianship is totally different from adoption. With legal guardianship, parental responsibility is placed in the hands of the legal guardian to render a certain service but with adoption, that is more critical. Once a child is adopted, it means that the rights of the parents are extinguished.

Legal guardianship has been used to assist children who require treatment from more specialised hospitals. Now, if you impose this condition of one year, it means that the legal guardian would have to come and stay here and wait for one year before ferrying the child out of the country for treatment.

Secondly, if you require a legal guardian to come and stay here for one year, it means that the legal guardian will have to relinquish his or her employment, which is not good for the welfare of the child. Legal guardianship is totally different from adoption. With adoption, yes, the rights of the parents or the legal guardians are extinguished but this is legal guardianship and the parents remain lurking in the background.

**MS ALASO:** I thank you very much, Madam Chairperson. It is principally because of those arguments that hon. Peter Nyombi is raising that I earlier on had thought that I would move and try to convince the House to support the deletion of this whole “animal” called legal guardianship.

Here is the problem: what has happened in Uganda for the last five or so years is that people are now circumventing the critical adoption procedures. The standards set in that regime are being circumvented and thousands of children are being ferried out of this country through a racket. The Auditor-General did an audit for this House and we considered it in PAC. Thousands of children now leave through a racket where there is a children’s home, a collaborating probation officer, a judge who is “funny” and some law firm. The children are just ferried like that and there is no accountability. If you checked with the Uganda Registration Services Bureau, the requirement to file returns and reports of those children are not there at all.

Madam Chairperson, it worries me that the things that used to be problematic - even the Ministry of Gender, Labour and Social Development seriously complained about legal guardianship. The legal guardianship that used to be a problem to the children of this country is now being imported into this law as a clause so that the children can leave and cannot be accounted for.

When I listen to hon. Peter Nyombi’s argument, he even wants to drop the one year requirement. If we have to get any child out of this country, we probably have to make it three years and not just one year. *(Applause)* We probably have to say that no child will go out of this country on legal guardianship. We probably have to say legal guardianship will apply strictly to Ugandans as locals. If it is a Ugandan living out of the country, we will tolerate that but not a foreigner coming here collecting our children, recruiting an army of homosexuals to attack this country and we say that we do not even have to check them for one year.

Madam Chairperson, I would like to pray that if the House does not buy this deletion of legal guardianship, at least increase this one year to three years and we then remove the provision from applying to non-citizens of this country.

**THE CHAIRPERSON:** May I know, hon. Nyombi, why guardians are only looking for sick children.

**MS ALASO:** In any case, Madam Chairperson, we all know in this House that any person can be taken out for treatment. If you have the money, you can take a sick child to India for treatment; you can take the child and bring them back, so why should they be selling children in the name of treatment?

**MR PETER NYOMBI:** Madam Chairperson, I did ask to appear before the Public Accounts Committee to explain these allegations that were made by the Ministry of Gender regarding the circumvention of the law. There is no circumvention of the law; the Constitution allows the High Court to apply the common law if there is no statute that has been passed by Parliament.

**MS ALASO:** You know me really as a very lay woman but I understand that there is a law known as the Children Act and it has very explicit provisions for adoption of children. I know that possibly, it provides for those orders. However, why is it in the interest of all those law firms, including that of hon. Nyombi which is known to have participated in securing so many of these guardianship orders; why is that they do not want to follow the provision of the Children Act to get these children adopted properly?

Is it therefore in order, Madam Chairperson, for hon. Nyombi to do two things: one, to come here and not declare the interest of his law firm in this legal guardianship; and two, to tell me, a lay woman, that there is no proper statute when the Children Act is there? Is it in order?

**THE CHAIRPERSON:** Honourable members, I think let us debate this matter comprehensively such that we all understand it and we are on the same page. I think we are approaching it from different directions.

**MR OGWANG:** I want to base myself on what hon. Alaso has just said. Hon. Nyombi is here and his firm has been mentioned; you need to help the *Hansard* and the records of this House. You have a firm, which is doing business in terms of helping trafficking of our children out of this country, can you please help us and explain to this august House whether it is true or not? Personally, I have been taken aback and I need to be educated specifically on this, Madam Chairperson.

**THE CHAIRPERSON:** Hon. Nyombi, can you declare your interest if any?

**MR PETER NYOMBI:** Madam Chairperson, before I declare my interest, hon. Alaso said that the Children Act does provide for adoption comprehensively. The Children Act provides for only adoption and not legal guardianship, and I would not support the removal of the provisions of legal guardianship from this Bill –*(Interjections)–* Unfortunately, she is not giving me the opportunity to explain. I have written extensively on this matter and I do not think she has studied what I have written.

Madam Speaker, it is true that one of the things that my firm has done is handling adoption. That is one of the areas that we handle in my firm but we handle them above table. We handle them through the High Court, through the Ministry of Gender, Labour and Social Development by using the recommendation of the probation officers. We handle them through the Ministry of Internal Affairs, which issues passports; it is not a secret.

One of the things that we handle at my firm is legal guardianship and adoption among many other things that we do handle. However, it would have been very good if I had been availed the opportunity to appear before the Public Accounts Committee and the Committee on Gender, Labour and Social Development to submit before them. I have written extensively about this.

**THE CHAIRPERSON:** Honourable members, I can confirm that hon. Nyombi wrote to me on 21st January stating that he wanted to appear before the committee but he was not invited.

**MR MURULI MUKASA:** Madam Chairperson, I would beg that we move systematically; this issue of legal guardianship and adoption is ahead and I think when we come to it, we shall give it due attention.

Madam Chairperson, I would also like to say that as much as possible, we in the ministry would like to entertain legal guardians who are citizens - that is our policy and that is the way we look at it - not so much these other people.

We also would not like to entertain the circumvention of the adoption process through legal guardianship simply because the child is sick. Somebody comes up and within two days or a few hours, a child is syphoned out of the country and we may never see that child again because, as hon. Nyombi said, the implications are grave. In fact, for a child that has been adopted at that tender age and under those compromising circumstances, the biological parents will never have any access or any recourse to reunite with the child.

We are trying as much as possible with the Ministry of Justice to see to it that if there is any legal guardianship to be done, then it is done by citizens. This racket of foreigners, which adopts our children through legal guardianship, ought to be stopped.

**MR ATIKU:** Thank you, Madam Chairperson, and I also want to thank the minister because we are now defending the Bill and this particular clause on the same page. I also want to thank hon. Alaso for her stand.

The background to this proposal is that research reports indicated that people were circumventing the legal guardianship laws and were taking children out under those terms of legal guardianship and eventually using the laws in their mother countries to adopt these children. By putting it within this Bill, we are curing that lacuna; it will prevent people from taking these children because you will not be able to secure adoption for this child outside the country when there is a legal provision in Uganda. That is why I would like to plead with hon. Alaso not to move to delete this provision completely.

**MR SSEWUNGU:** Madam Chairperson, as a student of law, who is not yet out there, we handled this matter of legal guardianship and I am in support of hon. Nyombi. Sincerely, we just have to tighten the law. You cannot delete it all because it is necessary, and in the Children Act adoption is catered for, but even this should have stringent guidelines. We need it because you cannot avoid it.

There are conditions which force such things to take place. However, it is only those with a bad spirit that cause problems out of the law because there is no specific law governing it. Otherwise, you cannot go away from legal guardianship.

I request the senior legislator, who has carried out these kinds of adoptions in his firm, to tell us what he thinks is better and how it should work because you said you have a paper, and then we move.

**THE CHAIRPERSON:** Maybe let us go systematically; we shall come to it. We are still on clause 7. I put the question that clause 7 do stand part of the Bill.

**MS ALASO:** You will excuse me, Madam Chairperson, if I am not following this Bill well. Clause 7 reads, “Insertion of a new Part VI A in the principle Act” and then the Part VI A is about guardianship and 43A is, “application of this part”.

**THE CHAIRPERSON:** I do not know which Bill you are reading because the clause in the Bill that I have is something different. It is on harmful customary or cultural practices.

**MS ALASO:** The Children (Amendment) Bill (No.3), 2015

**THE CHAIRPERSON:** The Bill we are dealing with is the one that was submitted by hon. Atiku because the Government withdrew their Bill. You should address the one of hon. Atiku.

**MS ALASO:** I do not even know whether I have that one.

**THE CHAIRPERSON**: What we are addressing is amendment of section 7 of the principal Act - harmful customary and cultural practices. That is where we are.

**MS ALASO:** Okay, Madam; I will find my levels. Please, proceed and thank you.

**THE CHAIRPERSON:** I put the question that clause 7 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 7, agreed to.*

*Clause 8, agreed to.*

Clause 9

**MS KOMUHANGI:** The committee is proposing to insert the words “and children with special needs” immediately after the word, “disabilities” wherever it appears.

The justification is to broaden the scope of the provision by bringing children with special needs on board.

**THE CHAIRPERSON:** I do not want to disturb the chair but the President sent me to officiate at a function of the disabled and the albinos were asking me whether they are considered part of the disabled, whether they can stand for Parliament for the other five seats? They asked and I had no answers. There is one who wanted to contest but I was not sure she qualified.

**MS KOMUHANGI:** Madam Chairperson, albinos are disabled. They have a skin pigment that is missing. Therefore, they can contest. Their sight is not normal as well. Actually, in some countries, they provide specifically for them. They are one of the disability groups that need special provision. Even in schools, they provide day-to-day ointment for their skin to strengthen their skin pigment. Therefore, they are disabled.

**MS NALULE:** Madam Chairperson, I would like to support the submission of the chairperson of the Committee on Gender by saying that people with albinism have been categorized among persons with disabilities under the National Council for Persons with Disabilities’ Act. They are part of us.

However, I would wish to seek clarification from the Chair. Did I hear you saying that you are leaving children with disabilities as a stand-alone or are you categorising them as children with special needs?

**MS KOMUHANGI:** I would like to invite the honourable member to listen to this amendment again. Clause 9 on children with disabilities: a) Insert the word “and children with special needs” immediately after the word “disabilities” wherever it appears. We want the word “disabilities” to appear with the words, “special needs”.

The justification is to broaden the scope of the provision by bringing children with special needs on board.

If I can be allowed to continue, Madam Chairperson:

b) Insert new clauses under clause 9 to read as follows:

“(a) A parent or guardian shall, in liaison with a qualified medical practitioner, be responsible for the identification of a child with disabilities or a child with special needs.

(b) In the event that a child is identified with any disability or special needs, such a child shall be afforded such facilities as are necessary to address their needs.

(c) A child with disabilities or a child with special needs shall have access to such education suitable to address their disabilities or special needs.

(d) No child shall be discriminated against on account of their disability or special needs.

(e) A person who contravenes this section commits an offence and is liable on conviction to a term of imprisonment of five years or to a fine not exceeding one hundred and fifty currency points or both.”

Justification: to make specific provisions which cater for the needs of children with disabilities or children with special needs.

**MR EKANYA:** Madam Chairperson, sometimes what disturbs me is that we focus on legislation on very crucial matters but we do not make reference to the budgetary aspect of it.

The chairperson of the committee has been a thorn to us in the budget committee when her department does not get money. It would have been better if you thought about how to ensure that in the financial year, there is money for this, and if you can lock it there so that it becomes a mandatory provision like we have for self-accounting institutions that get money direct.

This kind of department should have a provision in the law that backs it so that when we are doing the budgeting, it is mandatory that money is provided. Otherwise, we are just doing legislation but tomorrow we are going to cry and no money will be provided. Therefore, can we add a clause that – *(Interruption)*

**MS KOMUHANGI:** That is why, Madam Chairperson, we were providing for the authority so that we can have a self-sustaining budget for this docket. Even the national children’s council, which the minister was referring to, is a poorly funded council. They only get wage subvention and not even fully.

Therefore, hon. Ekanya, I take into consideration your concern. Now that we have passed it as an authority, we obviously shall have the money.

**MR SSEWUNGU:** I want to thank the chairperson of the committee and I want to support hon. Ekanya. You talk about the justification you have given in a, b, c and d, but what is happening in the developed countries is that these children even have special accounts. When these accounts are opened, the Government deposits money into them in the interest of the children. Now, for us here, we are only stating that a child identified with any disability shall be accorded such facilities as necessary to address their needs. We must put a provision to open a special account for them where the Government will deposit some funds to help them survive.

Madam Chairperson, my justification is that most of the children with special needs in Uganda are helped by foreigners and us, Members of Parliament. You look for wheelchairs and also take to them some mattresses and such kind of assistance. However, if you talk about an authority, we must put it in black and white in the law that if you are to provide them with assistance, we shall have a special account for these children. It must be identified and known. The account must be there and when Government is requesting for funds maybe for teachers –I love them– even these children should get their special payment so that parents do not go around begging and looking for foreigners to assist them.

**THE CHAIRPERSON:** Honourable members, in relation to what I said about the albinos, I would like the Committee on Finance, Planning and Economic Development, when we are dealing with the Finance Bill, to exempt the creams and the glasses which the albinos use from tax. This is because for them it is not just any cream; it is a matter of life and death. Clerk, you have to remind the Committee on Finance, Planning and Economic Development when they are considering the Finance Bill to create a tax exemption for the creams the albinos use because they are not a luxury. The law treats those creams as perfumes yet to them it is a matter of life and death.

**MR SSEWUNGU:** Madam Chairperson, for emphasis of your point, we have seen albinos demonstrating because they do not even have that cream; they are not getting it. I think those who are lucky are the ones born from those strong and rich families. However, when you go to Kalungu or Kamuli, it is the reverse.

To emphasise that matter, it must even be provided for that they are sent out to our health centres. Maybe when procuring drugs for our health centres for other people who are not in that category, there must be a provision. I think the number is not very big. Otherwise, they have complained; they have moved around Kampala and we have seen them on *NTV* and on *Agataliiko Nfuufu* complaining about that cream.

**MS NALULE:** Madam Chairperson, I would like to assure you that we are going to address the question of albinos under the provisions of the Public Finance Management Act.

The other question where we need clarification as we pass this Bill is under clause 9(b) and (c). Clause 9(b) says, “In the event that a child is identified with any disability or special needs, such a child shall be afforded such facilities as are necessary to address their needs.” The question is: by whom? Don’t we need to specifically say maybe Government? I know they may tell us that the regulations will provide for that. However, since there is a penalty down there, don’t we need to state who should provide this?

**THE CHAIRPERSON:** What do you propose?

**MS NALULE:** I would like to propose that Government must take up the responsibility.

**MS KOMUHANGI:** Madam Chairperson, it is obviously the Government. The reason we are looking at having an authority is so that we have a special focus on these children. The authority will take care of all the details concerning children, including those with disabilities as well as the budgets. That is why we were fighting to have the authority passed by this Parliament. I am very grateful, Madam Chairperson.

**MR EKANYA:** Madam Chairperson, I would like to propose an amendment that we create paragraph (f). This is because, as the chairperson of the committee said, the authority will get a budget of half a billion or half a trillion but if the executive director needs a brand new vehicle, he will buy it first. Therefore, I would like to create paragraph (f) to say that the authority shall give first priority in its budgeting process and implementation in ensuring that the fund for children with special needs is protected from any other activity. I am proposing ring-fencing it. I also propose that it becomes a priority of the authority in terms of its budget and resource.

That will also help us as Parliament, during the budgeting process, to see to it that the fund for the children with special needs is ring-fenced from interference by the executive director. In terms of their toilet facilities, Madam Chairperson, if you go to these special needs schools the sanitation is terrible. It even shortens the lives of these children, among others. That is why I am introducing paragraph (f). I beg to move.

**MS FRANCA AKELLO:** Thank you, Madam Chairperson. The chairperson had proposed in clause 9(e) on the penalties that a person who contravenes this section commits an offence and is liable on conviction to imprisonment of five years or to a fine not exceeding 150 currency points. I feel this is too small for such a crime, especially the currency points of 150; that is Shs 3 million. I would propose 500 currency points.

**MR ATIKU:** Thank you, Madam Chairperson. I did not hear you put the question on the proposal made by hon. Ekanya. If it is welcome, then it will adjust the numbering. This is because you cannot bring the proposal below the penalties. For record purposes, if we take on hon. Ekanya’s proposal, then it becomes paragraph (e) and the current paragraph (e) becomes paragraph (f).

**THE CHAIRPERSON:** That one will be done.

**MR MUSASIZI:** Thank you, Madam Chairperson. I have no problem with hon. Ekanya’s proposal. However, there is something we need to think about. Proposing is one thing but application is another. Our budget is activity based; you plan the money according to the activities you have. If you say you are restricting someone to perform a certain activity or put all the money in an activity, I would like to say it is welcome but we need to rephrase and maybe say a certain percentage of the authority’s budget must go to activities related to the people he is mentioning. Outside that, it becomes practically difficult for someone to implement. Thank you.

**MR MURULI MUKASA:** Madam Chairperson, it may be technically difficult to create a fund and ring-fence it just as the honourable member has been saying. Since the authority is in place and it is really going to take care of some of these special needs, I think we better leave it with that option of making sure that children with special needs are adequately provided for within the funding that is given to the authority. Maybe not to lose track of that issue, we could insert an appropriate clause to indicate that this is important. We should not create a fund and even ring-fence it because it may be technically very difficult to achieve.

**THE CHAIRPERSON:** Honourable members, I put the question that the clause be amended as proposed by the chairperson.

*(Question put and agreed to.)*

**THE CHAIRPERSON:** What was that sub clause? Is it a new one? Honourable members, I put the question that a new sub clause be inserted as proposed by hon. Ekanya.

(*Question put and agreed to.*)

*Clause 9, as amended, agreed to.*

Clause 10

**MS KOMUHANGI:** Madam Chairperson, clause 10(42A) - honourable colleagues, for those who do not have the right Bill, we are using Bill No. 2.

(a)Amend subclause (3) by inserting another paragraph (d) immediately after paragraph (c) as follows:

“(d) Local Council I”

The justification is that the Local Council I participates, to a greater extent, in the day-to-day activities within the local community and has a lot of information about the children.

(b) Insert a new paragraph at the end of the clause to read as follows:

“(9) For the purpose of this section, the designated child protection organisations include police officers, LCs, medical practitioners, probation and social workers.”

The justification is simply for clarity as to who should give the protection.

(c) Delete clause 10(42B)

The justification is that this is a policy matter and can be best provided for in form of regulation by the minister concerned.

(d) Delete clause 10(42C): Rights to protective services

The justification is that it is a policy matter and can be best provided for in form of regulation by the minister concerned.

I will take the information by hon. Atiku.

**MR ATIKU:** Thank you, Madam Chairperson. Under 42C, we are proposing a new provision in regard to child protection and strengthening the child protection system through the National Child Helpline Facility 116.

**THE CHAIRPERSON:** What is that –

**MR ATIKU:** We are making a new provision in regard to strengthening the child protection system through the National Child Helpline Facility and that is 116.

Let me read: “A child helpline refers to a phone and outreach service that links children in need of care and protection to services and resources including but not limited to counselling, rescue, health and justice services.”

The overall aim is to respond to children in distress by offering emergency support and linking children to long-term support services on time.

The child helpline embodies different means of communication including but not limited to a phone, chat/online, letter boxes, mobile vans, radio, postal, walk-ins and other outreaches and referral services.

In 2013, the processes of transitioning the child helpline into a national mechanism was initiated and expanded to guarantee universal access and sustainable services for all children in distress. The Uganda Communication Commission has already designated a short code 116 as an emergency number for the children in Uganda. Currently, the service is being managed by the Government of Uganda.

The advantages are: The child helpline is the first point of entry into the child protection system for many children. According to the world wide data collected from child helpline information, abuse and violence are the main reasons why children contact child helpline.

It allows systematic collection of data from children who are calling while preserving anonymity and confidentiality.

In order to ensure sustainability, it is proposed that the child helpline be incorporated in the current Children Act (Amendment) Bill. This will guarantee sustained services to children in need of protection and measures but above all, it will ensure that children have access to a confidential reporting mechanism.

This will also make it mandatory for all stakeholders to recognise and take action in situations of abuse. The law should provide for 116 National Child Helpline Services as an emergency for child protection.

The law should specifically make it obligatory for the professionals such as medical practitioners, teachers and counsellors to report to the police and all local government councils of the area any child abuse case they come across in the discharge of their duties.

The law should also make it mandatory for the public authorities to support children and intervene if they have concerns about a child or a case that has been brought to their attention.

The law should categorically provide for mandatory obligation for all persons, firms, bodies, institutions of care, organisations and Members of the public to interface with children to report to the relevant authority any abuse they come across in the discharge of their duties or within their community. I submit.

**THE CHAIRPERSON:** I know you have an amendment but you have been justifying it. What is the text of your amendment?

Maybe as you organise it, honourable chairperson, you are saying the Local Council I; you are giving the authority to that executive committee but not an individual. You are giving authority to all these people who are the executive committee of the LC I. I do not know how many they are. Therefore, who is our reference point?

**MS KOMUHANGI:** It is the LC I chairing but it is a committee. A child protection organisation includes a police officer and LC because they have a lot of information on children in the villages.

We wanted the LC I representing -

**THE CHAIRPERSON:** What I would like to know is; who is the person to contact? You cannot call all the 30 people.

**MS KOMUHANGI:** It is the chairperson -

**THE CHAIRPERSON:** In the past, it was the vice-chairperson of the LC.

**MS KOMUHANGI:** The secretary cannot hold business without the chairperson - (*Interjection*)- I know they are the ones concerned with children matters.

**MR EKANYA:** We have diluted the roles and responsibilities of the LC I structure. Every role and responsibility is given to the chairperson of the village committee.

It is important that as Parliament, we recognise several secretaries who are given several roles and responsibilities. It is because there is a secretary for child affairs, a secretary for environment and a secretary for defence. Therefore, let us allow these people to perform their tasks.

**MS KAMATEEKA:** Thank you, Madam Chairperson. I was saying that it should be the chairman LC I. It does not necessarily mean that he will be the one to chair the meeting. Maybe we should include, “Chairman LC I or a person designated by him” so that he will designate the relevant secretary in that case.

What I would like to point out is the fact that we are saying chairperson LC I does not necessarily mean that he has to be the one to chair that meeting in person.

**THE CHAIRPERSON:** I know the Minister of Local Government is not here. However, I do recall that in the past, the responsibility was for the vice-chairperson of the LC to handle the issues of children. I do not know whether it has changed.

**MR BIRAARO:** Madam Speaker, there are many laws which usually prescribe that Parliament shall carry out certain functions. However, we know that Parliament has got a head who is the Speaker. When an issue comes to Parliament, it is the arms of Parliament that usually handle the situation.

I think, when you refer this law to the LC, it is enough. This is because ideally the chairman has got different sectors. Take an example of the fact that we know that the vice-chairman of an LC I is specifically charged with children issues and children affairs.

Therefore, when we go into details of the vice-chairman, the secretary of production and the rest of it, we are in too much detail - I think it is enough to say an LC and that should be good enough.

**COL (RTD) MWESIGYE:** Thank you, Chairperson. I would like to agree with hon. Ekanya because the framers of these structures of LC saw it wise to create an office of the secretary for child affairs. Why can’t that party be responsible? -*(Interjections)-* no, it is not micro-managing. It is giving specific details instead of leaving it amorphous and ambiguous like that. In that case, the secretary for the welfare of the children gives cause for this particular issue which is very important. You cannot leave it hanging just like that with the chairperson.

**MR SSEWUNGU:** Madam Chairperson, as a primary school teacher, I would like to inform you that this is a common question in SST at primary three. If a child does not answer, “Secretary for Children’s Affairs”, then that is a wrong answer. It is a question which can even appear in PLE.

I, therefore, think that we should go by hon. Ekanya’s suggestion. Otherwise, we shall be out of the National Curriculum. Thank you, Madam Chairperson.

**MS KOMUHANGI:** Madam Chairperson, I wouldn’t have problems with what Members are proposing. However when we do that, then we must also specify for police officers and those in the medical practice which is a bit - I think when we say LC, whoever comes from the local council then can do it. I concede, Madam Chairperson. *(Applause)*

**THE CHAIRPERSON:** Hon. Atiku, what is your proposal? Can you speak to it without the justification?

**MR ATIKU:** The proposal was to delete clause 42C. However, with this very important insertion; that is the national child health line facility 116, I think we would retain clause 42C. Then we have National Child Health Line Facility 116.

**MR MURULI MUKASA:** Madam Chairperson, that child helpline is one of the services which go ahead towards protecting the rights of the children. Therefore, if we are going to retain this section, it will be appropriate to mention it in the law.

**THE CHAIRPERSON:** Okay, honourable members, I put the question that clause 10 be amended as proposed.

*(Question put and agreed to.)*

*Clause 10, as amended, agreed to.*

Clause 11

**MS KOMUHANGI:** Madam Chairperson, clause 11 is on guardianship.

Clause 43A; replace the words “application of the part” appearing on the headnote with “legal guardianship”.

The justification is for clarity and precision and to separate it from the new forms of guardianship introduced by the Bill.

Delete subclause (2) of 43A. The justification is that the provision is redundant because it is captured under subclause (4) of clause 43C.

Clause 43B; insert the word “legal” immediately before “guardian” both in the headnote and in subclause (1).

The Justification is that this is a consequential amendment.

43D; amend sub clause (2) by inserting the words “one of whom must be a probation and a social welfare officer, and the other must be a local council I.”

The justification is to avoid situations where some of the parents may connive and give their child away even when they are capable of looking after the child.

Amendment of 43F; amend paragraph (f) by replacing “fourteen years” with “twelve years”.

The justification is to be consistent with Section 88 of the Children Act Cap. 59, which provides the minimum age of criminal responsibility at 12.

Clause 43F; amend subclause (2) (a) by substituting “one year” with “three months”.

Thejustification is to make the process of preparing for adoption favourable to the prospective adopting parent.

43I Registration of guardianship order;

Substitute “seven days” with “fourteen days”.

The justification is to allow a reasonable period to submit applications for registration.

Substitute the words, “National Council for Children” with “National Children Authority”.

The justification is to be consistent with the spirit of transforming the National Council for Children to the National Children Authority.

(h)Clause 43J

(a) (1); substitute the words “reports by guardian” appearing on the headnote with “child placement organisation”.

The justification is that annual progress reports should be filed by the child placement organisations who can give an independent assessment on the child’s progress and it is these organisations that should send the progress reports to the responsible persons.

(b)Amend subclause (1) by substituting the words “every guardian resident outside Uganda” with “every child placement organisation outside Uganda”.

The justification is that it is a consequential amendment.

Amendment of subclause (1)(b); substitute the words “responsible persons or authority” with “child placement organisation”.

The justification is that it is a consequential amendment.

(i) 43K; Amend subclause (1) by inserting the word “social” immediately before the word “welfare”.

The justification is that it is for clarity and consistency.

**THE CHAIRPERSON:** I would just like to get clarification. Is there a type of guardianship that is not legal?

**MS ALASO:** Thank you, Madam Chairperson. I would like to move an additional amendment and also raise some concerns on the amendments moved by the chairperson of the committee.

On clause 43A subclause (1), I would like to propose a deletion of the words “a person who is not a citizen of Uganda”. The justification is that legal guardianship should be restricted to only Ugandans and not foreigners; and I had earlier on explained the reasons to the House that tracking children under legal guardianship has become impossible. Many of the people who come to adopt children do not follow the rigid adoption criteria but prefer to take this shortcut and once these children are out of the borders of Uganda, all these other things that we are proposing later on are very difficult to enforce. Therefore, my proposal is that we restrict legal guardianship to citizens of Uganda and we delete “a person who is not a citizen of Uganda”. We do not entitle them to have children under legal guardianship.

**MS KAMATEEKA:** Thank you, Madam Chairperson. I would like to seek clarification. Supposing a Ugandan student who is outside would like to be adopted by another person so that he or she can access education in another country! We know that there are students from Uganda that are in that category of being looked after by legal guardians who are not Ugandans; in that case, will it be the law of the other country to apply or wouldn’t we have a responsibility to cover them under our law? Thank you.

**MS ALASO:** Thank you, hon. Jovah Kamateeka. My understanding is that under this law, we are dealing with children below 18 years. We are not dealing with students who have gone to study. I think any other thing will apply to them. However, here, we are only talking about children below 18 years *– (Interruption)*

**MS KAMATEEKA:** It can equally apply to all the children.

**MS ALASO:** We are also talking about people who are not citizens of Uganda. I thought that would be the best way to protect them. Maybe there will be exceptions but to close that outlet which has been routinely abused, we can afford to dispense with the 0.1 per cent and protect the 99.9 per cent. That is my proposal that (a) be deleted.

I would also like to propose that we insert sub clause (3) (a), (1), (2) and a new (3) to read as follows: “legal guardianship shall not be extended to non-Ugandans and for inter-country guardianship”. However, it is my prayer that it is not extended to non-Ugandans and it shall not go outside the borders of this country –*(Interjections) –* I still had a few more but we shall deal with them later.

**MR NYOMBI:** Madam Chairperson, as long as it is a child, whether it is a Ugandan taking this child out of this country, the country to which this child is being taken will not accept the person who is taking out this child unless there is a Legal Guardianship Order. It applies to both foreigners and Ugandans. For as long as it is a child and it is not your child, it is not somebody closely related to you, you will not get a visa to travel outside the country without a Legal Guardianship Order.

**MS ALASO:** Madam Chairperson, I just said for those who are not citizens. If you are a citizen going out, it is fine and they are entitled to the Legal Guardianship Order and can take the child. My problem is with those who are not citizens of Uganda.

**THE CHAIRPERSON:** Honourable members, supposing I am a Ugandan living in Florida and my relatives have got children whom they cannot take care of but whom I cannot take unless I have the guardianship; are you asking me to come back from Florida and stay here for one year while waiting for these children?

**MR EKANYA:** Madam Chairperson, some of us have helped people to move with their children. If you cannot, airplanes have express provisions for transporting children. I agree with you because the international requirement is that there is need for legal guardianship and under the East African Community, the issue of citizenship - we now call ourselves residents under other laws. I would like to plead with hon. Alaso to delete the words “a person who is not a citizen of Uganda” because with this, we are removing ourselves from the global world yet we have already gone to that level. We shall be seen to be operating in a different world.

**MS ALASO:** I would like to inform hon. Ekanya that it is only here in Uganda where you can walk in and in two or three days you have a child to adopt. We are still part of the global village. Elsewhere, you cannot go and pick children the way Ugandan children are picked. We meet these children at the airport. The *Bazungu* just come here and in two days, with a racket involving a probation officer or a law firm, they take the children. We would like to make it hard for children to be taken out like that.

I am telling you that in years to come, we shall regret letting those children go out just like that. Hon. Ekanya, let it be for citizens.

Madam Chairperson, you asked if you were in Florida - you are still a Ugandan citizen and in my view, you can take the child and get the Legal Guardianship Order. However, for non-Ugandans, let us make it a little difficult.

**MR BIRAARO:** Madam Chairperson, also in response to your concern, I am looking at a situation where a child has been kidnapped and the police are looking for this child and the whole process is taking time with announcements being placed. By the time the process is finished, the child will already be gone. We really need to look at the advantages and disadvantages of the delay. I think a delay is better because many children will disappear given the stories we are getting about what is happening to our children.

Therefore, I propose we maintain the delay because someone from Florida who is kind to help a child should also have the patience to wait and help genuinely.

**MR MUSASIZI:** Thank you, Madam Chairperson. I am having difficulty understanding what hon. Alaso is proposing for one reason. I am going to elaborate using a practical example. I have friends. They live in the USA. They visit me once in a while and in my dealings with them, they interest themselves in helping my rural people.

Madam Speaker, I come from a rural constituency where very few parents can afford to look after their children and so, someone offers to help me with two or three children but this person is not a Ugandan. His address is well known and is doing established businesses but is not a Ugandan. Do I ask him or her to first stay in Uganda for a year or two in order to help me with these children who are helpless?

Madam Chairperson, we need to put a distinction between “adoption” and “legal guardianship” and these two must be dealt with separately. My understanding of hon. Alaso’s argument is that she seems to be embedded in adoption and adoption is not legal guardianship. I would, therefore, like to propose that as we debate this clause, let us open our eyes and debate the two separately without bias.

Much as some people may be biased about hon. Nyombi, we know that he has a lot of experience in regard to these matters we are debating and it is important that we listen to his wise knowledge and see if we can get something out of it. I thank you.

**MS KABAALE:** Thank you, Madam Chairperson, I have observed what is taking place and you remember very well that in the process, when we were talking about trafficking in persons, there was a conflict of interest in this House. Some people had firms which were dealing in similar situations. Therefore, we wouldn’t want to absorb such a situation where a person or some people are linked to firms which deal with enabling people adopt children or process legal guardianship.

We, who do not have those companies, are at liberty to debate this matter and help the children of this country and the parents as they are saying that it does not require a person to delay in processing legal guardianship.

I will give two examples; the Mukono case, the child has never appeared yet they just fraudulently processed the papers. Up to now the Americans who took the child are saying the child belongs to them.

Another child was taken to South Africa under the guise of going for treatment and as they were processing a kidney transplant, the child died. Therefore, we who do not have such companies would like to debate so as to protect the parents and the children by saying that there should be a process. If I really would like to adopt someone or process guardianship, I should be patient.

Having listened in, we should not encourage people who have conflict of interest to make us bend to their side. Honourable members, this Bill is very important because of the apathy which people are going through. There are over 60 daily applications for legal guardianship. Why don’t they be patient? Why don’t they stay around for a month or a year if you are a serious person who wants to take over a child?

Madam Chairperson, I thought I should inform the Members what is behind the curtains so that we propose these amendments with a lot of caution. I thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, I propose that we stand over this particular issue. The children cannot come here to speak for themselves but it is our responsibility to make a good law on their behalf. Therefore, I would like to request that we stand over this and do the other areas and go and do some reading overnight so that when we finally take a decision, it will be in the interest of – (*Interjections*)- I made my ruling. We are standing over the guardianship and I would like to invite Members to read about guardianship and adoption so that when we are handling the issue, we look at both areas and see what falls where. We ought to make a good law.

**MR EKANYA:** Madam Chairperson, according to this Bill, the entire issue of guardianship goes on up to clause 43 and then adoption goes on and you know it has a relationship.

**THE CHAIRPERSON:** Should we stop for now?

**MR EKANYA:** Yes, we stop for now since we have been in this heat. Let us go and read so that we come back tomorrow when we are -

**THE CHAIRPERSON:** Honourable members, let us defer the remaining parts until tomorrow. Let us go and do some reading overnight and then come back tomorrow and address them.

MOTION FOR THE HOUSE TO RESUME

4.52

**MR BERNARD ATIKU (FDC, Ayivu County, Arua):** Madam Chairperson, I beg to move that the House do resume.

**THE CHAIRPERSON:** Honourable members, I put the question that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding.)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

4.53

**MR BERNARD ATIKU** (**FDC, Ayivu County, Arua):** Thank you, Madam Speaker. I beg to report that the Committee of the whole House has considered the Bill entitled, “The Children (Amendment) Bill, 2015” and considered clauses 3 to 11 with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

4.54

**MR BERNARD ATIKU (FDC, Ayivu County, Arua):** Madam Speaker, I beg to move that the report of the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, the question is that the report of the Committee of the whole House be adopted.

*(Question put and agreed to.)*

*Report adopted.*

BILLS

SECOND READING

THE CAPITAL MARKETS AUTHORITY (AMENDMENT) BILL, 2015

4.53

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (General Duties)** (**Mr Fred Omach):** Madam Speaker, I beg to move that a Bill entitled, “The Capital Markets Authority (Amendment) Bill, 2015” be read for the second time.

**THE SPEAKER:** This Bill has been seconded.

**MR OMACH:** I haven’t been very strongly seconded.

Madam Speaker, the object of this Bill is to amend the Capital Markets Authority Act Cap 84. The Bill seeks to provide for the establishment of the board, its functions and meetings and for committees of the board of directors, the appointment of the board secretary, the composition and function of the authority, power to acquire production of books by approved and key persons, assistants to foreign regulatory authorities, statement of principles and codes of practice, exercise of disciplinary powers by the authority, power to close or suspend trading, promotion and floatation of securities, grounds for approval of licenses, appointment of statutory manager, establishment, constitution, functions and proceedings of the capital markets tribunal, market abuse and for connected purposes.

Madam Speaker, it also seeks to ensure that there is compliance with the international organisation of securities commission, multilateral memorandum of understanding and also to ensure that there is compliance with the international standards for anti-money laundering and combating financing of terrorism.

It further seeks to ensure that the capital markets tribunal is established. I beg to submit.

4.56

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT** (**Mr Anthony Okello):** Thank you very much, Madam Speaker. This is a report of the Committee on Finance, Planning and Economic Development on the Capital Markets Authority (Amendment) Bill, 2015.

The Capital Markets Authority (Amendment) Bill, 2015 was read for the first time on 11November 2015 and referred to the Committee on Finance, Planning and Economic Development for scrutiny. The committee has, in accordance with rule 118 of the Rules of Procedure of Parliament, scrutinised the Bill and now presents its findings to the House.

Madam Speaker, we have methodology and with your permission, I request that I proceed to committee observations and recommendations.

Amendments to enable the Capital Markets Authority meet the international anti-money laundering and countering terrorism financing standards by the financial action task force: The committee was informed that the financial action task force/international corporation review group responsible for anti-money laundering and combating of financing of terrorism has given Uganda a deadline of 28 February 2016 to amend its laws to comply with the international standards.

If the proposed amendments are not undertaken, the country will be blacklisted as a jurisdiction at high risk for non-compliance with anti-money laundering and combating terrorism financing, which will have serious negative implications on the country’s economy.

The committee notes that clauses 5, 9, 31, 51 and 68 are intended to bring Uganda’s securities regulatory framework in compliance with anti-money laundering and combating terrorism financing standards as set by the financial action task force.

The amendment provides for record keeping requirements of the approved persons in the securities market and supervision of anti-money laundering/combating terrorism financing issues in the securities market.

This will ensure adequate and effective anti-money laundering/combating financing of terrorism supervisory and oversight programmes for all financial sectors for the protection of the country’s economy against threats of money laundering and terrorism financing.

Amendments to enable the Capital Markets Authority meet International Organisation of Securities Commission/Multilateral Memorandum of Understanding compliance:

The committee notes that clauses 5,9,11,12,13,14,15,16,17,19,20,51 and several others are intended to bring Uganda’s securities regulatory framework in compliance with international standards for the security’s regulation standards set by the International Organisation of Securities Commission.

The Capital Markets Authority is a member of the International Organisation of Securities Commission. In May 2002, International Organisation of Securities Commission multilateral Memorandum of Understanding was adopted by Members.

In 2005, the International Organisation Securities Commission resolved that all Members’ jurisdictions should apply to become signatories to the Multilateral Memorandum of Understanding by 1 January 2010.

In 2009 and 2011 respectively, Kenya and Tanzania were admitted as full signatories. (Appendix A) Uganda was, however, admitted to Appendix B. Admission to Appendix B means that the jurisdiction is unsuccessful in being admitted as a full signatory. However, that is committed to obtaining legislative changes necessary to allow it to come into full compliance with the International Organisation of Securities Commission and Multilateral Memorandum of Understanding.

A country through its securities regulator can only reapply to become a signatory once the intended remedial regulations or other measures have been enacted. As of 1 January 2013, the International Organisation of Securities Commission executive committee decided that International Organisation of Securities Commission should create a lease to include Members who have failed to make an application to advance to Appendix A of the International Organisation of Securities Commission multilateral memorandum of understanding.

The list shows all the countries as noncompliant and this has affected the growth of Uganda’s capital market.

To pursue a full implementation of the International Organisation of Securities Commission Multilateral Memorandum of Understanding. International Organisation of Securities Commission has set a new deadline of 30 March 2016, for all members lifted in Appendix B to make the necessary legislative amendments and also formally apply to become full signatories to the International Organisation of Securities Commission Multilateral Memorandum of Understanding. (Appendix A).

The committee recommends that Parliament passes the proposed amendments to enable Uganda meet the deadline.

Compliance with the East African Common Market Protocol:

The committee observes further that the provisions, that is, clauses 4 and 101, among others, are also intended to comply with the East African Common Market Protocol, which identifies the harmonisation of East African Community securities legal and regulatory framework as a priority area for the implementation of the protocol.

The committee recommends that Parliament passes the proposed amendment. The benefit is a harmonised framework inclusive of deepening of the regional capital market, promotion of economic growth, widening of investor base and increased opportunities for investors to raise capital within the region for infrastructural development and commercial ventures.

Corporate Governance

The committee further observes that the Bill also addresses corporate governance and administrative shortcomings in the current regulatory regime and aims at improving the operational procedures to enable the Capital Markets Authority execute its functions better; and provides for offenses and penalties for dispute resolution.

The committee recommends that Parliament adopts the proposal to strengthen corporate governance principles in the Bill in clause 23 on introduction of committees to the board, the fitness and proper criteria of the board members and introduction of the post of board secretary.

De-Mutualisation of Securities Exchange

Clause 26 seeks to amend section 24 of the Act to give way to a de-mutualised environment. The de-mutualisation of the stock exchange refers to the process by which a member-owned exchange is re-organised as a shareholder-owned exchange, thereby switching from private to public ownership.

The committee notes that a de-mutualised stock exchange does not face the same conflict of interest that a member-owned stock exchange faces. Also, as more exchanges de-mutualise, the heightened competition drives exchange to improve technologies and fees structures. De-mutualised securities exchange may offer their shares to the public and by going public, an exchange has access to more capital and the ability to expand into new markets.

Clause 26 further requires securities exchange to maintain a fidelity fund. A fidelity fund is an insurance policy, which will compensate persons who suffer loss arising out of the wrong committed by employees of the securities exchanges. The objective of this is to insulate the securities exchange from liabilities arising out of the wrong committed by the employees of the security exchange in their course of duty.

The committee recommends that Parliament passes the proposed amendments.

Establishment of a Capital Markets Tribunal

Clause 64 seeks to establish a capital markets tribunal to deal with all matters related to capital markets including disputes arising from trade on a securities exchange or a commodities exchange. The existing framework provides for disputes to be handled by a securities exchange, the authority as well as court. It has, however, been found that some of these disputes that arise in the securities industry are too complex to be handled and the authority and securities exchange do not even have any procedural or jurisdiction framework for handling these disputes.

The committee recommends that Parliament approves the proposed capital markets tribunal.

Conclusion

The committee recommends that the Bill be passed subject to the proposed amendments as attached to this report.

Madam Speaker, allow me lay on the Table the original copy of the report that I have been reading and also minutes of committee meetings that were held on 25th and 26th of November 2015 and the views of the Uganda Bankers Association on this subject. I beg to lay. Madam Speaker, I beg to report.

**THE SPEAKER:** Thank you, honourable chair and your committee. In view of your evaluation on 3.6, I was wondering why you did not recommend to the Judiciary to develop guidelines. This is because you are calling for the setting up of the tribunal but it is going to sit there. I thought that would have been a neater conclusion – that the Judiciary starts a process of facilitating this tribunal.

Anyway, honourable members, you have heard the report. We thank our committee. It has been signed by the necessary more than one-third Members and you are free to debate.

**MR ROBERT KASULE:** Thank you, Madam Speaker. I thank my committee for having managed to sit and deliberate on this report. What I want to beg Members is that –

**THE SPEAKER:** So, you are a Member of the committee?

**MR KASULE:** Yes, I am just giving information.

**THE SPEAKER:** No. You cannot debate your report.

**MR KASULE:** Madam Speaker, I am just giving information.

**THE SPEAKER:** To who?

**MR KASULE:** Just giving information that we do not need to debate this report because it is more of a compliance report; we are complying with IOSCO and the Anti-Money Laundering laws and also complying with the East African Common Markets Protocol. So, Madam Speaker, I beg that we go to the committee stage straightaway –

**THE SPEAKER:** Honourable member, you are really taking the House for granted. You have presented a report and now, you do not want us to speak about it. Let the Members themselves say, “We have heard and we are satisfied.”

Yes, is there any debate, honourable members? Shall we go to the second reading? Hon. Kakooza, anything in your mind? *-* Oh, he is also a Member? *(Laughter)*

Okay, honourable members, I put the question that the Bill be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE CAPITAL MARKETS AUTHORITY (AMENDMENT) BILL, 2015

Clause 2

**THE CHAIRPERSON:** Honourable members, I put the question that clause 2 stand part of the Bill.

*(Question put and agreed to.)*

*Clause 2, agreed to.*

*Clause 3, agreed to.*

*Clause 4, agreed to.*

*Clause 5, agreed to.*

*Clause 6, agreed to.*

*Clause 7, agreed to.*

*Clause 8, agreed to.*

*Clause 9, agreed to.*

*Clause 10, agreed to.*

*Clause 11, agreed to.*

*Clause 12, agreed to.*

*Clause 13, agreed to.*

*Clause 14, agreed to.*

*Clause 15, agreed to.*

*Clause 16, agreed to.*

*Clause 17, agreed to.*

*Clause 18, agreed to.*

*Clause 19, agreed to.*

Clause 20

**MR ANTHONY OKELLO:** Clause 20, on insertion of a new clause, 21A of the principal Act. Insert new clauses 21B and 21C, immediately after the proposed section 21A under clause 20 as follows:

21B “False or misleading financial statements of a listed company-

(1) A person shall not influence, coerce, mislead or authorise any person engaged in –

(a) the preparation of the financial statements of a listed company or any of its related companies, (b) the performance of an audit of the financial statements of a listed corporation or any of its related corporations to do anything which they know or ought reasonably to have known may cause the financial statements or audited financial statements to be false or misleading to a material extent.

2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to imprisonment for a term not less than three years or a fine not exceeding three hundred currency points.

The justification is to ensure transparency and integrity of the financial statements of listed companies and for protection of investors, a provision shall be introduced on criminalising false or misleading financial statements of a listed company.

21C “Protection of persons reporting to authorities in specific circumstances-

Where any person responsible for preparing or approving financial statements or financial information of a listed company has in the course of his or her duties reasonable belief of any matter, which may or will constitute a breach or non-performance of any requirements or provision under this Act or a breach of the rules of the approved securities exchange or any matter, which may adversely affect the financial position of a listed corporation and that person submits a report on that matter -

(a) in the case of a breach or non-performance of any requirements or provisions of this Act, to the authority;

(b) in the case of a breach or non-performance of any of the rules of approved securities to the relevant approved securities exchange or the authority; or

(c) in any other case, which adversely affects to a material extent the financial position of the listed company to the relevant approved securities exchange or the authority, the listed company shall not remove, discriminate, demote, suspend or interfere with the lawful employment of livelihood of the person responsible for preparing or approving financial statements or financial information of the listed company because of the report submitted by any such persons.

2) No person responsible for preparing or approving financial statements or financial information of a listed company shall be liable to be sued in any court for any report submitted by such person in good faith and in the intended performance of his or her duties.”

The justification is that there is need to protect whistleblowers who report to the authority about specific circumstances.

**THE CHAIRPERSON:** Honourable members, the question is that a new clause 20 be inserted as proposed. Yes, honourable minister.

**MR BYABAGAMBI:** I agree with his proposals but there is one problem here. These capital markets deal with very huge sums of money and somebody deliberately falsifying the audited accounts and then you are going to give a penalty of only Shs 6 million is very small! You must have a deterrent because in other countries, these people are penalised in millions of dollars but for us here, we are just giving Shs 6 million or three years in jail. Somebody here will do it deliberately well knowing that he is going to get a kickback of billions of shillings and they get away with it.

I am, therefore, proposing that this penalty should be one thousand currency points.

**MR EKANYA:** The minister is really right. In the Finance Bill and I think the Income Tax Act, if one falsifies accounts, you have the penalty doubled of what you have falsified so that it is prohibitive.

One thousand currency points may be more or less and so, I would like to propose to the minister that we adopt what we put in that Act – that you pay double what you have falsified and caused loss to the public.

**THE CHAIRPERSON:** Honourable members, with the proposals, I now put the question that a new clause 20 be inserted as proposed.

*(Question put and agreed to.)*

*Clause 20, as amended, agreed to.*

*Clause 21, agreed to.*

Clause 22

**MR ANTHONY OKELLO:** On clause 22, insertion of new sections 22A, 22B, 22C and 22D:

A. 22B Guidelines and regulatory notices. Insert a new paragraph immediately after paragraph (1)(c) as follows:

(d) “For the regulation of capital markets activities and products subject to assessment of the extent to which they appropriately cater for -

efficient, orderly and fair operation of the segment, product or intermediaries;

adequate provision for risk management and control on market misfeasance;

the proper protection of investor interests and appropriate level of disclosure; and

a facilitative environment for transparent operation.

The operation of any provision of this Act or any other legislation vesting responsibility in the Authority.”

Replace clause 22B (1) (d) as follows:

“(f) Any matter relating to any power, duty or function conferred or imposed on the authority under this Act or any other legislation administered by the authority.”

Insert a new sub-clause as follows:

“2) The authority may publish guidelines and regulatory notices issued under subsection (1) in such a manner as the authority may consider appropriate.”

The justification is that the amendments to the provision are intended to give the Capital Markets Authority a faster mechanism to approve and introduce new products or interventions where there is no definite regulatory framework in place.

The guidelines or notices issued by the Capital Markets Authority will give the authority more flexibility to move in tandem with the ever changing dynamics in the capital markets. These guidelines and/or notices will only be a temporary measure because they will eventually be transformed into regulations depending on the outcome of their intervention.

**THE CHAIRPERSON:** Honourable members, the proposal is that a new clause be introduced as proposed.

*(Question put and agreed to.)*

*Clause 22, as amended, agreed to.*

Clause 23

**MR ANTHONY OKELLO:** On Clause 23, insertion of new Part IIA of the principal Act. Replace the proposed section 22E (1) on Board of Directors of the authority as follows:

In sub-clause (1), replace “nine” with “eleven”;

In paragraph (a), replace “four” with “six”;

In sub-clause (2), replace (2) with (1)

**THE CHAIRPERSON:** Honourable members, the question is that a new Clause 23 be introduced as proposed.

*(Question put and agreed to.)*

*Clause 23, as amended, agreed to.*

*Clause 24, agreed to.*

*Clause 25, agreed to.*

Clause 26

**MR ANTHONY OKELLO:** Madam Chairperson, clause 26, amendment to section 24 in paragraph (h), delete proposed subsection (11). The justification is that the provision imposes restrictive conditions on obtaining and maintaining a license by securities and commodities exchange.

New clause to amend section 25; insert a new clause immediately after clause 26 as follows: Amendment of section 25 of the principal Act. Section 25 of the principal Act is amended by substituting for subsection (2), the following:

“(2) The authority shall give notice in writing to the securities or commodities exchange concerned that it approves the amendments or that it disapproves the whole or any specific part of the amendment. The authority shall indicate in the notice to the securities or commodities exchange the date on which the approved amendment rules will take effect.

(2)(a) The securities or commodities shall notify the public about the approved amended rules.”

The justification is that section 25(2) provides that once the rules of the securities exchange are approved by the Capital Markets Authority Board, the amendments take effect on the date the notice of the decision of the Capital Markets Authority Board is given.

When the Capital Markets Authority attests that they have operational challenges with the implementation of the provisions, then the public needs to be notified of the changes, Madam Chair.

**MR EKANYA:** Madam Chairperson, I would like to find out from hon. Omach as the minister responsible for this, why he is proposing in 26 that the securities exchange shall establish and keep a fidelity fund and to be administered by the governing body of the stock exchange. That is on page 53 of the Bill,

**THE CHAIRPERSON:** Which part of page 53?

**MR EKANYA:** That is E 3(a)

**THE CHAIRPERSON:** Inserting immediately after E?

**MR EKANYA:** Yes, every security exchange shall establish a fidelity fund.

**MR OMACH:** Madam Chairperson, the fidelity fund has already been defined in the committee’s report. It is insurance policy which will compensate persons who suffer loss arising out of the wrongs committed by employees of the securities exchange.

**MR EKANYA:** In that regard, the practice in the commercial banks is that this kind of fund is kept by Government. Commercial banks have this fidelity fund under the custody of Bank of Uganda (BOU); why do you keep this money with this same institution? Why don’t we keep it in BOU, which is the institution that controls currency in the country?

**MR BYABAGAMBI:** Madam Chairperson, the problem is the custodian of the funds?

**THE CHAIRPERSON:** This means that if we have 10 security exchanges, each of them will have a fund.

**MR BYABAGAMBI:** Madam Chairperson, I think I have understood him because this is the same organisation, which is in trading but then also it is keeping the fidelity funds. I think that is a misnomer. I think it should be another organisation, maybe Bank of Uganda.

**MR KASULE:** Madam Chair, if it is in the interest of the Members to separate this fidelity fund between the authority and any other institution, maybe, it can be domicile in Bank of Uganda or any other bank as the rules may prescribe.

**THE CHAIRPERSON:** So we say, “The securities exchange shall establish a fidelity fund to be kept with the Bank of Uganda.”

**MR OMACH:** Madam Chairperson, I do not know why hon. Ekanya is not comfortable with the governing body because we should put there a governing body, which will handle issues of the fidelity fund on behalf of the stock exchange.

**MR EKANYA:** Hon. Omach, we currently have a problem with the Mobile Money platform as electronic money. They keep false figures but the money is not there because they know the trend of trading in the Mobile Money platform. Therefore, by allowing this securities exchange governing body to keep this in their books of accounts, you can be reading that cash is available but you have real electronic money, which is air. But with the money being kept with the central bank, they will have the cash and it will help to stabilise the economy and you understand this more than even I do.

**MR OMACH:** Madam Chairperson, can we say that it will be kept at a bank licensed by the Central Bank? Will that cure the –(*Interruption)*

**MR BYABAGAMBI:** I think here there are two things we are talking about. Keeping the money is different from administering that money. I can keep it in any bank but I am administering that money. *(Interjections*) Yes, here they are saying it will be administered by its governing body. That is administration of that money not where it is kept and I think the administration of this money should be a different body altogether from the governing body.

**THE CHAIRPERSON:** So, what is our final position?

**MR KAKOOZA:** Madam Chairperson, if I read this section, “Every security exchange shall establish a fidelity fund, which shall be administered by its governing body”, I think it is not right on the part of the stock exchange. As we know, all these stock exchanges are monitored by the Central Bank. Why don’t we specifically say it will be administered by the Central Bank instead of a governing body?

The governing body can mean anybody but all these stock exchanges are controlled within the Central Bank and they must know what happened internationally and locally. It would have been better to say that, “It shall be administered by the Central Bank.”

**THE CHAIRPERSON:** Is that okay minister? We give the authority to the Central Bank to administer?

**MR OMACH:** Let me concur and we say, “under the guidance of the Central Bank”, for supervision.

**THE CHAIRPERSON:** You do not want to let go?

**MR OMACH:** Because if you have the Capital Markets Authority, which monitors the stock exchange because that is the final authority and they monitor whatever the stock exchanges are doing and, therefore, they will be in a position to monitor the fidelity funds, which are being operated by these bodies.

Can we give it to the Capital Markets Authority to do the monitoring?

**THE CHAIRPERSON:** Which shall be established?

**MR EKANYA:** Madam Chairperson, I propose that we stand over this as we read the Bill for a few minutes.

**MR MUSASIZI:** No, we do not need to stand over it. It is something we can reason out. Madam Chairperson, stock exchange markets are regulated by the Capital Markets Authority. The administrative bit of managing the affairs of the stock exchange is the full responsibility of the Capital Markets Authority.

The issue of keeping the money with Bank of Uganda is alright for custody purposes; for the sake of safety. However, for the administration of the monies, we need not shift this responsibility to the bank. It is outside its mandate to do the administration of stock exchange markets.

Therefore, I want to propose that we say, administration is for Capital Markets Authority and the keeping of the money should be done by the Central Bank and we end it.

**THE CHAIRPERSON:** Therefore, can you make the proposal properly because now we were at the governing body, on behalf of the stock exchange - Can you speak to the amendment quickly?

**MR MUSASIZI:** Madam Chairperson, my proposal concurs with the provision in the Bill: “Every securities exchange shall establish and keep a fidelity fund, which shall be administered by the governing body.” In this case, the governing body is the Capital Markets Authority on behalf of the stock exchange.

**THE CHAIRPERSON:** Why don’t we come out properly instead of saying, “governing body” -

**MR MUSASIZI:** We say, “Capital Markets Authority”?

**THE CHAIRPERSON:** Yes. Is that okay, Members? Honourable members, the question is that clause 26 be amended as proposed.

*(Question put and agreed to.)*

*Clause 26, as amended, agreed to.*

*Clause 27, agreed to.*

*Clause 28, agreed to.*

*Clause 29, agreed to.*

*Clause 30, agreed to.*

*Clause 31, agreed to.*

*Clause 32, agreed to.*

*Clause 33, agreed to.*

Clause 34

**MR ANTHONY OKELLO:** Madam Chairperson, clause 34, amendment of section 35. In paragraph (c), delete the words “except for a commodities broker.”

The justification is that there is no need to exempt the commodities broker from minimum financial, educational qualifications and other requirements.

**THE CHAIRPERSON:** Honourable members, the question is that clause 34 be amended as proposed.

*(Question put and agreed to.)*

*Clause 34, as amended, agreed to.*

*Clause 35, agreed to.*

*Clause 36, agreed to.*

*Clause 37, agreed to.*

Clause 38

**MR ANTHONY OKELLO:** Madam Chairperson, clause 38 is the amendment of section 41. Delete clause 38 and the justification is that changing the licensing period will be made inflexible.

**THE CHAIRPERSON:** Honourable members, the question is that clause 38 be amended as proposed.

*(Question put and agreed to.)*

*Clause 38, deleted.*

*Clause 39, agreed to.*

*Clause 40, agreed to.*

*Clause 41, agreed to.*

*Clause 42, agreed to.*

Clause 43

**MR EKANYA:** Madam Chairperson, I want to seek the indulgence of the minister as to where I can put an amendment. For most of the licensed stockbrokers and companies trading in Uganda, if the company is from Kenya, they impose conditions on Ugandans who want to trade to convert the currency into Kenyan shillings before they buy shares. If they are from Tanzania, it is the same scenario and Ugandans who have been trading have been incurring conversion losses.

The Government has not bothered to protect Ugandans who are trading. I had requested the minister that we need to impose the same condition until the Kenyan, Tanzanian and Rwandan governments also relax their conditions.

I hope that you have got me. You see, Kenyan companies are listed here and if you want to buy shares, you have to get Ugandan shillings and convert them into Kenyan shillings and then buy their shares. If it is a Tanzanian company, you have to convert your shillings before buying shares. That puts us at a disadvantage as there is a currency loss.

Even when they are paying dividends, they pay you in Kenyan or Tanzanian shillings and yet they are listed here. Therefore, I wanted to introduce a requirement that when you are listed in a Ugandan market, you must conduct the trading in Ugandan shillings and not impose conditions for people trading to convert the currency into Kenyan or Tanzanian shillings.

**MR BYABAGAMBI:** What hon. Ekanya is saying is true, when you are buying shares in Kenya on the stock exchange of Nairobi for instance. However, I also think it is also true for a Kenyan buying stocks in Uganda. They also do currency conversion. I think these are administrative issues and you cannot put it in the law.

**MR KAKOOZA:** To supplement what the minister has said, under the East African Community, that can also become a barrier to trade. Much as you want to be flexible to all the countries in the East African region, the rule applied is the same. If you are buying stocks here in any currency, it makes it easy for you in whatever country you go to by virtue of the East African Community protocol.

Therefore, if you restrict it to a country, that means you are putting an impediment to people who are trading within the region. Therefore, it should remain as it is.

**THE CHAIRPERSON:** I do not know whether Members understood hon. Ekanya’s problem. He said if a Kenyan listed company is trading here and a Ugandan wants to buy securities, he or she is obliged to first convert into Kenyan shillings. His point is if the company is listed here, why are we required to first change to Kenyan shillings in order to trade? That is his point.

**MR EKANYA:** Madam Chairperson, for example, we have the Kenya Commercial Bank here and they are not trading only in Kenyan shillings. They are listed, managed and licensed by the Bank of Uganda. However, when it comes to these companies, the condition is they want Kenyan shillings.

If it is a Tanzanian company listed and licensed here in Uganda, you may have your Ugandan shillings after selling your cows or land but you must first convert the currency to their currency before you pay. This is a huge loss. Therefore, we need to make it a condition that if you are listed here, you should trade in the local currency.

**THE CHAIRPERSON:** Therefore, it is really a question of loss of poundage in this transaction.

**MR OMACH:** Madam Chairperson, all the companies that are listed in Uganda buy in Ugandan currency. If you want this to come in the regulations, because this is administrative, it can come. In addition, in this law, we are looking at the harmonisation of the East African Protocol. Therefore, it can come in the regulations but not in the law.

**THE CHAIRPERSON:** Honourable members, it seems it is Uganda, which is trying to be more complaint than the other countries in East Africa. For instance, in this thing of the single visa for tourism, Kenya still issues their own visas. We are the only ones who are busy using the one of 100. It is only us who are trying very hard to be compliant. I think we are not being fair to the people of this country.

**MR KAKOOZA:** Madam Chairperson, the moment you say that the sector is liberalised within the region, it must follow the protocols within the region and you cannot restrict it. This is because the person who is buying on the stock exchange listed within Uganda must know what amount - you cannot put it in the law. This is like a trade. If I find that regarding the business I am dealing in, in Uganda, it is advantageous to buy in the local currency, I will do so.

The moment you put restrictions, you are putting a barrier to trade in that region. You cannot put a restriction when you have liberalised the sector. As you have said, any company listed on the stock exchange can buy dollars from here. The sector was liberalised and you cannot come again and restrict it whereas in other countries it is not done.

**MR MUSASIZI:** Thank you, Madam Chairperson. I think what we are doing here is to facilitate the regulation of the stock exchange. On the side of business, these are private companies with their own internal policies on how they want to do business. I would like this House to agree that the Kenyan currency is one of the acceptable currencies we have in Uganda. If I have a company, internally I will decide that I want to trade using Ugandan shillings and that is acceptable. If I want to trade in American dollars, it is also acceptable. If I want to use the Tanzanian currency, it is also acceptable.

Therefore, as we make these laws, I know that we speak for people who cannot speak for themselves in this House but let us not curtail businesses. Like hon. Kakooza is saying, let us not put barriers in the law. These companies have options. They can decide to go and trade in the Kenyan stock exchange and not here. In that case, who is at a loss? It is our economy. They can decide to go to Rwanda and trade from there. The issue of currency is a matter of company policy. I do not think it is true that all companies that come from Kenya do not want to trade in Uganda shillings.

Madam Chairperson, the underlying factor here is the risk of foreign exchange loss. As a company, I have to manage my gains and losses. If I find that it is likely to bring in more losses if I trade in a certain currency, I can manage my risks by standardising the kind of currency I want to use in my transaction.

As I conclude, I would like to say, as the minister has said, that administratively, maybe in the regulations, something can be done. However, putting it in this law is a restriction. Let us limit ourselves to facilitating the regulation of the stock exchange but not limiting their operations. I thank you.

**MR EKANYA:** Madam Chairperson, I get disturbed. If you travel to the UK, and all of us have travelled, if you do not have the pound, they tell you to go to a forex bureau even before you pay your bills. Every economy takes policies to protect their economy. If you go to Ethiopia, you cannot just walk to a shop with dollars or Japanese yen. You have to go to a commercial bank in Ethiopia and convert the currency to Ethiopian currency. If you go to the Philippines, it is the same story. The Government of Uganda has to look for money to stabilise our shilling because of poundage and the weakening of the shilling. Therefore, some of these policies *–(Interruption)*

**MR KAKOOZA:** Hon. Ekanya, you will find these listed companies in Kenya, Uganda and Tanzania. However, the way they manage their risks in business depends on the currency they want to use internally. That is why, for all the investments you make here, you are allowed to take the currency you want. If you restrict it, you will get investors who will come here and say, “I have made my profits and I want them in dollars.”

If you restrict this, it means that you are limiting and putting a barrier in that sector. The moment you liberalise the economy, you do not restrict it again within your selfish ends. You leave that private company to practice the way it can manage its risks.

**MR EKANYA:** Madam Chairperson, it is very unfortunate. Let me just make this statement and then surrender. There is no liberalised economy in the world. That is why the Bank of Uganda has to keep intervening in the market. If it was 100 per cent liberalised, why would Bank of Uganda keep on intervening to stabilise the currency: the shilling against the dollar? You have to protect your economy.

I have just given you examples of UK, Ethiopia, USA and Germany. Most of these economies control their currencies to give it strength and encourage export. If our shilling is very weak, we encourage imports and consumption. It is conceptualisation of concepts, which is a problem. People think we are now in a global world, which is totally liberalised and, therefore, we suffer the consequences.

If you go to Kenya, they protect themselves, like Madam Chairperson has said. I have friends who have tour companies. You cannot be allowed to move your vehicles. They will impose conditions on you to get a license to hire Kenyan vehicles while we allow Kenyan companies and vehicles to come here and out-compete our tour companies, thereby losing jobs as a result of this. We shall pay the consequences together.

**MR KAKOOZA:** Hon. Ekanya, under private sector-led growth, you cannot restrict somebody and put it in the law that this is how you are going to manage your business. If somebody finds that there is a risk, he will not go in to invest. That is why what has helped this economy to grow is that when this country came out with an investment code, it said, “Come and invest your money.” Am I free to take my money and do business the way I want and manage my risks? If I find that if I come to Uganda, I will find barriers, I will not come. This is because you are controlling my risks. There is no way that you can put a law to control the risks within my business.

**MR SSEMUJJU:** Thank you, Madam Chairperson. I think the explanation hon. Ekanya is giving does not advance the point he is making. He has mentioned countries that are very restrictive. He needs to help us because Uganda is not a very restrictive country. You cannot adopt the Ethiopian approach and import it to Uganda because as you are aware, in Ethiopia they do not even allow foreign companies, for example, in certain sections such as telecommunications.

Therefore, you cannot bring Ethiopia to Uganda because you are dealing with two completely different situations. My proposal, from the explanation of hon. Ekanya, is that we need to continue the way we are. If we are going to change, we should say that we have changed completely to a very restrictive economic environment.

I was meeting the Stanbic group of companies and they said part of the reasons as to why they want to do business in Uganda is that you can take your money any time you want and come and do business. Probably, what is attracting people is what hon. Ekanya wants us to stop.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 43 do stand part of the Bill.

(*Question put and agreed to.*)

*Clause 44, agreed to.*

*Clause 45, agreed to.*

*Clause 46, agreed to.*

*Clause 47, agreed to.*

*Clause 48, agreed to.*

*Clause 49, agreed to.*

*Clause 50, agreed to.*

*Clause 51, agreed to.*

*Clause 52, agreed to.*

*Clause 53, agreed to.*

*Clause 54, agreed to.*

*Clause 55, agreed to.*

*Clause 56, agreed to.*

Clause 57

**MR ANTHONY OKELLO:** Madam Chairperson, clause 57; amendment of section 81 of the principal Act; delete paragraph (c).

The justification is to revise the provision to remove the requirement to include outstanding dividends. It contravenes the provision of the Companies Act, 2012.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 57(c) be deleted as proposed.

(*Question put and agreed to.*)

*Clause 57, as amended, agreed to.*

*Clause 58, agreed to.*

*Clause 59, agreed to.*

*Clause 60, agreed to.*

*Clause 61, agreed to.*

*Clause 62, agreed to.*

*Clause 63, agreed to.*

*Clause 64, agreed to.*

*Clause 65, agreed to.*

*Clause 66, agreed to.*

*Clause 67, agreed to.*

Clause 68

**MR ANTHONY OKELLO:** Madam Chairperson, clause 68; replacement of section 101 of the principal Act. Substitute for paragraph (2)(k) as follows: “(k) The conduct of business by approved persons.”

The justification is that the conduct of business requirements should apply to “approved persons” and not limited to “licensees and their representatives.”

**THE CHAIRPERSON:** Honourable members, I put the question that clause 68 be amended as proposed.

(*Question put and agreed to.*)

*Clause 68, as amended, agreed to.*

*Clause 69, agreed to.*

*Clause 70, agreed to.*

*Clause 71, agreed to.*

*Schedule 3, agreed to.*

*Schedule 4, agreed to.*

*Clause 1, agreed to.*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

6.01

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)(Mr Fred Omach):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, I put the question that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

*(House resumed and the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

6.02

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)(Mr Fred Omach):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Capital Markets Authority (Amendment) Bill, 2015” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

6.02

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)(Mr Fred Omach):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, the question is that the report of the Committee of the whole House be adopted.

(*Question put and agreed to.*)

*Report adopted.*

BILLS

THIRD READING

THE CAPITAL MARKETS AUTHORITY (AMENDMENT) BILL, 2015

6.03

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)(Mr Fred Omach):** Madam Speaker, I beg to move that the Bill entitled, “The Capital Markets Authority (Amendment) Bill, 2015” be read for the third time and do pass.

**THE SPEAKER:** Honourable members, the question is that the Capital Markets Authority (Amendment) Bill, 2015 be read for the third time and do pass.

(*Question put and agreed to.*)

A BILL FOR AN ACT ENTITLED, “THE CAPITAL MARKETS AUTHORITY (AMENDMENT) ACT, 2015”

**THE SPEAKER:** Title is settled and Bill passes. (*Applause*)

I believe the minister will now go, despite “Masaka” and sleep because he was putting us under pressure in December to continue sitting until we have passed it. However, I would like to thank you, honourable members, for the work done.

**MR OMACH:** I would like to, very heartily thank you, Madam Speaker and honourable colleagues. Uganda survived being put on the blacklist as far as anti-money laundering and financing of terrorism is concerned. This was one of the Bills that were causing this and we are very happy that this has been done. We are left with only about two others so that Uganda becomes fully free from any sanctions as far as anti-money laundering is concerned.

Therefore, we are very happy with the passing of these amendments. I thank you very much.

**THE SPEAKER:** Honourable minister, we have been sitting in the dust for some days. I do not know whether you can give us some fresh air so that we can celebrate the passing of this Bill in the parliamentary gardens to get the dirt out of our system. (*Laughter*) He has no powers?

**MR OMACH:** I will consult and report back. On the election of the workers’ representatives, I will also consult but the ministry had assigned the Electoral Commission to look from within their vote. However, I will report back on the actual position.

**THE SPEAKER:** Very well, Deputy Prime Minister and honourable members, I would like to thank you very much for the work done. The House is adjourned to tomorrow at 2.00 p.m.

*(The* *House rose at 6.07 p.m. and adjourned until Wednesday, 2 March 2016 at 2.00 p.m.*)