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**Wednesday, 9 March 2017**

*Parliament met at 10.44 a.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 this morning’s sitting. As we had indicated earlier, it will be a short one but we expect to be able complete a few things, before we pay tribute the late Mr Mayanja Nkangi in the afternoon.

10.46

**MR ABDULATIF SSEBAGALA (Independent, Kawempe Division North, Kampala):** Thank you, Madam Speaker. Last month, I raised the issue of un-receipted visa fees collections at various entry points, especially at Entebbe International Air Port. The Prime Minister assured Members that the responsible minister would come with a statement to this House.

Up to now, we have not seen any statement to this effect. This issue is very serious and we need an urgent answer as to why visa fees collections are not receipted at various entry points and we are losing a lot of money as a result of that.

**THE SPEAKER:** I do not know if there is need for the Prime Minister but this is a very serious haemorrhage for the financial resources of this country. The Prime Minister had written to the Minister of Internal Affairs and I even received a copy. We, therefore, want to have an answer next week because it is more than a month ago since we asked.

10.48

**MR PAULSON LUTTAMAGUZI (DP, Nakaseke County South, Nakaseke):** Thank you, Madam Speaker. Last night, there were five villages in Nakaseke, which have been faced with land grabbing and evictions, where not less than 20,000 people have become homeless.

This morning, they managed to raise some funds to get transport to come here to petition Parliament. The land grabbers are guarded by soldiers and are making these people suffer greatly. It rained and many of them did not have homes to take shelter at night.

Madam Speaker, the other time I raised this issue and you promised to help and guide us. However, up to now, even the committee, which you had asked to help has not done anything for us. The people of Nakaseke South are suffering and yet they are Ugandans. It is as if they are refugees in their own country.

We are asking you, Madam Speaker and the concerned citizens of this country, to help us. If our issue is not sorted today, tomorrow, the people of Nakaseke may become total refugees in their own country. I thank you.

**THE SPEAKER:** The Government Chief Whip had undertaken to send a team there. Did she say she will do so this Monday or last Monday? She had undertaken to send a team there while on the Floor of Parliament.

**MR LUTTAMAGUZI:** Madam Speaker, we received a delegation but the moment these land grabbers realised that there was something that was going to take place, they acted faster on the evictions. As I have told you, more than 20,000 people are homeless. They spend nights out of their homes because they have been erased.

We usually have these committees but they take long and it is as if these people who are grabbing land have special powers from somewhere. Whoever you talk to is simply alarmed and they say they are *“Mafias”* but when you ask them about their faces, they simply say that they are above. I, therefore, do not know – even if you direct the committees - Madam Speaker, there is nothing that is taking place on the ground. The people of Nakaseke South want to see actions taking place. I thank you, Madam Speaker.

**THE SPEAKER:** You know, I own land that side and one day, my neighbours came and said, “One day you may come and we will not be here.” I asked them why and they said that they were being evicted. I asked them who the person that was evicting them is. They could not give me a name; they simply said, *“Abanene”* meaning that they are “big people”. Who is this person who has the capacity to just act with impunity?

10.51

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, it is true that the Government Chief Whip constituted a committee, which went to Nakaseke. However, given the urgency of the matter, we are going to call our system; the RDC and security to come in as we wait for the report of the committee on Tuesday. We are going to have some administrative action taken today, as we wait for the report of the committee. Thank you.

10.54

**THE DEPUTY ATTORNEY-GENERAL** (**Mr Mwesigwa Rukutana):** Madam Speaker, in addition, on behalf of the Government, we would like to categorically disown whoever is unlawfully evicting people from their *“Bibanja”.* The law is very clear. The protection of customary tenants or land owners is embedded within our law and whoever is doing that is doing it in a criminal manner. Definitely, the Government will put in place mechanisms to identify and bring them to book. (*Members rose\_)*

**THE SPEAKER:** I think we have agreed on how to proceed. We shall get a report on Tuesday. (*Members rose\_)* No, we have finished with it.

BILLS

COMMITTEE STAGE

THE INSURANCE BILL, 2016

**THE CHAIRPERSON:** Honourable members, as you recall, we had majorly completed the Bill but we stood over a number of clauses and some of them required the advice of the Attorney-General, which will clear the way to either pass them or leave them. I know we asked the Attorney-General not to go to Dokolo so that he could do this for us. This is mainly on the conflict between this proposal and The Public Finance Management Act.

10.54

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Chairperson, I have looked at the provisions of the Public Finance Management Act, 2015 and in particular, section 29 which reads, “*Revenue shall not be collected or received by vote, state enterprise or public corporation except where the vote, state enterprise or public corporation is authorised by an Act of Parliament to collect or receive revenue.”*

Under the Insurance Bill, 2016, Parliament is enacting a law. Therefore, Parliament has power, if it deems it necessary and expedient, to provide that the monies received by the Authority be used by it for its own purposes. It is a question of what Parliament wants to do. It ceases to be a question of technicality but it is up to us, Members of Parliament. If we think it is necessary for the Authority to retain its money, provided you put it in the law under this section 29, it is okay.

Therefore, we had a meeting with all the stakeholders and we said the only limitation was under section 29 (4) of the Public Finance Management Act. Section 29 (4) says, “*Notwithstanding sub-section (3), any revenue received by a vote, state enterprise or public corporation in the form of fines or fees, which is refundable at a future date in fulfilment of specified conditions shall not form part of the Consolidated Fund and shall be held in trust by the Government in the Bank of Uganda*.”

Here, we are saying that these monies should be utilised at source. Therefore, the question of holding it in trust by the Government in the Bank of Uganda cannot arise. Therefore, we agreed and I would want to propose that we put a clause, which says; “Notwithstanding the provisions of section 29 (4) of the Public Finance Management Act, 2015, all monies under sub section 1 (c), (d), (e) and (f), received by the Authority, shall be retained by the Authority and used to offset the costs of administration and other expenses approved by the minister.”

I would like to clarify on that; what we are authorising them to do is to retain money to offset costs of administration but outside these costs, if there are other expenses, those expenses should be approved by the minister. I beg to move.

**MR NIWAGABA:** I do not have the Public Finance Management Act with me but to my recollection, we provided somewhere between section 34 and I think 43 that budgets for all public statutory authorities and public companies must first be approved by this Parliament. If we are to approve the budget, don’t you think providing for that particular provision that they spend at source monies received as fines and whatever, would contravene the spirit of Parliament approving budgets for authorities such as this one that is being created under this Bill?

**THE CHAIRPERSON:** I think that is what the Attorney-General was saying that there are rules of general application but that there can be an exception if this House allows by an Act of Parliament.

**MR NIWAGABA:** I believe the section he has quoted in respect of receiving funds is different from the section on budget because the budget processes entirely where now statutory authorities bring their budgets to Parliament for Parliament to approve takes precedence over the monies they have received. If Parliament does not approve their budget in respect of those items, won’t there be a conflict?

**MR RUKUTANA:** Madam Chairperson, I have not yet seen that provision and unfortunately, my colleague is not assisting me. However, even if it was there, there is no contradiction. The budgets would come here, be approved but the Authority would receive the money and apply it to the budget as approved at source as we are proposing. Therefore, there would not be a contradiction in my view, assuming there was that provision, which I have not yet looked at.

**MR NIWAGABA:** Why don’t we then subject the provisions of the Bill as you have proposed just to the provisions of the Public Finance Management Act and leave it at that so that in future, if we find there is a contradiction, then the Public Finance Management Act takes precedence and if there is no contradiction, then it moves ahead?

**MR RUKUTANA:** I had put a proviso for section 29 (4); if –(*Interjections*) - no, leaving it wide now may delimit the power we want to give the Authority to apply its money.

I wish I could see the provision my learned colleague is pointing at, which requires - but in any event, even assuming that provision exists, that all budgets of corporations should come here, I do not see any contradiction.

The budgets would come, be approved and the monies as collected would be subjected - (*Interruption*)

**MR OBOTH:** Thank you, honourable Attorney-General, for giving way. I would like in the same spirit for us to recall the object of Public Finance Management Act. Why was section 29 imbedded as part of our legislation? In addition, it is mandatory. Now, sub section (4) that you are referring to notwithstanding, the fear; and I think I share the same fear, if we start drafting in such a way that we allow entities to retain funds at the source, we would be amending the Public Finance Management Act without stating it. All other entities are interested in having their funds and utilising them.

Therefore, the exception I wanted us to get clearly is; which are these other administrative expenditures that would not be foreseeable in the budgeting to warrant us giving an exception to the general principle and rule?

Every entity wants to have the money at source but this Public Finance Management Act is all-inclusive that whoever wants money should be tagged to this Act.

**MR RUKUTANA:** Madam Chairperson, the issue of amending the Public Finance Management Act by implication does not arise because section 29 is specific; it is on collection and deposit of revenue and retention of revenue. Therefore, the law anticipated that in some instance where Parliament deems it proper, entities may retain revenue.

Therefore, if we, pursuant to this section allow this Authority to retain some revenue, we are not in any way amending the Act. It was anticipated and it is properly provided for.

**THE CHAIRPERSON:** I think we shall have to get information on what the special reasons are why this particular one should be exempted.

**MR RUKUTANA:** Proceeding on the second leg, the honourable member was asking “what other administrative costs?” Look at the proposal. The proposal is that administrative costs are covered, but if there are any other expenditures other than *–(Interjections)–* well if there are any other expenditures, the minister must approve.

**MR SEBAGGALA:** Madam Chairperson, what rings a bell in my mind is that when we create authorities, we want them to be functional. We don’t want them to be held back in transacting their businesses.

Madam Chairperson, in regard to the retention of funds, the various entities we have, like the Uganda Communications Commission (UCC), Bank of Uganda, Kampala Capital City Authority (KCCA) and others retain and even expend the money they collect. Our role is to carry out the oversight role and see whether the money is being spent the right way.

Otherwise, there is no way we could selectively say UCC, KCCA, Bank of Uganda and others can spend as per the rules but that when it comes to Insurance Regulatory Authority (IRA) the rules cant apply.

Madam Chairperson, I believe that as it is in other entities, let the money being collected be spent, but in line with what has been agreed upon other than putting in place various bottlenecks that can really hinder their smooth progress.

**THE CHAIRPERSON:** Honourable members, I don’t know whether we can compare IRA with entities which were created before the Public Finance Management Act. What was the rationale of this law of 2015? Bank of Uganda law is a 1964 Act. The UCC was created about 10 years ago. Why should we now depart from the principles of the Public Finance Management Act to allow this one to collect and spend? We made that law in 2015. If we have reasons to exempt it, state them so that they are recorded. Otherwise, the other ones were done long ago before that law.

**MR JONATHAN ODUR:** Thank you, Madam Chairperson. Normally, when revenue is allowed to be spent at source, it is never supposed to go to cost of administration. This is because administration is one of the areas that are widely abused.

In addition, the spirit in which the minister wants the clause to stand is not clear. What is it that the minister wants to cure by allowing the authority to spend at source? It is not coming out clearly.

I think that since we have the Public Finance Management Act, which addresses the concerns that the minister has raised, it is better we leave it out such that the revenue comes to the Consolidated Fund where we can have control other than allowing it to be spent at source.

There are entities such as Soroti Flying School, which are drawing money and spending at source but are now under investigation because we do not have the provision such as this to tie them. Therefore, the practice of spending money at source should be discouraged.

**THE CHAIRPERSON:** Honourable Deputy Attorney-General, can you give us reasons why we should exempt this particular one?

**MR RUKUTANA:** Maybe before that, I would like to draw your attention to Section 29(3)(a) of the Public Finance Management Act, which says: *“A vote, state enterprise or public corporation shall retain revenue collected or received, where the revenue —*

*(a) is in the form of levies, licences, fees or fines and the vote, state enterprise or public corporation is authorised, through appropriation by Parliament, to retain the revenue.”*

Therefore, it is not in breach or contravention of the principles contained in this law, if Parliament authorised any entity to retain money collected at source.

**THE CHAIRPERSON:** I am just saying that for the *Hansard*, we need clear reasons why we should apply Section 29(1) of the Public Finance Management Act so that this law permits the retention – yes so that one does not just wake up and allow.

**MR OBOTH:** I must thank the Deputy Attorney-general for reading verbatim Section 29(3) of the Public Finance management Act because as you have guided, for an entity to get an authorisation to use money at source, there should be a compelling reason. It can’t just be administrative expenses.

And so to give this discretion - I was lucky to be here when we were debating this law. That provision was as a result of an abuse. The moment we start like this, you will see other laws coming and entities seeking for the same thing.

Madam Chairperson, if the compelling reason is not stated, I would advise that - I don’t see anything special. The committee chairperson or minister should help us see what is special about this.

**THE CHAIRPERSON:** What is your rationale for exempting this?

**MR MUSASIZI:** Madam Chairperson, when we interacted with Insurance Regulatory Authority in the process of considering the Bill, what came out prominently was that we need to enact a law that complies with the (Insurance Core principles (ICP) requirement.

And one of the requirements of ICP is that the Authority should have financial independence.

If I may read verbatim for the interest of the members who are not part of the Committee on Finance, Planning and Economic Development - the ICP 2 provides that *“the supervisor in exercise of its functions and powers -”*

**THE CHAIRPERSON:** Maybe you need to state ICP in full for the record because we are trying to find the compelling reason.

**MR MUSASIZI:** Madam Chairperson, ICP stands for Insurance Core Principles and these are standards that govern the operations of the insurance industry.

The ICP II provides that *“the supervisor in the exercise of its functions and powers is operationally independent, accountable and transparent and has adequate resources.”* It goes on to state in ICP 2.4 thus: *“The supervisor and its staff are free from undue political, governmental and industry interference in the performance of supervisory responsibilities. The supervisor is financed in a manner that does not undermine its independence. The supervisor has discretion to allocate its resources in accordance with its mandate and objectives and the risks it perceives.”*

Therefore, Madam Chairperson, it is from this background that we deemed it necessary to give the Authority powers to retain the levies it collects at source and be able to spend it, obviously, with approval of the board and where other expenditures other than administrative costs are involved, we are proposing that the minister approves these expenditures. Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, you have heard the rationale. Any comments?

**MR OBOTH:** I thank the Chairperson of the Finance, Planning and Economic Development Committee who happens to be my very good friend. I do not know whether I am alone on this but I do not feel that that Insurance Core Principles have helped me to appreciate the exceptional circumstances.

The ICP principles, are they captured anywhere in the - I would have loved to hear from you that method of work for the Insurance Regulation Authority that justifies the need for this money without following a, b, c, d.

However, where you said that they should have evidence of adequate resources - it is appropriated for by Parliament. I thought so, like for all other Government agencies. The ICP do not say they must retain the money. They only refer to adequate resources and adequate resourcing is the mandate of this Parliament to provide and make appropriations accordingly. Mr Chairperson of the committee, I am still yearning.

**MR SSEKIKUBO:** Thank you, Madam Chairperson. I heard the chairperson making a case for spending at source. However, it is very tempting - I do not know why the chairperson, who is a member of Public Accounts Committee, is bent to taking that line.

Most of the cases we have in the Public Accounts Committee relate to accounting officers being held responsible, for among other things, spending at source and that is across all ministries. Even with the reallocation, ministries and departments are not supposed to spend without the authority of Parliament.

Madam Speaker, I would have wanted the chairperson to appreciate this. You are putting restrictions to the ministries and departments but now, you are creating avenues for other bodies to also get onto the band wagon.

And in the long run, you are going to have unbalanced and none streamlined policies as Government. What is so unforeseen - we insist on budgeting. The core principles say that the head of the insurance company should be at liberty to have finances around so that they are not under the direction of Government control. That is not really substantive enough – *(Interruption)*

**MR BAHATI:** Madam Chairperson, I think hon. Ssekikubo should not create an impression or anybody gets an impression that when we allow, as Parliament, an institution to spend at source, we have actually given them like an open cheque. That is not true.

In the same law, we created a board which supervises the institution and it is appointed by the minister. Within our law, Parliament can play an oversight role to go and look at what is happening in the Authority.

Otherwise, on the issue of the sensitivity of the institution, especially the institutions that collect money from the public - we have tried, as we have done in the past, to give them some financial independence to handle their resources. But that does not take away the responsibility of Parliament or Government to go in and see if there is anything that is going wrong.

Madam Chairperson, again, as long as we approve it as Parliament, it will be a good thing to allow this Authority to be independent to spend at source. We do not find any problem with it as Ministry of Finance, Planning and Economic Development. That is why we moved that we give that Authority like we have done with Bank of Uganda, UCC and things are moving on well. Thank you.

**MR SSEKIKUBO:** When you refer to Bank of Uganda, Bank of Uganda is an old institution whose law was outside the armpit of the Public Finance and Management Act.

What is at stake here honourable ministers and the chairperson - I seek your indulgence – is why are you overzealous that the minister should be one to approve those expenditures yet you know that ministers have been culprits in all these entities we have been watching? Ministers are reckless. They force these institutions to spend on trips and many none core items. Even the explanation you are giving honourable minister - why don’t you reconsider your position on this? Be kind to yourself and tell the truth that what you are saying is not in tandem with the spirit of the Public Finance and Management Act.

Madam Speaker, once you sit here and start poking holes in the laws which you created *–(Interruption)*

**MS CHEKAMONDO:** Thank you, Madam Chairperson. As an experienced minister who has been in the office in the Eighth Parliament, it is very important that the minister is involved. Otherwise, if you are not there, the technical people will pass out certain things without your knowledge but still hold you back. So, I feel the minister should be part of this. Thank you.

**MR SSEKIKUBO:** Hon. Chekamondo, we are totally against the principle. The question here is not about the minister but we are saying it is against the spirit of the Public Finance and Management Act because it is poking holes in the very law, which was celebrated here. It was the law to curb all such expenditures so that we have Parliament having a hand in the appropriation and this is the spirit of the Constitution. Anything going against the spirit of the Constitution through these subsidiary laws is against the legislative process. I would feel very uncomfortable, if I look on as this mischief is being perpetrated in this Act.

**THE CHAIRPERSON:** I would like to ask the Ministry of Finance, Planning and Economic Development - how do we activate 3(a)? It reads “a vote, state enterprise or public corporation shall retain revenue collected or received where the revenue is:

1. In the form of levies, licenses, fees or fines and the vote state enterprise or public corporation is authorised through appropriation by Parliament to retain the same…”

How do we activate this? At what stage do we appropriate? Do they come and report they have received Shs 1,000,000 and then we say, “Okay, you can retain it?: I would like to understand how we shall effect this because that would mean they would come to Parliament and get authority to retain.

**MR NIWAGABA:** Actually, what we would like to know is, why don’t they want Parliament to appropriate for that particular Authority, the money they want to use in that financial year, which they have collected in form of revenue, fees, fines or licenses? Why doesn’t the minister want us to appropriate?

**MR JONATHAN ODUR:** Thank you, Madam Chairperson. Additionally, I find the justification by the chairperson of the committee about independence not to hold. We have many entities in Government that are supposed to be independent – the Electoral Commission, the Judiciary and so on but are not spending at source. So, does it mean that they are not independent? Thank you.

**MR ATKINS KATUSABE:** Thank you, Madam Chairperson. I think I am here to complicate things further. What the Attorney-General cited was very clear and our laws are also clear that no statutory law shall ever override our Constitution. Appropriation is an exclusive mandate of Parliament. Madam Chairperson, we should never, at any one time, participate in legislation that deprives this Parliament of our core mandate.

I have asked for a valid justification and Madam Chairperson, (a),(g) and (n)- The chairperson is not in a position to give a valid justification for non-authorisation. Therefore, my input is that we should focus on the core principles as clearly stated in our Constitution that all funds have got to be- Parliament does not only appropriate, but Article 164 of our Constitution mandates Parliament to monitor expenditures of public funds. This being a public institution, it should not be an exception. Thank you.

**THE CHAIRPERSON:** Honourable members, section 29(3) (a) gives the power to Parliament. I do not think we can transfer it to the minister just casually. (*Applause*) Let us find a way of putting the content of sub-section 3(a) into that provision so that we are within the Public Finance Management Act. If we are to exempt them - this one says the minister, but a minister cannot take away our powers.

**MR RUKUTANA:** Madam Chairperson, notwithstanding the provision of Section 29(4) of the Public Finance Management Act, 2015: all monies under sub-section 1(c), (d), (e) and (f) received by the Authority shall be retained by the Authority and used to offset the cost of administration and other expenditures approved by Parliament.

**MR NIWAGABA:** We strongly oppose that particular amendment because we do not want to legislate ourselves out of the appropriation process. Therefore, the section should read: “All monies under sub-section 1 (d), (e) and (f) received by the Authority shall be retained by the Authority and used in accordance with the provisions of Section 29(3) of the Public Finance Management Act, 2015”.

**MR RUKUTANA:** Well, we achieve the same purpose even with that formulation because Section 29(3) talks of appropriation by Parliament. In other words, it is saying draw your plans, bring them to Parliament and Parliament approves them so you can spend what you collect from source to implement those plans. That is okay.

**MR NIWAGABA:** Mr Attorney-General, if you use the word “notwithstanding”, you are literally excluding the provisions of that section. That is why I am saying let us invoke the provision of that section under this one to show that even if this Authority can retain and use the money-

**THE CHAIRPERSON:** You state the formulation.

**MR NIWAGABA:** Madam Chairperson, I propose that the section reads as follows: “all monies under sub-section 1(d), (e) and (f) received by the Authority shall be retained by the Authority and used in accordance with the provisions of Section 29 (3) of the Public Finance Management Act”.

**THE CHAIRPERSON:** Okay. We will have to move it formally because we are receiving the guidance of the Attorney-General first. Have you captured the formulation? I put the question that that part of the law-

**MS KAMATEEKA:** I am a member of the committee. I agree with the position given by hon. Niwagaba. However, why do we refer to the section in the Public Finance Management Act supposing it changes with time? Why don’t we simply say “use the money as appropriated by Parliament”? When they have made their plans, they must come to us for approval to use that money. I beg to submit, Madam Chairperson.

**THE CHAIRPERSON:** No, Clause 29(1) is specific on particular forms of income. That is why we would want it to stand. If it changes, we shall adjust the law.

**MS KAMATEEKA:** I concede.

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

(*Question put and agreed to.*)

So, let us go to the remaining clauses. We are able to move now, honourable Members, because we have resolved the principles.

Clause 8

**MR MUSASIZI:** Madam Chairperson, in our records, we do not have clause 8.

**THE CHAIRPERSON:** Yes, it is the first one. There were clauses 8, 25 and 33. That is all.

Honourable members, I put the question that clause 8 stands part of the Bill.

(*Question put and agreed to.*)

*Clause 8, agreed to.*

*Clause 25, as amended, agreed to.*

Clause 33

**MR MUSASIZI:** Madam Chairperson, on clause 33, you are required to get the difference between Health Insurance Organisations and Health Management Organisations.

We had an issue on whether to take 2,000 as the currency points as proposed by the committee, but there were other proposals of 5,000 and 10,000. Madam Chairperson, the harmonised position is on 5,000 currency points.

**THE CHAIRPERSON:** Honourable members, the question is that clause 33(c) be amended as proposed.

(*Question put and agreed to.*)

*Clause 33, as amended, agreed to.*

Clause 112

**MR BAHATI:** Madam Chairperson, we stood over clauses 28 and 35.

**THE CHAIRPERSON:** What is it in clause 28?

**MR BAHATI:** It is borrowing powers. You said we needed to first resolve clause 25. Therefore, it would be better before we go into clause 112 to sort out that.

**THE CHAIRPERSON:** In the same way, I think- This one says with the approval of Parliament. They would still have to come here because we have been saying no one should borrow.

Honourable members, I put the question that clause 28 do stand part of the Bill?

(*Question put and agreed to*.)

Clause 35

**MR MUSASIZI:** Madam Chairperson, in clause 35, you asked to understand the difference between health insurance organisation and health management organisation. May be, I am required to define it, but we are proposing to delete the words: “health insurance organisation”.

**THE CHAIRPERSON:** And leave the health management organisations?

**MR MUSASIZI:** Yes, HMOs.

**THE CHAIRPERSON:** Honourable members, you have heard the proposals, if there is no contrary opinion, I put the question that clause 35 be amended as proposed?

*(Question put and agreed to.)*

*Clause 35, as amended, agreed to.*

Clause 112

**MR MUSASIZI:** Clause 112 had something to do with powers of the Authority in relation to financial statements and other reports. The issue was whether the licensees should meet the costs of additional audit. We are saying yes and our justification is that the licensee meets the costs under normal circumstances for the annual audit process.

However, when the licensees’ financial statements are not in order, they should meet the cost of the additional audit. It only applies when the financial statements have been queried. We are saying that the Authority should not be responsible for the disorganisation-(*Interjections*) - yes, within different entities.

**THE CHAIRPERSON:** Honourable members, you have heard the rationale that if your affairs are not in order, you should pay for the cost of setting them right not the Authority to fund it. I put the question that clause 112 do stand part of the Bill?

*(Question put and agreed to.)*

*Clause 112, as amended, agreed to.*

Clause 113

**MR MUSASIZI:** Madam Chairperson, on clause 113, we propose that subject to sub-section 7-

**THE CHAIRPERSON:** There are only six clauses there - we propose to delete 7-

Madam Chairperson, in our report, we referred to 7, which was not in the Bill and we proposed to delete it. It was an anomaly.

**THE CHAIRPERSON:** You cannot delete it as it is not there.

**MR MUSASIZI:** Therefore, in other words, we withdraw our proposal in the report.

**MR NIWAGABA:** Madam Chairperson, I could help the chairperson; if the proposal in the report is good, the only thing we need to do is to delete the words subject to sub-section 7 and begin the sentence with a licenced insurer or HMO that contravenes sub-section (1) or (2) commits an offence; because the purpose of a penalty is good. I request the chairperson to concede. We only delete the words “subject to sub-section 7” appearing under the proposed amendment under clause 6.

**THE CHAIRPERSON:** Is he proposing to bring a new clause?

**MR BAHATI:** However, again alternative Attorney-General, if you could look at clause 5, it appears to be suggesting what is already there. Therefore, clause 6 as proposed by the chairperson should not be-(*Interruption*)

**MR NIWAGABA:** I concede.

**THE CHAIRPERSON:** Honourable members, the question is that clause 113 do stand part of the Bill?

*(Question put and agreed to.)*

*Clause 113, agreed to.*

Clause 124

**MR MUSASIZI:** Madam Chairperson, clause 124 was deferred on grounds that it should be defined in the interpretation clause for clarity. We have the definition and when we get to the interpretation, we will be able to read it.

**THE CHAIRPERSON:** Honourable members the question is that clause 124 do stand part of the Bill?

*(Question put and agreed to.)*

*Clause 124, agreed to.*

Clause 137

**MR MUSASIZI:** Madam Chairperson, clause 137 was deferred because the House wanted a justification on why the insurance training college should collect and retain the training levy since it is a public institution and its revenue has been subjected to Public Finance Management Act.

Madam Chairperson, if I remember very well we subjected this to resolving clause 25 which we have already done and therefore, this no longer stands.

**THE CHAIRPERSON:** Honourable member, I put the question that clause 137 do stand part of the Bill?

(*Question put and agreed to.)*

*Clause 137, agreed to.*

Clause 2

**MR MUSASIZI:** Madam Chairperson, we propose to amend clause 2 as follows:

1. By deleting the definition of an actuary and substituting the following; actuary means a person who is a member or a fellow of a professional institute, faculty, society or association of actuaries and recognised by the Authority.

 Our justification, Madam Chairperson, is that ICP 8 requires both qualified life and non-life actuaries. It is better for the detailed qualifications to be included in the regulations and not in the Act.

1. Madam Chairperson, we propose to insert immediately after the definition of commercial bank the following “control in relation to a licensee has the meaning specified in the regulations.”

Constituting documents means;

1. In the case of a company, its memorandum and articles of association and
2. In the case of any other entity, such document or documents that constitute and govern the entity.

Our justification, Madam Chairperson, is to provide for the definition of control and constituting documents.

1. We propose to delete the definition of “director” and substituting it with the following:

 “Director” means a member of the governing body of a corporate;”

1. We propose to insert immediately after the definition of “distribution”, the following:

“Domestic Supervisory Authority” means an authority in Uganda which performs functions corresponding or similar to those performed by the Authority or regulates or supervises any type of financial service”

 “Financial institution” means a person who carries on or transacts in the business of a bank or a credit institution, as defined in the Financial Institutions Act, 2004.

**THE CHAIRPERSON:** Did you say “financial institution” means a person?

**MR MUSASIZI:** Madam Chairperson, financial institution means a person who carries on or transacts in the business of a bank or a credit institution, as defined in the Financial Institutions Act, 2004

**THE CHAIRPERSON:** I have a problem with that; hon. Attorney–General, I think there is a problem with that.

**MR RUKUTANA:** Since the clause is already defined in another law, it is sufficient to say, “Financial institution has the same meaning as in this Act.” Do not elaborate.

**MR MUSASIZI:** Madam Chairperson, I concede.

1. By deleting the definition of “foreign insurer” and substituting it with the following-

 “A foreign reinsurer is one incorporated and licensed as a reinsurer under the laws of a country other than Uganda except Africa Re and PTA Re”.

 The justification is to provide for clarity.

1. By deleting the definition of “foreign supervisory authority” and substituting it with the following:

 “Foreign Supervisory Authority” means an authority in a jurisdiction outside Uganda which performs functions corresponding or similar to those performed by the Authority or regulates or supervises any type of financial service;”

 The justification is that ICP 3.2.1 permits the Authority to exchange information with foreign supervisors in regard to financial services and not limited to financial institutions only.

1. Foreign re-insurer –(*Interruption*)

**MR RUKUTANA:** Madam Chairperson, on (vii) “foreign re-insurer”, we cannot have two definitions for the same clause. I think the chairperson should decide on this. You cannot say, foreign insurer means this and then down you say, foreign insurer means something different. It must be one definition.

**THE CHAIRPERSON:** I want to know whether you are dealing with foreign insurer – because you talked about foreign insurer and then talked about reinsurance. Are you dealing with foreign insurer or re-insurance?

**MR MUSASIZI:** Madam Chairperson, I think the issue of having two definitions is simple to resolve. We take one and eliminate the other. Therefore, on whether we are on foreign insurance or foreign reinsurance, the substance is on reinsurance. Therefore this was a typo.

1. By deleting the definition of “insurance agent” and substituting it with the following:

“Insurance agent” means a person appointed and authorised by an insurer to solicit for applications for insurance or negotiate insurance coverage on behalf of the insurer or to perform other functions of an insurance nature that may be assigned to him or her by the insurer, and who in consideration of his or her services receives commission or other remuneration from the insurer;”

The justification is to broaden the consideration an insurance agent may receive to include any other remuneration from the insurer.

1. By deleting the definition of “insurance broker” and substituting it with the following:

“Insurance broker” means a person, not being an insurance agent, who acting as an independent contractor for a commission or remuneration-

(a) Negotiates or arranges insurance contracts on behalf of an insurer or prospective insured, other than himself or herself; or

(b) Advises an insured or prospective insured on his or her insurance needs and requirements;”

The justification is that brokers do more than solicit and negotiate insurance for their clients but also advise.

1. By deleting the definition of “insurance intermediary” and substituting it with the following-

“Insurance intermediary” means an insurance agent; an insurance broker; a risk advisor; a loss assessor; a third party administrator; or a reinsurance broker.”

The justification is that the previous definition did not consider services done by intermediaries like loss assessors on intimation of a claim.

1. By deleting the definition of “insurer”

The justification is that it is to be replaced with the word “licensed insurer”.

1. By deleting the definition of “internal actuary”

The justification is that the word is not used in the Bill.

1. By inserting immediately after the definition of “licence” the following-

“Licenced insurer” means a person who holds an insurers licence issued under section 34(1)(a);”

The justification is to define who a licenced insurer is.

1. By deleting the words “this Act” in the definition of the words “life insurance business, and substitute with the words “the regulations”.

The justification is that the classes of life insurance business are to be provided for in the regulations *– (Interruption)*

**MR NIWAGABA:** Honourable Chairperson, I believe the issue of life insurance business is covered under the Act and if you make reference to it only in the regulations which are not a mandate of this august House, it would be stretching it too far. I thus believe we need to retain the definition as provided for under this Act.

**MR RUKUTANA:** Additionally – and I apologise, Madam Chairperson; on reinsurer, why do we delete it? Are we sure that throughout the Act, there is nowhere the word “insurer” is used? If we use it somewhere, we must define it. Is it that whenever we talk of insurer it must be a licensed insurer?

**MR MUSASIZI:** I am at difficulty to respond to the Attorney-General’s issue because I cannot recall where we used the word “insurer” without what we have proposed. Therefore, unless he *– (Interruption)*

**MR RUKUTANA:** For example, clause 115 says, “In case of an insurer, the license is not in compliance with its…” - it talks of insurer. So it is proper that we retain it because in some cases, we are using it independently whether he’s licensed or not.

**MR MUSASIZI:** Madam Chairperson, that is okay but again I require your guidance on whether we need to go ahead and define a licensed insurer as well or we can combine the two.

**THE CHAIRPERSON:** Isn’t insurer more inclusive? Licensed is creating classes for insurers.

**MR MUSASIZI:** The most important definition is for the insurer because licensing is an addition.

**THE CHAIRPERSON:** We still need the word “insurer” because it is broader.

**MR MUSASIZI:** We propose to retain the provision in the Bill.

**THE CHAIRPERSON:** Okay; continue with your proposals.

**MR MUSASIZI:** There was a suggestion by hon. Niwagaba, which is alright and we should take it. Then there is on (xv) where we propose to delete in the definition of “Loss assessor” and substitute the following:

1. “Loss assessor” means a person who, by way of business, investigates and negotiates the settlement of claims under insurance contracts solely on behalf of either the insurer or the insured but does not include-
2. an individual who is an employee of an insurer or an insurance agent while acting on behalf of the insurer or insurance agent;

(b) An insurance agent who is authorised to settle claims on behalf of the insurer for whom the insurance agent acts as agent; or

(c) a person who, acting as an expert, provides advice to a loss assessor, an insurer or an insured on the circumstances that give rise to the claim, provided that the person does not negotiate the settlement of the claim;”

The justification is to provide for a broader definition of a loss assessor.

**MR RUKUTANA:** The formulation as it was in the Bill is, to me, better than trying to describe and exclude because if you are a loss assessor, it is properly explained here. If you are not within the description, then you are not a loss assessor. When you go into defining and eliminating, you clog it and it loses meaning. I suggest that we retain what is in the Bill.

**MR MUSASIZI:** Madam Chairperson, I concede.

1. On (xvi), we propose to delete the definition of “micro insurance” and substitute it with the following:
2. “Micro insurance contract” means an insurance contract approved by the Authority;”

**THE CHAIRPERSON:** Honourable chairperson, I think you should not interfere with micro insurance because the definition in the Bill states what it means. However, you are now narrowing it to a contract only. The Bill is defining what constitutes micro insurance and you want to just concentrate on a contract.

**MR MUSASIZI:** Micro insurance means insurance for the protection of low income people against a specific period in exchange of regular premiums, payments proportionate to the likelihood and cost of risk involved. Madam Chairperson, I concede.

1. National Reinsurance Company. We propose to delete the definition of “national reinsurance company” and substitute it with the following:

“National reinsurance company” means the company approved by the Authority as a national reinsurance company of which more than 51 per cent of the shares of the company are owned by licensees incorporated in Uganda or the decisions of the company are arrived at by the majority who are licensees incorporated in Uganda.”

The justification is to provide for a clearer definition of the words “national reinsurance company”.

1. We are also proposing to delete the word “specified” in the definition of the word “non-life insurance business” and substituting it with the word “prescribed”.

The justification is that the proper word to use is “prescribed”.

1. We propose to delete the definition of “policy holder” and substituting the following:

“Policy holder” in relation to an insurance contract or a health benefit plan, means the person who entered into the insurance contract or health benefit plan with the insurer or HMO, if the rights of that person under the contract have been assigned or transferred, the person who has those rights;”

The justification is to provide for a broader definition covering HMOs as well and assignees.

1. We propose to insert immediately after the definition of the word “premium”, the following:

“Reinsurance broker is a specialist intermediary involved in the placing of reinsurance”

**MR RUKUTANA**: Well, the latter proposition may be okay but why not retain the definition of premium?

**MR MUSASIZI:** Madam Chairperson, we propose to add a new paragraph (d) immediately after paragraph (c) in the definition of the words “senior manager” to read as follows:

1. “(d) Hold such other position or undertake such other functions and duties as maybe prescribed by the Authority.”

The justification is to provide for a broader definition of who can be referred to as a senior manager thus promoting flexibility.

1. In addition, we propose that the definition of the words “substantial shareholder” should be deleted and replaced with the following: “Significant owner means a person who exercises control over a body corporate within the meaning of the regulations made under this Act.”

Our justification is to ensure compliance with ICP 6.1, which provides for a significant owner and not a substantial shareholder.

1. We also propose to insert, immediately after the definition of “takaful insurance”, the following: “Third party administrator means a person who provides services to an HMO or a licensed insurer in relation to the administration of health benefit plans or health insurance policies.”

The justification is that the word is not defined and yet it is used in the Bill in clause 83(1)(h).

1. We also propose to insert, immediately after the definition of “tribunal”, the following: “Valid licence means a licence that authorises the type of activity or business being carried on by the holder of the licence for the particular time period.”

The justificationis thatICP 4.1 requires countries to prohibit the carrying on of unauthorised insurance activities and to define the permissible legal forms of domestic insurance legal

entities.

Madam Chairperson, we have additional definitions that arose out of the debate and we propose to define a group as follows: “Group in relation to a group of which a licensed insurer is a member means a number of companies that do business in different markets under common administrative or financial control, whose members are linked by relations of interpersonal trust on the basis of similar personal ethnic or commercial background.”

We also propose to define a “statutory manager” as follows: “A statutory manager means a person appointed under section 123(3) (g) of this Act by the Authority as management take-over to look after the policyholders’ interests by managing the business assets and affairs of the insurer, taking into custody any of its assets and any of its subsidiary’s assets.”

Madam Chairperson, I beg to submit.

**MR RUKUTANA:** Madam Chairperson, I apologise once again. On the proposed definition of valid licence, we do not need to qualify. We have already defined the word licence because a licence is either valid or invalid. Therefore, once we define licence, we do not need to go further than that. I propose that we delete the definition of “valid licence”.

**THE CHAIRPERSON:** A licence is a licence. Either you have it or you do not.

**MR MUSASIZI:** Madam Chairperson, I concede.

**MR KATUSABE:** Thank you very much, Madam Chairperson. I have a problem with the qualification or quantification of an actuary. I foresee a situation where someone will be stopped from using the title of lawyer because they did not practise law or someone can be stopped from using the title of soilscientist because they did not sign up with the soil society.

Madam Chairperson, you are aware that for you to qualify to be a lawyer, you must have gone to a law school and satisfied the academic requirements. Therefore, what qualifies someone to be an actuarial scientist, for instance in Uganda, is to go to Makerere University School of Statistics and Applied Economics and specifically, the Department of Actuarial Sciences. The moment you have the qualifications, you qualify to be an actuary.

Therefore, we can only commit ourselves in as far as this Bill is concerned –

**THE CHAIRPERSON:** Is there no certification for actuaries to show that you have completed the course?

**MR KATUSABE:** Madam Chairperson, it is not the role of the university to certify. That comes to the societies or institutes –

**THE CHAIRPERSON:** What is your proposal?

**MR KATUSABE:** My proposal is that we probably insert a certified - We deprive people who have the qualifications of carrying the title of actuary, as you have just stated.

**THE CHAIRPERSON:** Okay, make the proposal.

**MR KATUSABE:** That is what I have proposed, Madam Chairperson. That we should limit the certification in this case of this Bill - certified actuary. Thank you.

**MR MUSASIZI:** Madam Chairperson, for the record I have to put a disclaimer. Let us use the word ‘certified’ but personally, I am not aware whether in the insurance profession, the word ‘certified’ is used.

**MR KATUSABE:** Madam Chairperson, this is a critical stage, just like any basic legislation standard. The moment we pass this Bill, it will have what we call a force of law. My worry is documenting this without the relevant cushions or padding –(I*nterruption*)

**MR MUSASIZI:** Honourable member, let us try to arrive at a decision. Please help us to define an actuary in your own wisdom and from your experience so that we take your definition and move on.

**THE CHAIRPERSON:** Honourable members, we need to wind up. The body of the late hon. Mayanja Nkangi is outside waiting –

**MR KATUSABE:** Yes, Madam Chairperson. I am not questioning the definition of actuary. My only issue is that for this Bill, we should adopt either the certification or a licenced –

**MR RUKUTANA:** Madam Chairperson, to avoid all that, in the definition, which we have passed, if we could say, “Actuary means a person who is a member, an associate or a fellow of a professional institute, faculty or society or an association of actuaries recognised as such” and we stop there. I think we would be home and dry.

**MR MUSASIZI:** Madam Chairperson, we agree with the Attorney-General’s proposal.

**THE CHAIRPERSON:** Okay. Honourable members, the question is that clause 2 be amended as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

12.16

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

**THE CHAIRPERSON:** Honourable members, the question is 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

12.17

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Insurance Bill, 2016” and passed it with amendments.

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

12.17

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** 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 INSURANCE BILL, 2016

12.17

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Insurance Bill, 2016” be read the third time and do pass.

**THE SPEAKER:** Honourable members, I put the question that the Bill be read for a third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE INSURANCE ACT, 2017”

**THE SPEAKER:** Title settled and Bill passes. *(Applause)* Honourable members, I want to thank you for all this effort. This has been one of the longest Bills with so many amendments, almost at every clause, but I believe they did not lose the objectives of the Bill. However, I think we will need to address that kind of arrangement.

Honourable members, in the meantime, I want to thank you for coming and to say that the body of the late *Mzee* Mayanja Nkangi is in the car park. The House has been adjourned to Tuesday at 2.00 p.m. but please turn up for the special sitting this afternoon. Thank you.

*(The House rose at 12.18 p.m. and adjourned until Tuesday, 14 March 2017 at 2.00 p.m.)*