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BILLS SUPPLEMENT

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Bill No. 19 *Constitution (Amendment) (No. 2) Bill* **2020**

CONSTITUTION (AMENDMENT) (No. 2) BILL, 2020

MEMORANDUM

1. Object of the Bill

The object of the Bill is to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution—

- (a) to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in public offices; and
- (b) to establish Election Petition Tribunals to determine—
 - (i) the election petitions arising out of parliamentary elections;
 - (ii) whether a seat of a member of Parliament has become vacant; or
 - (iii) whether a person has been validly elected Speaker or Deputy Speaker or having been so elected, has vacated that office.

2. Provisions of the Bill

**PART I—AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION—
PROTECTION AND PROMOTION OF FUNDAMENTAL AND OTHER HUMAN
RIGHTS AND FREEDOMS**

Clause 1 of the Bill seeks to amend the Constitution to insert a new article 32A to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in public offices.

**PART II—AMENDMENT OF CHAPTER SIX OF THE
CONSTITUTION—THE LEGISLATURE**

Clause 2 of the Bill seeks to replace article 86 of the Constitution by establishing Election Petition Tribunals to replace the jurisdiction of the High Court to hear and determine any question of validity of election or vacation of office of a member of Parliament and Speaker or Deputy Speaker.

**PART III—AMENDMENT OF CHAPTER EIGHT OF THE
CONSTITUTION—THE JUDICIARY**

Clause 3 of the Bill seeks to consequentially repeal Article 140 of the Constitution.

HON. PAUL MWIRU
Jinja Municipality, East Constituency

CONSTITUTION (AMENDMENT) (No. 2) BILL, 2020

ARRANGEMENT OF CLAUSES

Clause

**PART I—AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION—
PROTECTION AND PROMOTION OF FUNDAMENTAL AND OTHER HUMAN
RIGHTS AND FREEDOMS**

1. **Insertion of new article 32A.**

**PART II—AMENDMENT OF CHAPTER SIX OF THE
CONSTITUTION—THE LEGISLATURE**

2. **Replacement of article 86 of the Constitution.**

**PART III—AMENDMENT OF CHAPTER EIGHT OF THE
CONSTITUTION—THE JUDICIARY**

3. **Repeal of article 140 of the Constitution.**

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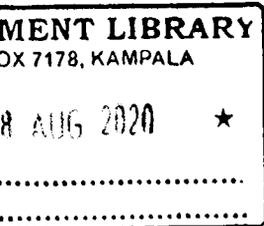
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A Bill for an ACT

ENTITLED

THE CONSTITUTION (AMENDMENT) (No. 2) ACT, 2020

An Act to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution; to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in public offices; to establish Election Petition Tribunals to hear and determine any question of validity of election or vacation of office of members of Parliament and Speaker or Deputy Speaker; and for related matters.

BE IT ENACTED by Parliament as follows:

**PART I— AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION—
 PROTECTION AND PROMOTION OF FUNDAMENTAL AND OTHER HUMAN
 RIGHTS AND FREEDOMS**

1. Insertion of new article 32A.

The Constitution is amended by inserting immediately after article 32, the following—

“32A. Affirmative action in distribution of employment opportunities.

(1) The State shall put in place affirmative action to promote equitable distribution of employment opportunities for any office established by this Constitution, by an Act of Parliament or within the public service based on the regions of Uganda.

(2) The Equal Opportunities Commission shall submit annual reports to Parliament on the progress made by the State for the purpose of giving effect to clause (1).”

PART II—AMENDMENT OF CHAPTER SIX OF THE
CONSTITUTION—THE LEGISLATURE

2. Replacement of article 86 of the Constitution.

Article 86 of the Constitution is substituted for the following—

“86. Determination of question of membership.

(1) The Chief Justice shall, in consultation with the Deputy Chief Justice and the Principal Judge, by notice in the Gazette, appoint Election Petition Tribunals, to serve for a term not exceeding two years.

(2) Each Election Petition Tribunal shall consist of a chairperson and four other members appointed from Justices of the Supreme Court, Court of Appeal or Judges of the High Court.

(3) The chairperson shall be appointed from Justices of the Supreme Court or Court of Appeal and shall be the head of the Election Petition Tribunal.

(4) Where a vacancy occurs in the membership of any Election Petition Tribunal, the Chief Justice shall fill the vacancy after consultation with the Deputy Chief Justice, in case of the chairperson, or the Principal Judge, in case of a member.

(5) An Election Petition Tribunal shall have jurisdiction to hear and determine any question whether—

- (a) a person has been validly elected a member of Parliament or the seat of a member of Parliament has become vacant; or
- (b) a person has been validly elected as Speaker or Deputy Speaker or having been so elected, has vacated that office.

(6) The decision of the Election Petition Tribunal shall be final and not subject to any appeal.

(7) The following shall apply to parliamentary elections petition hearings by the Election Petition Tribunal—

- (a) an Election Petition Tribunal shall hear and determine the petition expeditiously and shall declare its findings not later than forty-five days from the date of filing the petition;
- (b) an Election Petition Tribunal may give summary judgment pending full judgment;
- (c) where an Election Petition Tribunal gives a summary judgment, it shall deliver its full judgment within six months from the date of delivery of the summary judgment;
- (d) each member of the Election Petition Tribunal shall be required to produce an independent judgment;
- (e) where an election petition has been filed before an Election Petition Tribunal, a person against whom the petition is filed shall not be gazetted for purposes of being sworn in as a member of Parliament until the election petition is disposed of.

(8) After hearing a parliamentary election petition, the Election Petition Tribunal may—

- (a) dismiss the petition;
- (b) declare a validly elected candidate; or
- (c) annul the election.

(9) Where an election is annulled, a fresh election shall be held within thirty days from the date of the annulment.

(10) Parliament shall make laws as may be necessary for the purposes of giving effect to this article, including providing for—

- (a) the persons eligible to apply to the Election Petition Tribunal for determination of any question under this article;
- (b) the circumstances and manner in which and the conditions upon which the application may be made;
- (c) grounds of annulment of elections;
- (d) the procedure for the conduct of election petitions; and
- (e) the procedure for handling questions regarding validity of election of Speaker or Deputy Speaker or vacation of such office.

PART III—AMENDMENT OF CHAPTER EIGHT OF THE CONSTITUTION—THE JUDICIARY

3. Repeal of article 140 of the Constitution.

Article 140 of the Constitution is repealed.

