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THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Byarugaba Christine who is stated to be a holder of Bachelor of Laws of Makerere University having been awarded a Degree on the 12th day of October, 2001 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 6th day of May, 2005 for the issue of a Certificate of Eligibility for entry of her name on the Roll of Advocates for Uganda.

Kampala,
31st July, 2006.

HELLEN OBURA (Mrs.),
Acting Secretary, Law Council

General Notice No. 392 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Kakooza Fatimah who is stated to be a holder of Bachelor of Laws of Makerere University having been awarded a Degree on the 12th day of October, 2001 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 6th day of May, 2005 for the issue of a Certificate of Eligibility for entry of her name on the Roll of Advocates for Uganda.

Kampala,
31st July, 2006.

General Notice No. 393 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Mushanga David Ndyabarema who is stated to be a holder of Bachelor of Laws of Makerere University having been awarded a Degree on the 22nd day of October, 2004 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 16th day of June, 2006 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala,
31st July, 2006.

HELLEN OBURA (Mrs.),
Acting Secretary, Law Council

General Notice No. 394 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Ahabwe James who is stated to be a holder of Bachelor of Laws of Uganda Christian University having been awarded a Degree on the 3rd day of October, 2003 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 6th day of May, 2005 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala. HELLEN OBURA (Mrs),
31st July, 2006. *Acting Secretary, Law Council.*

General Notice No. 395 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Mangeni Peter Osinya who is stated to be a holder of Bachelor of Laws of Uganda Christian University having been awarded a Degree on the 20th day of August, 2004 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 16th day of June, 2006 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala. HELLEN OBURA (Mrs),
3rd August, 2006. *Acting Secretary, Law Council.*

General Notice No. 396 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Nakyanzi Juliet who is stated to be a holder of Bachelor of Laws of Makerere University having been awarded a Degree on the 21st day of November, 2003 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 16th day of June, 2006 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

HELLEN OBURA (Mrs),
Acting Secretary, Law Council.

General Notice No. 397 of 2006.

THE ADVOCATES ACT.

NOTICE.

APPLICATION FOR A CERTIFICATE OF ELIGIBILITY.

IT IS HEREBY NOTIFIED that an application has been presented to the Law Council by Kigunda Vincent who is stated to be a holder of Bachelor of Laws of Makerere University having been awarded a Degree on the 21st day of November, 2003 and to have been awarded a Diploma in Legal Practice by the Law Development Centre on the 16th day of June, 2006 for the issue of a Certificate of Eligibility for entry of his name on the Roll of Advocates for Uganda.

Kampala. HELLEN OBURA (Mrs),
4th August, 2006. *Acting Secretary, Law Council.*

General Notice No. 398 of 2006.

THE COMPANIES ACT, LAWS OF UGANDA 2000.

(Cap. 110).

NOTICE.

PURSUANT to section 19(4) of the Companies Act, notice is hereby given that Boz Shoes Limited has by special Resolution passed on the 7th day of July, 2006 and with the approval of the Registrar of Companies changed in name to Boz Holdings Limited and that such new name has been entered in my Register.

DATED at Kampala this 27th day of July, 2006.

MAUDAH ATUZARIRWE,
Assistant Registrar of Companies.

General Notice No. 399 of 2006.

THE TRADE MARKS ACT.

(Cap. 83).

NOTICE.

NOTICE IS HEREBY GIVEN that any person who has grounds to oppose the registration of any of the marks advertised herein may within sixty days from the date of this *Gazette*, lodge a Notice of opposition on Trade Mark Form No. 6 together with a fee of Shs. 4000 in case of National applicants or US\$ 250 in case of Foreign applicants. The period of lodging Notice of opposition may be extended in suitable cases by the Registrar as he thinks fit upon such terms as he may direct. Formal opposition should not be lodged until after reasonable notice has been given by letter to the applicant so that he may have an opportunity to withdraw his application before the expense of opposition proceedings is incurred. Failure to give such notice will be taken into account in considering any application by the opponent for an order for costs if the opposition is uncontested by the applicant. Representations of the marks herein advertised can be inspected at the office of the Registrar of Trade Marks, Amamu House, Plot No. 5B George Street, P.O. Box 6848, Kampala.

(21) APPLICATION NO. 28980 IN PART "A".

(52) Class 32.

(54)

PEAK

(53)

(59)

(64)

(57) *Nature of goods*— Mineral water.

(73) *Name of applicant*— Crown Beverages Ltd.

(77) *Address*— P.O. Box 20021, Kampala.

(74)

(22) *Date of filing application*— 31st July, 2006.

(21) APPLICATION NO. 28979 IN PART "A".

(52) Class 32.

(54)

7 GLENS

(53)

(59)

(64)

(57) *Nature of goods*— Mineral water.

(73) *Name of applicant*— Crown Beverages Ltd.

(77) *Address*— P.O. Box 20021, Kampala.

(74)

(22) *Date of filing application*— 31st July, 2006.

(21) APPLICATION No. 28981 IN PART "A".

(52) Class 16.

(54)



(53)

(59)

(64)

Your Property is Our Business

(57) Nature of goods— Letterheads and all goods included in class 16.

(73) Name of applicant— Jerome Richards Ltd.

(77) Address— P.O. Box 28227, Kampala.

(74)

(22) Date of filing application— 31st July, 2006.

(21) APPLICATION No. 27976 IN PART "A".

(52) Class 4.

(54)



(53) Disclaimer—Registration of this Trade mark shall give no right to the exclusive use of the letter 'I' except as represented.

(59)

(64)

(57) Nature of goods— Oil products.

(73) Name of applicant— Habib Trading Company LLC (Dubai).

(77) Address— P.O. Box 64918, Al Maktoum Road Dera, Dubai U.A.E.

(74) C/o Bitaguma & Company Advocates, P.O. Box 12369, Kampala.

(22) Date of filing application— 19th August 2005.

(21) APPLICATION No. 2002 IN PART "A".

(52) Class 29.

(54)



(53)

(59)

(64) Association— To be associated with T.M. Nos. 26543 and 28563.

(57) Nature of goods— All products falling within this class.

(73) Name of applicant— A.K Oils & Fats (U) Ltd.

(77) Address— P.O. Box 2671, Kampala.

(74)

(22) Date of filing application— 1st August, 2006.

(21) APPLICATION No. 28978 IN PART "A".

(52) Class 32.

(54)

BROOK

(53)

(59)

(64)

(57) Nature of goods— Mineral water.

(73) Name of applicant— Crown Beverages Ltd.

(77) Address— P.O. Box 20021, Kampala.

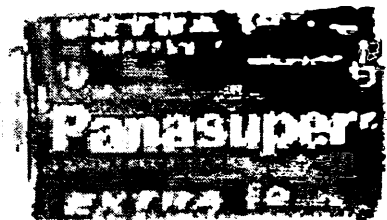
(74)

(22) Date of filing application— 31st July, 2006.

(21) APPLICATION No. 29015 IN PART "A".

(52) Class 9.

(54)



(53)

(59)

(64)

(57) Nature of goods— Battery.

(73) Name of applicant— Muse Af Enterprises.

(77) Address— P.O. Box 30638, Kampala.

(74)

(22) Date of filing application— 3rd August, 2006.

(21) APPLICATION No. 28975 IN PART "A".

(52) Class 3.

(54)



(53) Disclaimer—Registration of this Trade mark shall give no right to the exclusive use of the words 'BRAND' and 'HAIR DYE' except as represented.

(59)

(64)

(57) Nature of goods— Hair dye.

(73) Name of applicant— African Queen Ltd.

(77) Address— P.O. Box 6074, Kampala.

(74)

(22) Date of filing application— 31st July, 2006.

Kampala. KYOMUGASHO MERCY KENTARO.
3rd August, 2006. Assistant Registrar of Trade Marks.

ADVERTISEMENTS

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busiro Block 347 Plot 138 Approx. 2.20 Acres at Nalumunyi.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of the Administrator General (Administrator of the estate of the late C. Lutaya Admn. Cause 18294 of 1998) Uganda), a special Certificate of Title under the said Act and Plot, the Certificate of Title which was originally issued having been lost.

Kampala. KAHWA E.
26th April, 2006. for Ag. Commissioner.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Luwero Register—Volume 614 Folio 25 Plot Nos. 25, 27, 29 and 31 Kibira Road, Kampala.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Kizito Bakery (1965) of P.O. Box 185, Kampala, a special Certificate of Title under the above Volume and Folio, the Certificate of Title which was originally issued having been lost.

Kampala, KANYONYORE JOSEPH,
31st July, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Mawokota Block 256 Plot 10 at Nkozi.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Josephine Nanozi Luyima P.O. Box 2912, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, DDAMULIRA AHMED,
3rd August, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busiro Block 232 Plot 11 at Kawarira.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Anamaliya Nakimera of Busunju, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

DDAMULIRA AHMED,
for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busiro Block 232 Plot 11 at Kawarira.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Anamaliya Nakimera of Busunju, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, DDAMULIRA AHMED,
26th July, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 180 Plot 48 at Kitukutwe.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Yokana Ntatte, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, DDAMULIRA AHMED,
3rd August, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busiro Block 216 Plot 53 Approx. 5.0 Acres.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of the Administrator General (Administrator of the Estate of the late Ndaula Kirizestomu) of P.O. Box 7151, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, NAYEBARE GODLIVE,
27th July, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Busiro Block 216 Plot 54 Approx. 2.02 Hectares.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of the Administrator General (Administrator of the Estate of the late Ndaula Kirizestomu) of P.O. Box 7151, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, NAYEBARE GODLIVE,
27th July, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Bulemezi Block 21 Plot 40 Area 2.3 Hectares Land at Busika.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Hamada Lubega, a special Certificate of Title under the above Block and Plot, the duplicate Certificate of Title which was originally issued having been lost.

Bulemezi, NABUKEERA MADINAH,
3rd August, 2006. for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 271 Plot 23 at Birongo.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Nuhu Nabwaga, P.O. Box 2895, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **AMBROSE ORIKIRIIZA,**
29th June, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATES OF TITLES.

Bulemezi Block 369 Plot 28 Area 1.20 Hectares Land at Kibowa; and
Bulemezi Block 369 Plot 32 Area 1.60 Hectares Land at Kibowa.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Ase Musoke, special Certificates of Titles under the above Block and Plots, the duplicate Certificates of Titles which were originally issued having been lost.

Busega, **NABUKEERA MADINAH**
2nd August, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 195 Plot 146 Approx. 8.0 Acres at Kyamba.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Alice Matovu, of P.O. Box 6261, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **GODLIVE NAYEBARE,**
25th July, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kibuga Block 22 Plots 76 and 77 at Busega.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Godfrey Luyombya P.O. Box 136, Mityana, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **AMBROSE ORIKIRIIZA,**
1st August, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATES OF TITLES.

Singo Block 305 Plot 1, 28.3 Hectares at Kamboja Estate.

Singo Block 305 Plot 4, 16.20 Hectares at Kamboja Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Erunani Serwanga of Kitandwe, Singo, special Certificates of Titles under the above Block and Plots of the Mailo Register, the duplicate Certificates of Titles which were originally issued having been lost.

Mityana, **SARAH KUSIIMA,**
22nd May, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 213 Plot 284 Approx. 0.31 of an Acre at Bukoto.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Jane Nyakana, of P.O. Box 4226, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **AGNES LOUELLA**
2nd July, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Alice Matovu, of P.O. Box 6261, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **GODLIVE NAYEBARE,**
25th July, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 246 Plot 78 at Kyeitabya.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Yakobo Ntate Mayanja, of P.O. Box 5380, Kampala, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Kampala, **G.K. MPAKA**
1st August, 2006. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Landschold Register—Volume 549 Folio 12 Plot No. 44
Bazaar Road. Lira.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Andrew Alyao Ocero and Jane Ocero both of P.O. Box 281, Lira, a special Certificate of Title under the above Volume and Folio, the Certificate of Title which was originally issued having been lost.

Kampala.

SARAH KUSIIMA,

27th September, 2005. *for Ag. Commissioner Land Registration.*

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Block 149 Plot 398 Area. 0.066 of a Hectare at
Ziridde Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Zwa edde of P.O. Box 99, Mityana, a special Certificate of Title under the above Block and Plot of the duplicate Certificate of Title which was originally issued having been lost.

SARAH KUSIIMA,

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Block 53 at Senge.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of I. Neri of P.O. Box 3791, Kampala, a special Certificate of Title under the above Block and Plot, the duplicate Certificate of Title which was originally issued having been lost.

DDAMULIRA AHMED,

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Block 335 Folio 6 Plot No. 4

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of National Housing Corporation of P.O. Box 658, Kampala, a special Certificate of Title under the above Volume and Folio, the duplicate Certificate of Title which was originally issued having been lost.

Kampala.

27th July, 2006.

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyaggwe Block 64 Plot 71. Area 4.05 Hectares at Kyaga.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Yusito Sajabi of Kyaga, Kyaggwe, a special Certificate of Title under the above Block and Plot, the Certificate of Title which was originally issued having been lost.

Mukono,

CHRISTINE NAMIREMBE KATENDE.

27th July, 2006.

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Kyadondo Block 185 Plots 2855 and 2856 at Namugongo.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Sulait Ssemakula of P.O. Box 2015, Kampala, a special Certificate of Title under the above Block and Plots, the Certificate of Title which was originally issued having been lost.

Kampala,

KAAHWA EDWARD TIBESIGWA,

27th July, 2006.

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Singo Block 123 Plot 110 Area. 1.60 Hectares at Tanda Estate.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Margeret Naluwoza Lwanga, a special Certificate of Title under the above Block and Plot of the Mailo Register, the duplicate Certificate of Title which was originally issued having been lost.

Mityana,

SARAH KUSIIMA,

20th July, 2005.

for Ag. Commissioner Land Registration.

THE REGISTRATION OF TITLES ACT.

(Cap. 230).

NOTICE.

ISSUE OF SPECIAL CERTIFICATE OF TITLE.

Bulemezi Block 526 Plot 2 Area 42.0 Hectares Land at Muwanya.

NOTICE IS HEREBY GIVEN that after the expiration of one month from the publication hereof, I intend to issue in the names of Miro Christopher of P.O. Kikyusa, a special Certificate of Title under the above Block and Plot, the duplicate Certificate of Title which was originally issued having been lost.

Bukhisa,

NABUKEERA MADINAH.

25th July, 2006.

for Ag. Commissioner Land Registration.

IN THE HIGH COURT OF UGANDA AT KAMPALA.

ADMINISTRATION CAUSE NO. 977 OF 2006.

In the Matter of the Estate of the Late Eva Nava Nalumansi
Takilambude of Nakasozi, Buddo
and

In the Matter of an application for Letters of Administration
for the Estate of the Aforesaid by Night Namusoke
(Daughter).

NOTICE OF APPLICATION
(for Letters of Administration)

TO WHOM IT MAY CONCERN

TAKE NOTICE that an application for Letters of Administration of the Estate of the late Eva Nava Nalumansi Takilambude has been lodged in this Court by Night Namusoke (the daughter of the deceased).

This court will proceed to grant the same if no caveat is lodged with this Court within (14) fourteen days from the date of publication of this notice unless cause be shown to the contrary.

Dated at Kampala this 28th day of July, 2006.

ROY BYARUHANGA,
Registrar.

DEED POLL—NOTICE OF CHANGE OF NAME



BY THIS DEED which is to be registered with the Registrar of Documents at Kampala, I, the undersigned Mirembe Hilda of P.O. Box 3437, Kampala, lately called Nakityo Rebecca Mirembe a citizen of Uganda by birth do hereby for and on behalf of myself wholly renounce, relinquish and abandon the use of former names of Nakityo Rebecca Mirembe and in place thereof do assume from the date hereof the names of Mirembe Hilda and so I may hereafter be called, known and distinguished not by former names of Nakityo Rebecca Mirembe but by my assumed names of Mirembe Hilda and for the purpose of evidencing such my determination, declare that I shall at all times hereafter in all records, deeds and writings and in all proceedings, dealings and transactions as well as private and public and upon all occasions whatsoever, use and sign the name of Mirembe Hilda as my names in place of and in substitution for my former name of Nakityo Rebecca Mirembe.

I expressly authorise and request all persons at all times hereafter to designate and address me by such assumed names of Mirembe Hilda accordingly.

In writing whereof I have hereunto subscribed my former and adopted/assumed names of Mirembe Hilda this 21st day of July, 2006.

Signed and delivered by the above named Mirembe Hilda formerly Nakityo Rebecca Mirembe.

MIREMBE HILDA,
Renouncer.

DEED FOR CHANGE OF NAME

By this deed, I Aldo Hope J.G., an adult male Ugandan citizen of sound mind C/o. P.O. Box 12546, Kampala, lately called Wokorach Aldous Pukende, do hereby:

1. For and on behalf of myself wholly renounce, relinquish and abandon the use of my former name Wokorach Aldous Pukende so that I may thereafter be called, known, and distinguished not by my former name Wokorach Aldous Pukende but the assumed name of Aldo Hope J.G.

2. For the purpose of evidencing such my determination declare that I shall at all times hereafter in all records, deeds and writings and in all proceedings, dealings, and transactions both private and public and upon all occasions whatsoever use and sign the name Aldo Hope J.G. in substitution for my former name Wokorach Aldous Pukende.

3. Express, authorise and request all persons at all times hereafter to designate and address me by such assumed name of Aldo Hope J.G. accordingly.

In witness whereof I have hereunto subscribed my assumed name of Aldo Hope J.G. and affixed my signature this 6th day of July, 2006.

Signed by me Aldo Hope J.G. formerly known as Wokorach Aldous Pukende.

ALDO HOPE J.G.,
Declarant/Renouncer.

IN THE HIGH COURT OF UGANDA AT KAMPALA.
ADMINISTRATION CAUSE NO. 807 OF 2006.

In the Matter of the Estate of the Late Yosia Wakifumbe of
Seruya, Wakiso District

and

In the Matter of an application for Letters of Administration
for the Estate of the Aforesaid by Luwedde Eliosi
(Granddaughter).

NOTICE OF APPLICATION
(for Letters of Administration)

TO WHOM IT MAY CONCERN

TAKE NOTICE that an application for Letters of Administration of the Estate of the late Yosia Wakifumbe has been lodged in this Court by Luwedde Eliosi (the granddaughter of the deceased).

This court will proceed to grant the same if no caveat is lodged with this Court within (14) fourteen days from the date of publication of this notice unless cause be shown to the contrary.

Dated at Kampala this 29th day of June, 2006.

A.O. ASUTU
Registrar

ACTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006.

Printed by UPPC, Entebbe, by Order of the Government.

Act 19 *Copyright and Neighbouring Rights Act* 2006

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 2006.

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THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 2006

An Act to repeal and replace the Copyright Act, and to provide for the protection of literary, scientific and artistic intellectual works and their neighbouring rights; and to provide for other related matters.

DATE OF ASSENT: 31st May, 2006.

Date of Commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.**1. Short title**

This Act may be cited as the Copyright and Neighbouring Rights Act, 2006.

2. Interpretation

In this Act, unless the context otherwise requires—

“audio visual fixation” means work consisting of a series of related images which impart the impression motion, with or without accompanying sounds, susceptible of being made visible and where accompanied by sound, susceptible of being audible such as cinema, television or video films;

“author” means the physical person who created or creates work protected under section 5 and includes a person or authority commissioning work or employing a person making work in the course of employment;

“braille” means writing of the blind consisting of raised dots which are read by touching;

“broadcast” has the same meaning assigned to under the Uganda Communications Act;

“broadcasting company” means a company which—

(a) communicates or carries on transmission or broadcasts programmes of sound, video or data intended for simultaneous reception by the public; or

(b) provides or supplies audio-visual fixation rental communication or library services;

(c) provides services by wire or wireless means in such a way that members of the public access the fixation from a place and at a time individually chosen by them;

“choreography” means steps and movements of a dance and “choreographic work” includes any form of dance or body movement communication whether in a dramatic form or not;

“communication to the public” means the operation by which sounds or images or both sounds and images are transmitted to the public whether through broadcast, performance or other means and “public” excludes a family setting or function;

“computer programme” means a set of instructions expressed in any language, code or notation, intended to cause the device having an information processing capacity to indicate, perform or achieve a particular function, task or result;

“copy” means a production of a work in a written, recorded or fixation form or in any other material form, but an object shall not be taken to be a copy of an architectural work unless the object is a building or a model;

“currency point” has the value specified in the 1st Schedule;

“derivative work” means work resulting from adaptation, translation or other transformation of an original work but which constitutes an independent creation in itself;

“economic rights” means the rights specified under section 9;

“fixation” means the embodiment of images or sound or both images and sound in a material form sufficiently stable or permanent, to permit them to be perceived, reproduced or otherwise communicated through a device during a period of more than transitory duration;

“literary work” includes—

- (a) novels, stories or poetic work;
- (b) plays, stage directions, audio-visual scenarios or broadcasting scripts;
- (c) textbooks, histories, biographies, essays or articles;
- (d) encyclopaedias, dictionaries, directories or anthologies;
- (e) letters, reports or memoranda;
- (f) lectures, addresses or sermons; and
- (g) any other work of literature;

“Minister” means the Minister responsible for justice;

“moral right” means the right to claim authorship or performance as is provided in sections 10 and 23;

“moral rights information” means information which identifies the author of the work or performer, the title of the work, the producer of the sound recording or audio-visual fixation, the owner of any right in the work or information about the terms and conditions of use of the work;

“neighbouring rights” include rights of performing artistes in their performances, rights of producers and music publishers and rights of broadcasting companies in their programmes and others as is provided under Part IV;

“performance” means the presentation of a work by actions such as dancing, acting, playing, reciting, singing, delivering, declaiming or projecting to listeners or spectators;

“performer” includes an actor or actress, singer, musician, dancer or other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;

“producer” means a person who organises and finances the production of an audio visual fixation or sound recording;

“pseudonym” means the fictitious name adopted by an author;

“publication” means the lawful reproduction of a work or of an audio-visual or audio visual sound recording, fixation or of sound recording for availability to the public; and includes public performances and making available of a work on the internet;

“published” means a work or sound recording, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that, in the case of work the making

available to the public took place with the consent of the author or other owner of copyright, and in the case of a sound recording, with the consent in writing of the producer of the phonogram or his or her successor in title;

“public performance” means a performance of work which is presented to listeners or spectators not restricted to specific persons belonging to a private group and which exceeds the limits or normal domestic representations;

“programme-carrying signals” means electronically generated carriers transmitting live or recorded material consisting of images, sounds, or both images and sounds in their original, form or any form recognisably derived from the original and emitted to or passing through a satellite situated in extra-territorial space;

“public place” means any building, or conveyance to which for the time being the public are entitled or permitted to have access, with or without payment which may include cinema, concert, dance or video halls, bars, clubs, sports grounds, holiday resorts, circuses, restaurants, counter vehicles, banks or other commercial establishments;

“Registrar” means the Registrar of copyright appointed under section 41;

“reproduction” means the making of one or more copies of a work or sound recording in any manner or form including any permanent or temporary storage of the work or sound recording in electronic form.

“sound recording” means any exclusively aural fixation of sound in a material carrier such as a tape, disc or other similar material but does not include audio visual work including sound.

3. Application of the Act.

This Act applies to any work, including work, created or published before the commencement of this Act, which has not yet fallen into the public domain where the work is—

- (a) created by a citizen of Uganda or a person resident in Uganda;
- (b) first published in Uganda, irrespective of the nationality or residence of the author;
- (c) created by a person who is a national of or resident in a country referred to in section 81 or;
- (d) first published in a country referred to in section 81.

PART II—COPYRIGHT PROTECTION AND RIGHTS**4. Author entitled to copyright protection.**

(1) The author of any work specified in section 5 shall have a right of protection of the work, where work is original and is reduced to material form in whatever method irrespective of quality of the work or the purpose for which it is created.

(2) The protection of the author's work under subsection (1) shall not be subject to any formality.

(3) For the purpose of this section, a work is original if it is the product of the independent efforts of the author.

5. Work eligible for copyright.

(1) The following literary, scientific and artistic works are eligible for copyright—

- (a) articles, books, pamphlets, lectures, addresses, sermons and other works of a similar nature;
- (b) dramatic, dramatic-musical and musical works;

- (c) audio-visual works and sound recording, including cinematographic works and other work of a similar nature;
- (d) choreographic works and pantomimes;
- (e) computer programmes and electronic data banks and other accompanying materials;
- (f) works of drawing, painting, photography, typography, mosaic, architecture, sculpture, engraving, lithography and tapestry;
- (g) works of applied art, whether handicraft or produced on industrial scale, and works of all types of designing;
- (h) illustrations, maps, plans, sketches and three dimensional works relative to geography, topography, architecture or science;
- (i) derivative work which by selection and arrangement of its content, constitute original work;
- (j) any other work in the field of literature, traditional folklore and knowledge, science and art in whatever manner delivered, known or to be known in the future.

(2) Derivative works such as—

- (a) translations, adaptations and other transformations of pre-existing works under subsection (1); and
- (b) collections of pre-existing works like encyclopaedia and anthologies;

which by selection and arrangement of their contents constitute original works, shall be protected under this Act as original works.

(3) The protection of a derivative work under subsection (2) shall not affect the protection of the pre-existing work used by a person for derivation purposes.

6. Ideas not protected.

Ideas, concepts, procedures, methods or other things of a similar nature shall not be protected by copyright under this Act.

7. Public benefit works not protected.

(1) The right to protection of copyrights under this Act shall not extend to the following works—

- (a) an enactment including an Act, Statute, Decree, statutory instruments or other law made by the Legislature or other authorised body;
- (b) decree, order or other decision by a court of law for the administration of justice and any official translations from them;
- (c) a report made by a committee or commission of inquiry appointed by Government or any agency of Government;
- (d) news of the day namely reports of fresh events or current information by the media whether published in a written form, broadcast, internet or communicated to the public by any other means.

(2) The Government shall be the trustee for the public benefit of the works specified in subsection (1).

8. Employed authors and works for Government or international bodies.

(1) Where a person creates a work—

- (a) in the course of employment by another person;
- (b) on commission by another person or body;

then in the absence of a contract to the contrary, the copyright in respect of that work shall vest in the employer or the person or body that commissioned the work.

(2) Where a person creates work under the direction or control of the Government or a prescribed international body, unless agreed otherwise, the copyright in respect of that work shall vest in the Government or international body.

(3) Vesting of copyright referred to in (1) and (2) above shall apply only to work created within the stipulated schedule of work of an employee.

(4) The moral right in a work made under this section shall always remain with the actual author of the work.

9. Economic rights of author.

The owner of a protected work shall have, in relation to that work, the exclusive right to do or authorise other persons to do the following—

- (a) to publish, produce or reproduce the work;
- (b) to distribute or make available to the public the original or copies of the work through sale or other means of transfer of ownership;
- (c) to perform the work in public;
- (d) to broadcast the work;
- (e) to communicate the work to the public by wire or wireless means or through any known means or means to be known in the future, including making the work available to the public through the internet or in such a way that members of the public may access the work from a place and at a time individually chosen by them;
- (f) where the work is a pre-existing work, to make a derivative work;
- (g) to commercially rent or sell the original or copies of the work;
- (h) to do, in relation to that work any act known or to be known in the future;

- (i) to reproduce transcription into braille which is accessible to blind persons.

10. Moral rights of author

(1) The author of any work protected by copyright shall have a moral right—

- (a) to claim authorship of that work, except where the work is included incidentally or accidentally in reporting current events by means of media or other means;
- (b) to have the author's name or pseudonym mentioned or acknowledged each time the work is used or whenever any of the acts under section 9 is done in relation to that work, except where its not practicable to do so; and
- (c) to object to, and seek relief in connection with any distortion, mutilation, alteration or modification of the work.

(2) The author of a work has a right to withdraw the work from circulation if it no longer reflects the author's convictions or intellectual concepts; and if the author does so, shall indemnify any authorised user of that work who might, in any material way, be affected by the withdrawal.

(3) The moral right under subsection (1) is not assignable to any person, except for purposes of its enforcement.

11. Co-author's right.

Where work is created by more than one person and no particular part of the work is identified to have been made by each person, such that the work is indistinguishable, all the authors shall be co-owners of the economic rights and the moral rights relating to that work and the co-owners shall have equal rights in that work.

12. Fine art works to have inalienable right in proceeds of sale.

(1) The author of an applied or fine art work shall have an inalienable right to share in the proceeds of each sale of that work by public auction, through a dealer or by whatever means.

(2) The right to share in the proceeds referred to in subsection (1) shall not include auction for fundraising purposes.

PART III—DURATION OF COPYRIGHT AND AUTHORIZED USES OF
PROTECTED WORKS

13. Duration of copyright protection

(1) The economic rights of an author in relation to a work are protected during the life of the author and fifty years after the death of the author.

(2) The economic rights of the author where the work is of joint authorship, are protected during the life of the last surviving author and fifty years after the death of the last surviving author.

(3) Where the economic rights in a work are owned by a corporation or other body, the term of protection shall be fifty years from the date of the first publication of the work.

(4) Where the work is published anonymously or under a pseudonym, the economic rights of the author are protected for a term of fifty years from the date of its first publication; but where before the expiration of the fifty years the identity of the author is known or is no longer in doubt the economic right shall be protected during the life time of the author and fifty years after the death of that author.

(5) In the case of audio-visual work, sound recording or broadcast, the economic rights of the author are protected until the expiration of fifty years commencing from the date of making the work or from the date the work is made available to the public with the consent of the author.

(6) In the case of a computer program the economic right of the author are protected for fifty years from the date of making the program available to the public.

(7) In the case of photographic work, the economic rights of the author are protected for fifty years from the date of making the work.

(8) The moral rights of an author exist in perpetuity whether the economic rights are still protected or not and that moral right is enforceable by the author or after death his or her successors.

14. Assignment of licence or transfer of a copyright.

(1) The owner of a copyright may, as if it were movable property—

- (a) assign his or her economic rights in a copyright to another person;
- (b) licence another person to use the economic rights in a copyright;
- (c) transfer to another person or bequeath the economic rights in a copyright in whole or in parts;
- (d) transfer to any braille production unit in Uganda the economic rights in the braille translation.

(2) The assignment, licence or transfer of the economic rights in whole or in part under subsection (1) shall not include or imply the assignment, licence or transfer of the moral right.

(3) An assignment or transfer of the economic right under subsection (1) shall be in writing and signed by the owner of the right or by the owner's agent and by the person to whom the rights are being assigned or transferred.

(4) A licence to do an act falling within a copyright may be oral, written or inferred from conduct or circumstances.

(5) An assignment or transfer of the economic right shall be limited to the use, period and country provided in the contract under subsection (3).

(6) Where the ownership of the only copy of one of several copies of a work is assigned, the economic rights relating to the work shall, unless the contrary is stated in writing, not be assigned.

(7) Where a person is entitled, under will, to any original literary, dramatic, musical or artistic work in a material form, but which work was not published before the death of the testator, the economic rights in the work shall, on publication of the work, belong to the person to whom the work is bequeathed unless the contrary is indicated in the will.

15. Fair use of works protected by copyright

(1) The fair use of a protected work in its original language or in a translation shall not be an infringement of the right of the author and shall not require the consent of the owner of the copyright where—

- (a) the production, translation, adaptation, arrangement or other transformation of the work is for private personal use only;
- (b) a quotation from a published work is used in another work, including a quotation from a newspaper or periodical in the form of press summary, where—
 - (i) the quotation is compatible with fair practice; and
 - (ii) the extent of the quotation does not exceed what is justified for the purpose of the work in which the quotation is used, and
 - (iii) acknowledgement is given to the work from which the quotation is made;
- (c) a published work is used for teaching purpose to the extent justified for the purpose by way of illustration in a publication, broadcast or sound or visual recording in so far as the use is compatible with fair practice and acknowledgement is given to the work and the author;
- (d) the work is communicated to the public for teaching purposes for schools, colleges, universities or other educational institution or for professional training or public education in so far as the use is compatible with fair practice and acknowledgement is given to the work and the author;

- (e) the work is reproduced, broadcast or communicated to the public with acknowledgement of the work, in any article printed in a news paper, periodical or work broadcast on current economic, social, political or religious topic unless the article or work expressly prohibits its reproduction, broadcast or communication to the public;
- (f) any work that can be seen or heard is reproduced or communicated to the public by means of photograph, audio-visual work or broadcast to the extent justified for the purpose when reporting on current events;
- (g) any work of art or architecture in a photograph or an audio-visual or television broadcast is reproduced and communicated to the public where the work is permanently located in a public place or is included by way of background or is otherwise incidental to the main object represented in the photograph or audio-visual work or television broadcast;
- (h) for the purposes of current information, a reproduction in the press, broadcast or communication to the public is made to—
 - (i) a political speech or a speech delivered during any judicial proceeding; or
 - (ii) an address, lecture, sermon or other work of a similar nature delivered in public;
- (i) for the purpose of a judicial proceeding, work is reproduced;
- (j) subject to conditions prescribed by the Minister, a reproduction of a literary, artistic or scientific work by a public library, a non-commercial documentation centre, a scientific institution or an educational institute if the reproduction and the copies made—
 - (i) do not conflict with the normal exploitation of the work reproduced;

(ii) do not unreasonably affect the right of the author in the work; and

(k) any work is transcribed into braille or sign language for educational purpose of persons with disabilities.

(2) In determining whether the use made of a work in any particular case is a fair use the following factors shall be considered—

(a) the purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes;

(b) the nature of the protected work;

(c) the amount and substantiality of the portion used in relation to the protected work as a whole; and

(d) the effect of the use upon the potential market for value of the protected work.

(3) The fact that a piece of work is not published shall not of itself prejudice the requirement of fair use in accordance with subsection(2).

16. Ephemeral recording

(1) A broadcasting company may, for the purpose of its own broadcast and by means of its own facilities, make an ephemeral recording of the broadcast, in one or several copies of any work which it is authorised to broadcast.

(2) No copyright shall exist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast.

(3) Subject to subsection (4) all copies of the ephemeral recording shall be destroyed within a period of six months or longer period as may be authorised by the copyright owner.

(4) Where a recording under subsection (1) is of exceptional documentary character, a copy of the recording may be preserved for the National Archives.

(5) The preservation of a copy under subsection (4) does not affect, in any way, the rights of the author in the work that was broadcast.

(6) Whether the recording of a broadcast under subsection(1) is of an exceptional documentary character is a question of fact to be determined having regard to all the circumstances and in particular to the need for the enhancement of the historical or social aspect of life in Uganda.

17. Non-exclusive licence

(1) A person who is a citizen of Uganda or who is ordinarily resident in Uganda may apply to the Minister for a non-exclusive licence—

(a) to make and publish or to cause to make and publish a translation of a work into the English, Swahili or any Ugandan language and to produce or cause to produce copies from them;

(b) to reproduce or cause to be reproduced a work which is published, and to publish or cause to be published in a material form the work reproduced.

(2) An application for translation shall not be issued under paragraph (a) of subsection (1) until one year has expired from the date of the publication of the work in a material form.

(3) Where the author of the work has withdrawn all copies of the work from circulation, no licence under paragraph (a) of subsection (1) shall be granted by the Minister in respect of that work.

(4) The Minister shall not grant a licence under paragraph (b) of subsection (1)—

(a) until the following period commencing from the date of first publication of the work in a material form, has expired—

(i) three years in the case of work in a material form of technology or natural or physical science including mathematics;

- (ii) five years in the case of music or any other related work;
- (iii) seven years in the case of work of fiction, poetry, drama or for a book of art;
- (iv) seven years in the case of an audio-visual fixation.

(5) The licensee under this section shall provide just compensation consistent with standards of royalties normally payable in the case of a licence freely negotiated between any person and the owner of the right, which shall be paid to the owner or owner's agent and if the owner is not known or cannot be found shall be paid to the Registrar who shall avail it to the owner if found.

(6) Where a licence is granted under this section the licensee shall ensure that the translation or reproduction of the work is correct and the published copies include—

- (a) the original title and the name of the author of the work;
- (b) a notice in the language of the translation or reproduction that the copies of the work are for distribution in Uganda and are not for export from Uganda; and
- (c) a reprint of the copyright notice, that is, the symbol © accompanied by the name of the owner of the copyright and the year of first publication, where the work from which the translation or reproduction is made is published with a copyright notice.

18. Scope and condition of non-exclusive licence

(1) A licence issued under section 17 shall—

- (a) be limited to a non-exclusive right to translate the work into the language in respect of which it is granted;
- (b) be limited to non-exclusive right to reproduce the work as provided in the licence;

(c) be for the purpose of teaching; scholarship or research only;

(d) not be transferable by the licensee;

(e) not extend to the export of copies of the work translated under the licence.

(2) The Minister shall not issue a licence under section 17 unless—

(a) the Minister is satisfied that no translation of that work into the language in question has ever been published in a material form by, or under the authority of the owner of the right of translation or that all previous editions in that language are out of print.

(b) there has never been a sale or other distribution, authorised by the owner or the owner's agent of the reproduction right, of copies of the particular edition in Uganda to the public or in connection with systematic instructional activities, or that there has been no sale or other distribution during the immediately preceding six months;

(c) the applicant has requested from the owner of the rights or the owner's agent for the authorisation to reproduce or translate and has been refused unreasonably or in spite of genuine efforts made by the applicant it has not been possible to locate the owner or the owner's agent;

(d) the applicant has at the time of making the application, sent a notice of the application to the International Copyright Information Centre at the UNESCO, or a national or regional copyright information centre officially designated to that organisation by the government of the country where the author or publisher is believed to have his or her principal place of business;

(e) where the applicant cannot locate the owner of the rights or the owner's agent the applicant has by registered mail sent copies of the application to the author or publisher whose name appears on the work and also to the national or regional copyright information centre or in the absence of such a centre, has sent a copy of the application to the International Copyright Information Centre of UNESCO.

(3) A licence issued under section 17 shall terminate—

(a) where copies of an edition of the work translated or reproduced are distributed to the general public in Uganda; or

(b) translation of the work in the same language and with substantially the same content as the edition for which the licence was granted is published in Uganda by or under the authority of the owner of the right of translation, at a reasonable price; and any copies produced before the termination of the licence may be distributed until the stock is exhausted.

(c) where copies of the edition of the work are distributed in Uganda in connection with systematic instructional activities, by the owner of the right of production or the owner's agent at a reasonable price if that edition is in the same language and substantially the same in content as the edition published under the licence, and any copies already made before the licence is terminated may continue to be distributed until the stock is exhausted.

19. Translation for broadcasting

(1) A broadcasting company may apply to the Minister for a non-exclusive licence to translate published work or text of an audio-visual fixation where—

(a) the translation is to be made from a copy lawfully acquired;

(b) the translation is for broadcast intended for teaching or for dissemination of the results of specialised technical or scientific research to experts in a particular profession by broadcast;

(c) the broadcast under paragraphs (a) or (b) is lawfully made and is intended for reception in Uganda only.

(2) A translation under this section may be exchanged only between the departments or divisions of that licensed company.

(3) A translation made under this section shall not be used for any commercial purpose.

20. Records of copyright centres

The Registrar shall keep up-to-date records of the copyright information centres for ease of reference or contact by the interested persons under sections 17, 18, 19 or other circumstance.

PART IV—NEIGHBOURING RIGHTS

21. Neighbouring rights and persons entitled

(1) Neighbouring rights are rights attached to the auxiliary role played by performers, producers of sound recording and audio-visual and broadcasting companies through—

(a) the fulfilment of literary or artistic works;

(b) the provision of destiny and permanence in works; and

(c) the diminishing of distance in the publication of works;

respectively, which auxiliary role is dependent on the work of the author and without which the role cannot begin.

(2) The neighbouring rights attached to the auxiliary role of a performer or a producer or broadcasting company does not in any way affect the copyright in a literary, scientific or artistic work from which it arose.

22. Rights of a performer

(1) A performer shall have the right to authorise—

(a) the fixation of his or her live performance not previously fixed on a physical medium;

(b) the broadcasting or communication to the public of his or her unfixed performance except where—

(i) it is made from a previously authorised fixation;

(ii) the transmission has been authorised by a broadcasting company that transmitted the first performer;

(c) the direct or indirect reproduction of a fixation of his or her performance in manner or form;

(d) the distribution or making available to the public of the original or copies of the fixation of his or her performance through sale or other transfer of ownership.

(2) A performer has the right to enter into contract on terms and conditions that the performer may wish for the use of the performance or fixation by another person.

(3) A performer shall have the right to authorise the commercial rental to the public of the original or copies of the fixation of his or her performance even after the distribution or making available to the public of the original or copies of the fixation by the performer.

(4) A performer shall have the right to authorise the making available to the public of the fixation of his or her performance by wire or wireless means or internet, in such a way that members of the public may access it from a place and at a time individually chosen by them.

23. Moral rights of a performer

(1) A performer has a right—

(a) to be identified as the performer;

- (b) to have his or her name mentioned each time the performance or the broadcast or communication of the fixation, is used or whenever any of the acts referred to in section 24 is done in relation to a performance, except where it is not practicable to do so;
- (c) to object to and seek relief in connection with any distortion, mutilation, alteration or modification of his or her performance.

(2) The moral right under subsection (1) shall not be assignable to any person, except for the purpose of its enforcement.

24. Action not authorized without a specific provision in a contract

Unless it is specifically provided in a contract, the authorisation to broadcast or communicate a performance does not imply—

- (a) a licence to other broadcasting or companies to transmit the performance;
- (b) authorisation to make a fixation of the performance;
- (c) authorisation to reproduce the fixation where the authorisation granted is to broadcast and communicate a fixation of the performance;
- (d) authorisation to broadcast or communicate the performance from the fixation where the authorisation granted is to make a fixation.

25. Authorization in a co-performance

Where two or more persons take part in the same performance as a group, authorisation for the use, broadcast or communication of the performance shall be given by the leader of the group or the legal representative of the group if any.

26. Duration of protection of performer

The right of a performer under this Act shall be protected for fifty years from the date of the performance.

27. Rights of Director

A director of a performance, sound recording or audio-visual fixation has a right—

- (a) to be identified as the director;
- (b) to have his or her name mentioned each time a performance, sound recording or audio-visual fixation is used or whenever any acts referred to in section 24 is done in relation to the work except where it is not practicable to do so;

28. Rights of producer

(1) A producer of a sound recording or audio-visual fixation shall have a right to authorise the reproduction of that sound recording or audio-visual fixation.

(2) A producer of sound recording or audio-visual fixation shall have the right to authorise the distribution or making available to the public of the original or copies of the fixation through sale or other transfer of ownership.

(3) A producer of sound recording or audio-visual fixation shall have the right to authorise the commercial rental to the public of the original or copies of the fixation even after the distribution or making available to the public of the original or copies of the fixation by the producer.

(4) A producer of sound recording or audio visual fixation shall have the right to authorise making available to the public of the fixation, by wire or wireless means, in such a way that members of the public may access the fixation from a place and at a time individually chosen by them.

(5) No person shall reproduce, distribute or make available to the public a sound recording or audio-visual fixation without the authorisation of the producer under this section.

(6) For the purposes of this section, reproduction of a copy of a sound recording or an audio-visual fixation shall be unlawful if, with or without imitating the outward characteristics of the original work, it incorporates all or part of the sound or image with or without sound and without authorisation.

(7) Where a sound recording or audio-visual fixation for commercial advertisement or its reproduction is used for broadcasting or for any other form of communication to the public, the user shall not require the authorisation of the producer, but shall pay an equitable remuneration to the producer and the performer.

(8) The rights of the producer under this section shall be protected for fifty years from the date of the cutting of the matrix.

29. Duty to indicate moral right information

(1) The producer or publisher has a duty to indicate on the book, cable of the disc or tape or the container—

- (a) the name of the author and those of the main performer or performers if any;
- (b) the title of the work;
- (c) the year of the cutting of the original matrix or of first publication of the book;
- (d) the name (whether individual or body corporate) or distinguishing mark of the producer or publisher; and
- (e) that the rights of the producer or publisher are reserved.

(2) For the purposes of paragraph (a) of sub-section (1) a choir, orchestra, theatre company or author shall be referred to by the proper name and by the name of the leader if any.

(3) The producer may indicate on the cable of the disc or tape or the container any information about the terms and conditions of use of fixation.

30. Notice of protection of producer's rights

(1) Where copies of a sound recording or audio-visual fixation are made for commercial purposes there shall be printed on the copies a notice consisting of—

- (a) the symbol ©; and

- (b) the year of first publication of the sound recording or audio-visual fixation placed in a manner that gives reasonable notice of claim of protection of the rights of the producer.

(2) Where the copies of sound recording, audio-visual fixation or their containers do not identify—

- (a) the producer;
- (b) the producer's licence in relation to that sound recording or fixation; or
- (c) the description or trade mark of the producer;

the notice shall include the name of the person who owns the rights of the producer.

(3) Where the copies of a sound recording, audio-visual fixation or their containers do not identify the principal performers the notice shall include the name of the person who owns the rights of the performers.

(4) The coming into force of this Act shall not affect the right of any person to use, in accordance with the provisions of this Act, any fixation or reproduction made in good faith before the coming into force of this Act.

31. Remuneration for broadcasting

(1) If a sound recording or audio-visual fixation published for commercial advertisement purposes, or a reproduction of that sound advertisement recording or audio-visual fixation is used directly or indirectly for broadcasting or other communication to the public, or is publicly performed, unless otherwise agreed, a single equitable remuneration for the performer or performers and the producer of the sound recording or audio-visual fixation shall be paid by the user to the producer.

(2) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under subsection (1) shall be paid to the performer or performers.

(3) Sound recording or audio visual-fixation published for commercial advertisement and made available to the public by internet, wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them shall, for the purposes of this section, be subject to subsection (1).

32. Rights of a broadcasting company

(1) A broadcasting company shall have the right to authorise or prohibit—

- (a) the broadcasting of its broadcast;
- (b) the fixation of its broadcasts; or
- (c) the reproduction of a fixation of its broadcasts except where—
 - (i) the fixation used to make the broadcast is made without authorisation; or
 - (ii) the broadcast is initially fixed in accordance with the provisions of this Act but the reproduction is made for purposes other than those specified.

(2) The rights of a broadcasting company under this section shall be protected for fifty years from the date the first broadcast takes place.

33. Producers of programme carrying signals

A producer of programme carrying signals transmitted through the point to point communication intellects shall have the right to authorise further transmission of the signal in Uganda or from its territory which right shall exist for fifty years from the date of publication of the programme.

34. Limitation on neighbouring rights

The provisions of sections 24, 27, 28, 29, 30, 33 shall not apply where the acts done are for—

- (a) private use;
- (b) the reporting of current event, except that no more than short excerpts of a performance, sound recording or audio-visual performance fixation or broadcast are used;
- (c) teaching science, or
- (d) quotations in the form of short excerpts of a performance, sound recording, audio-visual fixation or fixation or broadcast, which are compatible with fair use and are justified by the informative purpose of the quotations.

PART V—CONTRACTS RELATING TO THE EXPLOITATIONS
OF RIGHTS.

35. Contracts to be in writing

Any contract relating to the exploitation of the author's rights or the performer's rights shall be in writing and signed or marked by the parties to the contract.

36. Publishing contracts

(1) Subject to section 40, the author, his or her successor in title or agent shall, in a publishing contract, transfer to the publisher against payment of a remuneration, the right to publish his or her work in a material form and distribute that work to the public.

- (2) A publishing contract made under this section may specify—
 - (a) the period, the territory and the language for which the right is transferred;
 - (b) the exclusive or non-exclusive nature of the right transferred;
 - (c) the period within which the work of the contract is to be published which period shall not exceed eighteen months from the date of the making of the contract;
 - (d) the amount of the author's remuneration and mode of payment.

37. Public performance contracts

(1) Subject to section 40, the author, performer, successor in title or agent shall, in a public performance contract, transfer to a person or body, the right to perform in public his or her literary, dramatic, dramatic-musical or musical work against payment of remuneration.

(2) A performance contract made under this section may specify—

- (a) the exclusive or non-exclusive nature of the rights transferred;
- (b) the period for which the right is transferred or the number of performances to be effected;
- (c) the period within which the performance or performances are to be effected, which shall not exceed two years from the date of the making of the contract;
- (d) the territory for which the right is transferred;
- (e) the type of performance; and
- (f) the amount of the author's remuneration and mode of payment.

38. Broadcasting contracts

(1) Subject to section 40, the author, performer, successor in title or agent shall, in a broadcasting contract, transfer to a company involved in radio or, television broadcasting or the supplier of audio-visual communication services or other form of broadcast, the right to broadcast his or her literary dramatic, dramatic-musical or musical work against payment of remuneration.

(2) A broadcasting contract made under this section may specify—

- (a) the exclusive or non-exclusive nature of the right transferred;
- (b) the period for which the right is transferred or the number of times the work shall be broadcast;

- (c) the language in which the work is to be broadcast;
- (d) the territory in which the work is to be broadcast; and
- (e) the amount of the author's remuneration and mode of payment.

39. Voidable contracts

Any contract made under this Part of this Act which does not include any item specified in respect of the respective contract or any contract which contravenes a relevant provision of this Part of this Act is voidable.

40. Remuneration payable to author

The remuneration to be paid to an author under this Part of the Act shall be that agreed upon by the parties in respect of—

- (a) proceeds from the exploitation of the authors' work, where practicable; or
- (b) a reasonable lump sum to off set the expenses incurred by the creation of the work, plus a reasonable profit.

PART VI—GENERAL PROVISIONS RELATING TO ADMINISTRATION OF COPYRIGHT

41. Registrar of copyright and other officers

(1) The Minister may, on the recommendation of the board of the Uganda Registration Services Bureau appoint a Registrar of Copyright.

(2) The Board of Directors of the Uganda Registration services Bureau may appoint such number of assistant registrars, copyright inspectors and other officers as may be necessary for the efficient discharge of the duties and functions of the Registrar of copyrights under this Act.

(3) The assistant registrars, copyright inspectors and other officers shall report and be subject to the direction of the Registrar.

42. Functions of the registrar

The Registrar shall—

- (a) process applications for licences to be issued by the Minister under section 17;
- (b) register works and productions to be registered under this Act;
- (c) register collecting societies;
- (d) give guidance to and discipline collecting societies;
- (e) register assignments, licences and transfers of copyrights;
- (f) register copyright contracts relating to exploitation of rights;
- (g) provide copyright and neighbouring rights information service to the public and users of copyright works;
- (h) in collaboration with the collecting societies, advise Government, on matters relating to copyright and neighbouring rights;
- (i) perform any other duty or function relating to copyrights, neighbouring rights and collecting societies as may be necessary for the better functioning of this Act or as the Minister may by regulation prescribe.

(2) The Registrar's office shall be the National Copyright Information Centre.

43. Registration of rights

(1) The owner of a copyright or a neighbouring right may register the right with the Registrar for the purpose of—

- (a) keeping evidence of ownership of the right;
- (b) identification of works and authors;
- (c) maintenance of record of the rights;

(2) Any holder of an assignment, licence or transfer of a copyright or neighbouring right may register the assignment, licence or transfer with the Registrar for the purpose of—

- (a) keeping evidence of the assignment, licence or transfer of the copyright;
- (b) maintenance of record of the rights;
- (c) publication of the assignment, licence or transfer.

(3) Any person entering into a copyright or neighbouring right contract may register the rights in the contract.

(4) A piece of work which is creating the right shall be reduced in a material form before the owner of the right can register the right.

(5) A copy of the work or contract which is creating the right for registration shall be deposited with the Registrar for registration.

(6) On registration, the Registrar shall issue a certificate as proof of registration and one certificate may include rights in more than one piece of work.

(7) A certificate of registration of a piece of work may be received in evidence as proof of ownership of that piece of work.

(8) The procedure for application and form of registration of a right in a piece of work shall be as prescribed by rules made by the Minister for the purpose.

44. Users of work to apply for licence

(1) Any person who wishes to use or perform another person's work or who causes work to be performed in public for gain shall apply to the owner or the owner's agent for a licence to do so.

(2) The owner or agent may grant a licence and shall in respect of any grant, charge such royalties as the owner or owner's agent may determine to be appropriate.

(3) A licence granted under this section shall be in force for one year but may be renewed each time it expires.

(4) Any person who, after the expiration of a licence continues to use, perform or cause to perform in public for gain any work, without renewing the licence commits an offence and is liable, in addition to any other punishment under this Act, to pay not less than fifty percent of the royalties charged in respect of that work in addition to the royalties due for that particular use.

(5) The form of application and licence under this section shall be as prescribed by the Minister.

(6) A licence by an agent shall not affect the rights of the owner of the work under section 9 but where a person is licensed by an agent the owner shall not impose extra conditions and similarly where the owner exercises his or her rights under section 9, the agent shall not impose conditions other than those agreed upon between the owner and the user of the work if the agreement is in conformity with this Act.

45. Civil remedies

(1) Any person whose rights under this Act are in imminent danger of being infringed or are being infringed may institute civil proceedings in the Commercial Court for an injunction to prevent the infringement or to prohibit the continuation of the infringement.

(2) Upon an ex-parte application by a right owner, the court may in chambers make an order for the inspection of or removal from the infringing person's premises, of the copyright infringing materials which constitute evidence of infringement by that person.

(3) The grant of an injunction under subsection (1) shall not affect the author's claim for damages in respect of loss sustained by him or her as a result of the infringement of the rights under this Act.

(4) A person who sustains any damage because of the infringement of his or her rights under this Act may claim damages against the person responsible for the infringement whether or not that person has been successfully prosecuted.

(5) Infringement is not actionable unless the infringement involves the whole piece of work or a substantial part of the work.

46. Infringements of copyright

(1) Infringement of copyright or neighbouring right occurs where, without a valid transfer, licence, assignment or other authorisation under this Act a person deals with any work or performance contrary to the permitted free use and in particular where that person does or causes or permits another person to—

- (a) reproduce, fix, duplicate, extract, imitate or import into Uganda otherwise than for his or her own private use;
- (b) distribute in Uganda by way of sale, hire, rental or like manner; or
- (c) exhibit to the public for commercial purposes by way of broadcast, public performance or otherwise.

(2) The use of a piece of work in a manner prejudicial to the honour or reputation of the author shall be deemed an infringement of the right of the owner of the right.

47. Offences and penalty

(1) A person who, without the authorisation of or licence from the rights owner or his or her agent—

- (a) publishes, distributes or reproduces the work;
- (b) performs the work in public;
- (c) broadcasts the work;
- (d) communicates the work to the public; or
- (e) imports any work and uses it in a manner which, were it work made in Uganda, would constitute an infringement of copyright;

commits an offence and is liable on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both.

(2) A person who contravenes the rights of a producer of sound recording or audio-visual fixation, a broadcasting company or a producer of programme carrying signals commits an offence and is liable on conviction to a fine not exceeding twenty five currency points or imprisonment not exceeding on year or both.

(3) Where a work is communicated to the public on the premises of an occupier or by the operation of any apparatus which is provided by or with any consent of the occupier of those premises, the occupier shall be deemed to be the person communicating the work to the public whether or not he or she operates the apparatus.

(4) A person who sells or buys in the course of trade or imports any apparatus, article, machine or thing, knowing that it is to be used for making infringing copies of work, commits an offence and is liable on conviction, to a fine not exceeding fifty currency points or imprisonment not exceeding one year or both.

(5) In addition to the punishment prescribed by subsection (4) the Court shall, where an offence is committed under that subsection, order the forfeiture of the apparatus, article or thing which is the subject matter of the offence or which is used in connection with the commission of the offence.

(6) Any person who does any act to make other people believe that he or she is the author or performer of a piece of work, whether that act is—

(a) by words or writing;

(b) through conduct or fraudulent tricks; or

(c) the use of electronic or other device;

commits an offence.

(7) A person commits an offence who, having reasonable grounds to know or suspect that the act will induce, enable, facilitate or conceal an infringement of a copyright or a neighbouring right, does the following—

- (a) remove or alters any electronic moral rights information without lawful authority to do so;
- (b) distributes, imports for distribution, broadcasts, communicates or makes available to the public any pirated work;
- (c) without lawful authority, distributes, imports for distribution, broadcasts, communicates or makes available to the public, any performance, copy of a sound recording or audio-visual fixation knowing that the moral rights information has been unlawfully removed or altered.

(8) Where a work is communicated to the public on the premises of an occupier by live performance without the authority of the owner of the copyright or neighbouring right or agent, the occupier of the premises shall be deemed to have communicated the work to the public.

48. Infringement of neighbouring right

(1) A person who infringes a neighbouring right of another person under this Act commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both.

(2) The provisions of section 45 and subsections (2) to (6) of section 47 shall apply to the owner of a neighbouring right.

49. Offences by body of persons

(1) Where an offence is committed by a body of persons—

- (a) in the case of a body corporate, every director and the secretary of the body shall be deemed to have committed the offence; and
- (b) in the case of a partnership or other body not being a body corporate, every partner or member shall be deemed to have committed the offence.

(2) No person shall be taken to have committed an offence under subsection (1) if he or she proves to the satisfaction of the court that the offence for which he or she is charged was committed by some person other than himself or herself and was without his or her consent or connivance and that he or she exercised all diligence to prevent the commission of the offence as he or she ought to have exercised in the circumstances.

50. Penalties and compensation

(1) A person convicted of an offence under this Act, for which no other punishment is provided, is liable to a fine not exceeding fifty currency points or imprisonment not exceeding one year or both.

(2) In addition to any other punishment that may be imposed by the court under this Act, the court may order—

- (a) that all sums of money arising out of the offence and received by the offender be accounted for by the offender and paid to the person entitled to the economic rights under this Act; and
- (b) that all reproductions, duplication, translation, extracts, imitations and all other materials involved in the infringement be forfeited and disposed of as the court may direct.

51. Proof of facts

An affidavit, affirmation or other oath made before a magistrate, commissioner for oaths or other person authorised to administer an oath or affirmation under the law of the country where the oath was made, which—

- (a) purports to have been made by or on behalf of the owner of the copyright or successor in title, and
- (b) states all or any of the following—
 - (i) that at the time of the affidavit, oath or affirmation the rights of the owner of the copyright work subsisted;

- (ii) the nationality of the work of the copyright;
 - (iii) the place where the work was first made;
 - (iv) the date and place for first publication of the work and the date of publication in Uganda, if such publication was not the first publication;
 - (v) that the person named in affidavit, oath or affirmation is the owner of the copyright or successor in title;
 - (vi) that a copy of the work exhibited to the affidavit oath or affirmation is a true copy of the work,
- shall be admissible in any proceedings under this Act.

52. Staff of collecting society etc to act as inspector

In addition to inspectors appointed under section 41 the Registrar may authorise any member from the Uganda Registration Service Bureau or any staff of a collecting society to perform the functions of an inspector under this Act.

53. Entry into premises

Subject to the provisions of this section, an inspector may, at any reasonable time and on production of the certificate of authority enter any premises, ship, aircraft or vehicle for the purpose of ascertaining whether there is or has been, on or in connection with those premises, ship, aircraft or vehicle any contravention of this Act.

54. Mode of inspection of premises

(1) For the purpose of ascertaining whether there is or has been a contravention of this Act, an inspector may inspect—

- (a) any substance or article appearing to be a work;
- (b) any container or package appearing to be used or intended to be used to contain any work; or
- (c) any place, plant or equipment appearing to be used or intended to be used in connection with the production, reproduction or otherwise manufacture of a work.

(2) An inspector may seize and detain any substance or article which he or she has reasonable cause to believe to be an infringing of a copyright in any work or in relation to which or by means of which there is reasonable cause to believe that an offence under this Act has been or is being committed, and any document which he or she has reasonable cause to believe to be a document which may be required in proceedings under this Act.

(3) Where an inspector seizes any work, the inspector shall notify in writing the person from whom it is seized the fact of that seizure and shall in that notification specify the item seized.

(4) Any person who—

(a) wilfully obstructs an inspector in the discharge of the inspector's duties; or

(b) wilfully fails to comply with any requirement properly made to that person by an inspector; or

(c) without reasonable cause fails to give to the inspector any assistance or information which the inspector may reasonably require for the purpose of the performance of the inspector's duties under this Act; or

(d) makes any statement which that person knows to be false or which that person does not believe to be true,

commits an offence and is liable on conviction to a fine not exceeding one hundred currency points, or to imprisonment not exceeding two years or both.

55. Inspectors not personally liable

An inspector shall not be personally liable in respect of any act done in good faith in the execution of any duty under this Act.

56. Suspension of release by customs authorities

(1) A rights owner, who has reasonable grounds for suspecting that the importation of pirated goods may take place, may lodge an application in writing with the commercial court for the suspension of the release into free circulation of such goods.

(2) Any rights owner initiating the procedures under subsection (1) shall be required to provide adequate evidence to satisfy the court that, there is *prima facie* infringement of the copyright and to supply a sufficiently detailed description of the goods to make them readily recognisable by the customs authorities.

PART VII—GENERAL PROVISIONS RELATING TO COLLECTING SOCIETIES.**57. Collecting Societies to be registered**

(1) No collecting society shall operate in Uganda without a registration certificate issued by the Registrar of Companies.

(2) The Registrar of Companies shall not register another society in respect of the same bundle of rights and category of works if there exists another society that has already been licensed and functions to the satisfaction of its members.

(3) Any person operating as a collecting society or causing any society or body to operate as a collecting society without a registration certificate 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 two years or to both the fine and imprisonment.

58. Qualifications for registration

The Registrar may register as a collecting society any society or body which has for its main object the promotion of the economic and social interest of its members through defending their copyright and neighbouring right interests and whose function or other objects include any of the following—

- (a) in cooperation with other relevant bodies and organisations, to promote and encourage creativity in the artistic, literary and scientific fields in Uganda;
- (b) to promote and carry out public awareness on copyright and neighbouring rights;
- (c) to pay the royalties to its members who are the appropriate beneficiaries;
- (d) to make reciprocal agreements with foreign societies or other bodies of authors or neighbouring rights owners for the issue of authorisations in respect of their members' works and for the collection and distribution of copyright fees deriving from those works;
- (e) to help in the preparation of its members standard forms of contract for the benefit and use of its authors and neighbouring rights owners, and to act as an intermediary for the conclusion of contracts between its members and the users of their works;
- (f) to foster harmony and understanding between its members with the users of their works as is necessary for the protection of their economic rights;
- (g) to provide its members or other persons in need of it, with information on all matters relating to copyright and neighbouring rights and to give advice and keep its members informed about their rights and interests;
- (h) to act as agent for its members in relation to their copyright and neighbouring rights interests;
- (i) to do any act necessary in relation to the copyright and neighbouring rights and interests of its members.

59. Conditions for registration

The Registrar shall not register a society unless—

- (a) the Registrar is satisfied that the society is capable of promoting its members' interests and of discharging its functions and objectives.
- (b) it consists of at least thirty persons all of whom are, according to its articles and rules qualified to be members.
- (c) the society is incorporated under the provisions of the Companies Act.

60. Application for registration

(1) An application for registration of a collecting society shall be made to the Registrar in a prescribed form and shall be signed by at least thirty members of the society.

(2) The application shall be accompanied by three copies of the proposed articles and rules of the Society, a copy of the certificate of registration as a non-governmental organisation and such other information as the Registrar may require.

61. Registration of a society on probation

(1) If the Registrar is satisfied that a society has complied with all the requirements under this Act, and regulations made under this Act and that its proposed articles and rules are not contrary to the provisions of this Act, the Registrar shall register the society and its articles and rules on probation for a period not exceeding eighteen months.

(2) If at the expiration of the probationary period the Registrar is not satisfied with the performance of the society, the Registrar may either cancel the registration or extend the probationary period by a period not exceeding six months; and if after the extension the Registrar is still not satisfied with the performance of the society, the registration shall be cancelled.

(3) On registration of a society on probation, a trust under the names of the society shall be established and the executive body of the society shall be established as the board of trustees of the society for the period of the probation.

62. Indication of probationary registration

A society which is registered on probation shall state in legible letters in all its receipts and letter-heads, notices, advertisement or other official publications, that it is registered probationary and shall indicate the same on a signboard in a conspicuous position outside any premises or office in which it carries on its business.

63. Cancellation of registration

(1) At any time during the period of registration of a society on probation, the Registrar may, by notice in writing to the person responsible for running the society, cancel the probationary registration of the society stating reasons for the cancellation and the society shall, from the date of service of the notice, cease to be a registered society.

(2) The cancellation referred to in subsection (1) shall be published in the *Gazette* and in at least one of the prominent newspapers in Uganda.

64. Full registration of society

(1) Where at the end of the probation the registrar is satisfied with the functioning of the society the Registrar shall fully register the society as a collecting society.

(2) A society shall, on full registration, become a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its operations.

(3) If the Registrar is satisfied that a society's original certificate of registration has been lost or destroyed, the Registrar may issue a duplicate certificate.

(4) All assets, rights and liabilities vested in the board of trustees of the society during the period of the registration on probation shall vest in the society as a body corporate.

65. Qualification for membership of a society

(1) In order to be qualified for membership of a registered society, a person, other than a registered society or a company incorporated under the Companies Act or an un-incorporated body of persons permitted to become a member shall be resident in Uganda.

(2) No person of a registered society shall exercise any of the rights of a member unless that person has paid the required membership fee.

(3) Each member of a registered society shall have one vote only as a member in the affairs of the registered society.

66. Address of society

(1) Every registered society shall have a registered address to which notices and communications may be sent, and shall notify the Registrar on every change in its registered address within one month of the change.

(2) Every registered society shall display its name and address on a signboard in a conspicuous position outside its place of business.

67. Amendment of the articles and rules of a registered society

(1) Any registered society may amend its articles and rules including the name of the society.

(2) No amendment under subsection (1) shall be valid until it is registered with the Registrar.

(3) If the Registrar is satisfied that an amendment is not contrary to the provisions of this Act, the Registrar shall register the amendment.

(4) An amendment which changes the name of a registered society shall not affect any right or obligation of the society or any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) When an amendment of the articles or rules of a registered society is registered, the Registrar shall issue a certified copy of the amendment to the society which certified copy shall be conclusive evidence that the amendment has been duly registered.

(6) If it appears to the Registrar that an amendment of the articles or rules of a society is necessary or desirable in the interest of the society, the Registrar may call upon the society, to make the amendment within a specified period.

(7) If the society fails to make the amendment under subsection within the time specified, the Registrar may, after giving the society an opportunity of being heard, make and register the amendment, and issue to the society a certified copy of the amendment.

(8) With effect from the date of registration of an amendment under subsection (7) the articles or rules of a society shall be deemed to have been duly amended and the articles or rules as amended shall, be binding on the society and its members.

(9) Any society aggrieved by any amendment of its articles or rules made under sub-section (7) may appeal to the Minister against the amendment within two months of the date of the issue of the certified copy of the amendment.

(10) Any member of a registered society may appeal to the Minister, in writing against any refusal by the Registrar to register any amendment to the articles or rules of the society.

68. Act e.t.c to be kept and list of members open for inspection

Every registered society shall keep a copy of this Act and of the regulations made thereunder and of its articles or rules and shall have a list of its members open to inspection by any person, free of charge at all reasonable times during business hours at the office of the society.

69. Audit, annual returns and accounts

(1) The executive committee of a registered society shall cause the accounts of the society to be audited at least once in every year by an auditor appointed by the Annual General Meeting and approved by the Registrar.

(2) Where the registered society is unable to appoint an auditor, the Registrar may appoint the auditor for the society and the cost of the audit shall be borne by the society.

(3) Audits shall be conducted in accordance with generally accepted professional audit standards and in addition include audit of management efficiency.

(4) An auditor appointed under this section shall have access to all books, accounts, papers and securities of a registered society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the auditor may require.

(5) The auditor shall have power, where necessary—

(a) to summon, any officer, agent, servant or member of the society whom the auditor has reason to believe can give information in regard to the transactions of the society or the management of its affairs;

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to the society from the officer, agent, servant or member in possession of such book, documents, cash or securities.

(6) An auditor appointed under this section shall submit a detailed audit report of the accounts and balance sheet to the executive committee of the society and a true copy of accounts and balance sheet to the Registrar within three months after the end of the society's financial year, which report shall include the auditor's opinion on whether or not the administration of the society has been conducted—

- (a) efficiently and in accordance with the standard accounting methods;
- (b) in accordance with the society's objectives, articles and rules or any other decisions made by the Annual General Meeting.

(7) Where the executive committee fails to cause the auditing of accounts in accordance with this section, the executive committee of that society shall be deemed to have relinquished the office; and the Registrar shall convene a special general meeting to elect a new committee unless the Registrar is satisfied that the failure was due to circumstances beyond the committee's control.

70. Estimates and expenditure

(1) Every executive committee of a registered society shall cause estimates of the income and expenditure of the society to be repapered for the coming twelve months at least three months before the end of its financial year and a copy of the estimates shall be sent to the Registrar for an opinion before they are submitted to the general meeting.

(2) Supplementary estimates may be prepared by a society during the financial year and submitted to the registrar for an opinion before they are submitted to the Annual General Meeting.

(3) If a society contravenes or fails to comply with any provision of this section, the society and any officer or person who purports to act on its behalf commits an offence and is liable to a fine not exceeding fifty currency points and in the case of a continuing offence to a further fine not exceeding two currency points for each day on which the offence is continued.

71. Voluntary amalgamation of societies

(1) Any two or more registered societies may, with the prior approval of the Registrar, amalgamate into a single society.

(2) An amalgamation referred to in subsection (1) shall not take place unless—

- (a) a general meeting of each of the societies has been called;
- (b) each member of the society has had a clear notice of fifteen days of the meeting; and
- (c) a preliminary resolution has been passed by a two-thirds majority of the members present at the meeting for the amalgamation.

(3) An amalgamation of registered societies into one society under this section may be effected without dissolution of the societies concerned or a division of the assets and liabilities of the amalgamated societies and a resolution of the society passed for the amalgamation shall be sufficient for the transfer of the assets and liabilities of the amalgamated societies to the new society.

72. Investment of funds

A registered society may invest or deposit its funds—

- (a) in any bank or financial commercial institution incorporated in Uganda;
- (b) in such investments and securities as are by law allowed for the investment of trust funds;
- (c) in such other way as is specified in its articles or rules and approved by the Registrar.

73. Provident and benevolent fund

(1) A registered society shall establish and administer a Provident and Benevolent Fund which shall be separate from the funds of the society for the benefit of the copyright and other rights owners.

(2) The society shall credit all moneys collected on behalf of the authors and other copyright and neighbouring rights owners to the Fund and shall pay all sums due to the rights owners from that Fund.

74. Inspection

Any employee, officer or member of a collecting society shall, when required to do so by the Registrar or an inspector, produce for inspection any books, records or document in his or her control relating to the operations of the society.

75. Ad hoc committee of inquiry

(1) The Registrar may hold an inquiry or direct an inspector or other person in writing to hold an inquiry into the constitution, working and financial conditions of a registered society.

(2) On receipt of a resolution demanding an inquiry passed by not less than two-thirds of the members present at a general meeting which has been duly advertised, the registrar shall cause an inquiry to be held.

(3) During the period of inquiry under this section, the executive Officer, other officers or employees may be suspended from duty by the Registrar to facilitate the smooth holding of the inquiry.

(4) Where the executive Officer has been suspended under subsection (3) a caretaker manager shall be appointed by the Registrar in consultation with the executive committee.

(5) The caretaker shall remain in office until either the former Executive Officer is reinstated or a new one is appointed such that the caretaker shall not stay in office for more than three months after the report of the inquiry has been submitted.

(6) Where after the report of the inquiry, it is necessary to elect a new executive committee, the Registrar shall convene a special general meeting within thirty days after the submission of the report to elect a new committee.

76. Cancellation of registration after inquiry or inspection

(1) If the Registrar, after an inquiry or after making an inspection or on receipt of an application made by two-thirds of the members of a registered society, is of the opinion that the society ought to be dissolved, the Registrar may make an order for the cancellation of registration of the society.

(2) Any member of a registered society may, within two months from the date of an order made under subsection (1), appeal from such order to the Minister.

(3) Where no appeal is presented within two months of an order made under subsection (1) the cancellation shall take effect and where an appeal is presented the order shall not take effect until the appeal is concluded.

(4) The Minister shall make a decision on an appeal under subsection (2) within two months of receiving the appeal.

77. Cancellation of registration of a collecting society

(1) The Registrar may, by order in writing, cancel the registration of any society, if satisfied that—

- (a) the registration was obtained by fraud or mistake;
- (b) the society has exhibited operations for an illegal purpose;
- (c) the society is no longer operating in accordance with this Act;
- (d) the number of members of the society has fallen below the minimum required by this Act; or
- (e) the society has not commenced operations or has ceased to operate for two consecutive years.

(2) Where the registration of a society is cancelled, the society shall cease to exist as a body corporate as from the date the cancellation takes effect.

(3) On the making of an order to cancel the registration of a society, a copy of the order shall be placed on the file maintained by the registrar in respect of the society and gazetted and published in at least one of the leading newspapers in Uganda.

78. Appointment of liquidator

(1) Where the registration of a society is cancelled the Registrar may appoint one or more persons to be a liquidator or liquidators of the society and all the property of the society shall vest in such liquidator or liquidators with effect from the date of cancellation of the registration.

(2) A liquidator appointed under this section shall, subject to the guidance, control and any limitation imposed by the Registrar have the following powers—

- (a) to appoint a day, before which the creditors whose claims are not already recorded in the books of the society shall state their claims for admission, or be excluded from any distribution made before they have proved them;
- (b) to institute and defend suits and other legal proceedings by and on behalf of the society and appear in court as litigant in person on behalf of the society;
- (c) to refer disputes to arbitration;
- (d) to determine from time to time the contributions to be made by the members and past members, and by the estate of deceased members of the society, respectively, to the assets of the society;
- (e) to investigate all claims against the society and, decide questions of priority arising between claimants;
- (f) to call meetings of members as may be necessary for the proper conduct of the liquidation;

- (g) to sell the assets of the society;
- (h) to determine from time to time, by what persons and in what proportion the costs of the liquidation are to be borne;
- (i) to take possession of the books, documents and assets of the society;
- (j) to arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar;
- (k) to give such directions in regard to the disposal of the books and documents of the society in accordance with affairs of the society;
- (l) to compromise, with the approval of the Registrar, any claim by or against the society; and
- (m) to apply to the Registrar for discharge from the duties of liquidator after completion of the liquidation proceedings.

(3) Upon the appointment of a liquidator for a registered society, the provisions of the Companies Act relating to winding up of a company shall apply subject to modifications that may be required in the circumstances.

PART VIII—GENERAL PROVISIONS

79. Settlement of disputes

(1) Any dispute regarding the operations of a registered society which arises—

- (a) among the members or past members;
- (b) between a member, past member or other person not being a member, or deceased member, and the society, its committee or any officer or past officer of the society; or

(c) between the society or its committee and any officer or past officer of the society; or

(d) between the society and any other registered society;

shall be referred to an arbitrator or arbitrators under the Arbitration and Conciliation Act.

80. Remuneration of officers

(1) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from the society for services rendered to the society unless the society has, after consultation with the Registrar, by resolution passed at a general meeting of the society approved the expenditure in the estimates of the society for the financial year.

(2) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from any person other than the society in respect of any business or transaction entered into by the society, but in special circumstances the society may, after consultation with the Registrar, by a resolution passed at a general meeting of the society, consent to such remuneration, salary, commission or other payment being made.

(3) Any officer or member of a registered society who pays out or receives any remuneration, salary, commission or other payment in contravention of subsection (1) or (2), as the case may be, commits an offence and is liable on conviction to a fine not exceeding twenty currency points or to a period of imprisonment not exceeding two years or both.

81. Reciprocal protection

A copyright or neighbouring rights owner who is not a citizen or resident of Uganda shall be protected under this Act if the work was first published in a country which is—

(a) a member of any of the organisations specified in Part I of the Second Schedule to this Act; or

(b) a signatory to any of the international conventions specified in Part II of the Second Schedule to this Act.

82. Regulations

(1) The Minister may, on the recommendation of the Registrar, and after consultation with the collecting societies, make regulations generally for the better carrying into effect of the, provisions of this Act and to prescribe or provide for anything required or authorised to be prescribed or provided under this Act.

(2) In particular and without prejudice to the generality of subsection (1) regulations may—

- (a) prescribe the forms to be used to apply for registration;
- (b) prescribe the procedure for a society to apply for registration;
- (c) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (d) provide for audit of the accounts and books to be kept by a society and the charges if any to be made for such audit;
- (e) provide for the form of the final accounts and the balance sheet to be prepared annually and any other statements and schedules relating to them;
- (f) prescribe the procedure to be followed in appeals to the Ministers;
- (g) provide for the returns to be submitted to the Registrar by registered societies;
- (h) prescribe the fees to be paid on application for registration and for other services provided by the Registrar and;
- (i) prescribe anything that may be necessary for the better functioning of the societies.

(3) Regulations made under this section may prescribe as penalties for the contravention of the regulations any fine not exceeding twenty currency points or any term of imprisonment not exceeding six months or both.

83. Amendment of Schedules

(1) The Minister may, in consultation with the Minister responsible for finance, by statutory instrument amend the First Schedule to this Act.

(2) The Minister may, by statutory instrument, amend the Second Schedule to this Act as circumstances may require.

PART IX—TRANSITION PROVISIONS

84. Repeal and Saving

(1) The Copyright Act, is repealed.

(2) The repeal under subsection (1) shall not affect any copyright or other rights that existed immediately before the repeal of the Act and all such rights shall be enforceable under this Act, as if this Act was in force at the time of the creation of that work.

85. Existing societies

(1) A collecting society operating before the commencement of this Act shall—

- (a) where it is operating as a fully registered non-governmental organisation, apply for full registration of the society within twelve months from the date of commencement;
- (b) where it is operating as an unregistered society, apply for full registration within twelve months from the date of commencement if it fulfills the qualifications provided under section 58.

(2) The Registrar shall, after the period of twelve months referred to under subsection (1) publish, by legal notice in the *Gazette*, and in at least one leading newspaper, the registered collecting societies at the time.

FIRST SCHEDULE

CURRENCY POINT

Section 2

One Currency point is equivalent to twenty thousand shillings

SECOND SCHEDULE

Sections 3 and 81

PART I—ORGANISATIONS

1. World Intellectual Property Organisation (WIPO)
2. Africa Region Intellectual Property Organisation (ARIPO)
3. The United Nations Educational Scientific and Cultural Organisation (UNESCO)
4. The World Trade Organisation.

PART II—INTERNATIONAL CONVENTIONS

1. The Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS Agreement).

Cross references

Arbitration and Conciliation Act, Cap. 4

Uganda Communications Act, Cap. 106

Companies Act, Cap. 110

Copyright Act, Cap. 215

ACTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006.
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Act 20

Persons with Disabilities Act

2006

THE PERSONS WITH DISABILITIES ACT, 2006.

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2. Interpretation
3. Objects of the Act
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SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

AW DEVELOPMENT CENTRE
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An Act to provide a comprehensive legal protection for persons with disabilities in accordance with Article 32 and 35 of the Constitution; to make provisions for the elimination of all forms of discrimination against persons with disabilities towards equalization of opportunities and for related matters.

DATE OF ASSENT: 24th May, 2006.

Date of Commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY**1. Short title**

This Act may be cited as the Persons with Disabilities Act, 2006.

2. Interpretation

In this Act, unless the context otherwise requires—

“auxiliary aids and services” include qualified readers, interpreters and guides; taped texts, audio, visual and pictorial recording; braille equipment, large print and brailled materials; tactile equipment, athorpedic appliance and other devises and services that support PWDs to participate effectively in all aspects of life;

“Council” means the National Council for Disability established under section 3 of the National Council for Disability Act, 2003.

“disability” means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation;

“Minister” means Minister responsible for Disability Affairs;

“person with disability” means a person having physical, intellectual, sensory or mental impairment which substantially limits one or more of the major life activities of that person;

“PWDs” means Persons with Disabilities.

3. Objects of the Act

The objects of the Act are—

- (a) to promote dignity and equal opportunities to persons with disabilities;
- (b) to develop and promote the participation of persons with disabilities in all aspects of life as equal citizens of Uganda;
- (c) to encourage the people and all sectors of government and community to recognise, respect and accept difference and disability as part of humanity and human diversity;
- (d) to eliminate all forms of discrimination of persons with disabilities on ground of their disabilities;
- (e) to encourage all sectors of government and community to promote and include disability issues into all economic, political and social development policies and programmes;

- (f) to promote positive attitude and image of persons with disabilities as capable and contributing members of society, sharing the same rights and freedoms as other members of society.

4. Disability codings

(1) The disability codings provided in the First Schedule shall determine—

- (a) whether an impairment has a substantial functional limitation of daily life activities; or
(b) whether an impairment has a long-term effect on a person.

(2) The decision as to whether an impairment has a substantial functional limitation of daily life activities or a long-term adverse effect on the ability of a person shall be based on the coding provided under subsection (1).

(3) In addition to the provisions of subsection (2) a medical officer and any relevant organisation of or for persons with disabilities shall be consulted.

PART II—RIGHT TO QUALITY EDUCATION AND HEALTH.

5. Education

Government shall, promote the educational development of persons with disabilities through—

- (a) encouragement of inclusive education;
(b) the formulation and design of educational policies and programs that promote the special needs and requirements of persons with disabilities;
(c) the formulation of policies that give children with disabilities access to relevant education at all levels, paying particular attention to the requirements of the girl child and children in rural areas;

- (d) the establishment of special schools and units, where inclusive education is not possible, with curricula designed for different disability conditions;
- (e) the inclusion of a module on teaching children with special needs in the curricula of teacher training courses;
- (f) the provision of adequate training for special teachers and in service training for current teachers in mainstream schools to cater for the educational development of persons with disabilities;
- (g) the provision of learning instructional materials and assistive devices suitable for learners with special needs;
- (h) the enforcement of recruitment and retention of special education teachers in all schools and institutions;
- (i) structural and other adaptations of all educational institutions to the needs of persons with disabilities and promotion of specialised institutions that facilitate research and development of their education;
- (j) the commitment of not less than ten per cent of all educational expenditure to the educational needs of persons with disabilities at all levels;
- (k) the provision of assistive services during examinations including giving extra time suitable for students with special disability needs.

6. Prohibition of discrimination from educational services

(1) A person shall not discriminate a person with disability to deny him or her educational services on the ground of his or her disability.

(2) A person shall discriminate a person under subsection (1)—

- (a) if he or she refuses or fails to accept an application for admission in an educational institute by a qualified person because of that person's disability;

- (b) if the terms or conditions of admission to his or her educational institution exclude persons with disabilities;
- (c) by denying or limiting access to any benefit or service provided by the educational institution to a student with a disability;
- (d) by expelling a student because of his or her disability;
- (e) by subjecting a student with disability to any other unfair treatment, relating to his or her disability.

(3) The provisions of this section shall not apply to a person denied admission to an educational institution established primarily for students who have a particular disability where that person does not have that particular disability.

7. Health

(1) Persons with disabilities shall enjoy the same rights with other members of the public in all health institutions including general medical care.

(2) The purchase, importation, transfer or gift of health materials or equipment relating to disabilities shall be exempted from tax, duties, surcharges or levies.

(3) The Government shall ensure that—

- (a) sign language is introduced into the curriculum for medical personnel;
- (b) interpreters are included in hospital organisational structure;
- (c) labels on drugs are pre-brailled.

8. Special health services

The Government shall promote special health services required by persons with disabilities including—

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- (a) providing access to reproductive health services which are relevant to women with disabilities;
- (b) enforcing user friendly hospital materials, for use by persons with disabilities visiting hospitals;
- (c) encouraging population based public health programmes relevant to persons with disabilities.

9. Prevention of disability

The Government shall promote the prevention of disabilities through—

- (a) health and environmental education in schools and communities for restriction of the risk factors connected with the way of life and the environment;
- (b) health prophylactics;
- (c) enforcement of healthy and safe labour conditions;
- (d) the introduction of a system of early identification of disabilities and intervention or strengthening of existing systems to minimise disabilities among children and the elderly;
- (e) the strengthening and implementation of road safety policies to minimize road accidents;
- (f) the strengthening of programmes for land-mine clearance where mines exist to protect persons from these mines which cause disabilities;
- (g) the enforcement of all activities and services that may help to prevent disabilities in people.

10. Measures of rehabilitation

The Government shall—

- (a) adopt measures of rehabilitation to help persons with disability regain functional ability to enhance participation in social and economic life;

- (b) promote the research, exploration and application of new rehabilitation technology so as to provide more effective rehabilitation service for persons with disabilities;
- (c) establish medical rehabilitation departments or sections in hospitals, special institutions of rehabilitation and carry out clinical practice and training, scientific research, personnel training and work of technical guidance in the field of rehabilitation;
- (d) provide various forms of technical training for personnel engaged in rehabilitation work, popularize knowledge of rehabilitation among persons with disabilities, their family members, relevant staff and volunteers and teach them methods of rehabilitation;
- (e) ensure that medical institutions and other relevant educational institutes offer curricula and specialities on rehabilitation.

11. Vocational rehabilitation and employment

The Government shall take vocational rehabilitation measures to develop the skills and potentials of persons with disabilities to enable them compete favourably for available productive and remunerative employment opportunities in the labour market.

PART III—EMPLOYMENT OF PERSONS WITH DISABILITIES

12. Prohibition of discrimination in employment

(1) A person shall not discriminate against a qualified person on ground of that person's disability in regard to any job application procedures, hiring, promotion, employee compensation, job training, and other terms, conditions, and privileges of employment.

(2) For purposes of subsection (1), the following shall constitute acts of discrimination—

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- (a) limiting, segregating or classifying a job applicant with disabilities in such a manner that adversely affects his or her work opportunities;
- (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out persons with disabilities;
- (c) utilising standards, criteria, or methods of administration showing the effect of discrimination on the basis of disability or perpetuating the discrimination of others who are subject to common administrative control;
- (d) providing less payment, remuneration or fringe benefits, to a qualified employee with disabilities, than the amount paid to a non-disabled person performing the same work;
- (e) favouring a non-disabled employee over a qualified employee with disabilities with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- (f) re-assigning or transferring a qualified employee with disabilities from a job or position he or she can perform to one which he or she cannot perform because of his or her disability;
- (g) dismissing or terminating the services of a qualified employee with disabilities on ground of his or her disability unless the employer can prove that he or she affects the satisfactory performance of the work to the prejudice of the business and that the employer tried to provide reasonable accommodation for persons with disabilities and received no better results;
- (h) failing to select or administer in the most effective manner, employment tests which accurately reflect the skills, and aptitude of an applicant or employee with disabilities, rather than the impaired sensory, manual or speaking skills of such applicant or employee; if any; and

- (i) excluding persons with disabilities from membership in labour unions or similar organisations.

13. Employment of persons with disability

(1) Persons with disabilities have a right to practice their professions and to carry on any lawful occupation, trade or business of their choice.

(2) The Government shall encourage all government and private sectors to promote the right to empowerment of persons with disabilities, including those who acquire disability during the course of their employment, to work on an equal basis with others and to earn a living by work through a quota system of employment.

(3) The Minister responsible for labour shall, in consultation with the employers' organisations, determine the quota of persons with disabilities workforce for employers, and shall by statutory instrument publish the agreed quota.

(4) Each employer shall—

- (a) where appropriate in any job advertisement, indicate that persons with disabilities would be considered;
- (b) be required to carry out appropriate modifications in their work premises to facilitate the employment of persons with disabilities;
- (c) claim tax exemption on any costs incurred as a result of the modifications carried out under paragraph (b); and
- (d) each year by the end of the month of June, submit to the Minister, returns of employment of persons with disabilities.

(5) The Minister shall, at the end of each financial year, report to Parliament the status of employment of persons with disabilities in the country.

14. Discriminative medical examination

(1) An employer shall not conduct any test or examination to establish whether an applicant is a person with a disability or as to the nature or severity of the person's disability.

(2) The provisions of sub-section (1) shall not prevent an employer from making pre-employment inquiries into the ability of an applicant to perform job related functions.

(3) An employer may require medical examination after an offer of employment if—

- (a) all newly appointed employees are subject to such examination;
- (b) the examination is required for the health programme available in the employment.

15. Discrimination against employees

(1) An employer shall not discriminate against any employee on ground that the employee—

- (a) opposes acts or practices discriminating against persons with disabilities; or
- (b) testified, assisted or participated in an investigation, proceedings or hearing of a case against discrimination of a person with a disability.

16. Access to work premises

It shall be the duty of the employer to ensure that the physical features of the premises occupied by an employee do not place an employee with a disability at a disadvantage.

17. Tax reduction

Private employers who employ ten or more persons with disabilities either as regular employees, apprentice or learner on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Uganda Revenue Authority.

18. Void contracts

Any contract of employment or other agreement is void if the contract—

- (a) requires a person to do anything prohibited under this Act;
- (b) excludes or limits the operation of any provision of this Act; or
- (c) prevents any person from lodging a complaint under section 41 of this Act.

PART IV—ACCESSIBILITY**19. Access to premises**

It shall be the responsibility of all organs in a public or private institution to provide—

- (a) suitable exits for persons with disabilities; and
- (b) universal standards or designs of public toilets.

20. Duty to provide access to buildings

Any person who constructs, a building to which the public is invited, shall ensure that persons with disabilities have access through provision of—

- (a) accessible and easy-to-find building entrances, connected by accessible pathways to accessible indoor or outdoor parking areas, local public transit stops and accessible elevators;
- (b) safe and accessible urinal, bathrooms for the diverse disabilities;
- (c) safe and well-dimensioned staircases for the comfort of persons with mobility problems;
- (d) ramps wherever stairs obstruct the free passage of pedestrians, mainly wheel chair users and people with mobility problems;

(e) adequate railing around hazardous areas, stairs, ramps, accessible roofs, mezzanines, galleries, balconies and raised platforms;

(f) well-dimensioned elevators, (in the case of multi storied buildings) that persons with disabilities can use conveniently.

(2) An accessible elevator should—

(a) serve all floors normally reached by the public;

(b) have embossed numerals on the floor selector buttons to be easily identifiable by touch;

(c) signal arrival at each floor to alert sightless and hearing-impaired passengers simultaneously.

(3) Where it is difficult or unfeasible to install a ramp or an elevator to an existing building, the owner of the building shall provide platform lifts to provide accessibility.

21. Access to information

(1) It shall be the duty of the responsible Government authority to promote the right of persons with disabilities to access information through—

(a) the development and use of sign language, tactile, sign language interpreters, in all public institutions and at public functions;

(b) braille of public information, such as Government documents, Government newspapers and other publication.

(2) Any person who owns a—

(a) a television station shall provide sign language inset or subtitles in at least one major newscast program each day and in all special programs of national significance;

- (b) a telephone company, shall provide special telephone devices for the hearing-impaired.

22. Access to public transport facilities

(1) Any person providing public transport services shall provide access to transport-disadvantaged persons.

(2) For purposes of sub-section (1) "transport disadvantaged persons" include persons—

- (a) using mobility devices such as crutches or callipers, or wheelchairs;
- (b) using sensory devices such as white canes, low vision devices or hearing aids;
- (c) who need assistance such as those using sign language or other support in communication;
- (d) having difficulty in negotiating steps, climbing stairs or walking long distances including persons having health problems, or those carrying heavy loads.

23. Protection of visually impaired road users

It shall be the duty of the Government to make public roads and highways accessible to persons with disabilities including—

- (a) equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system;
 - (b) providing pedestrian traffic lights with clearly audible signals;
 - (c) use of alarms or bells to signal approaching traffic,
- among others.

24. Denial of driving permit

No person with disabilities shall be denied a driving permit by reason of his or her disability.

PART V—DISCRIMINATION IN RELATION TO GOODS,
SERVICES AND FACILITIES**25. Discrimination relating to goods, facilities and services**

(1) A person shall not, provide goods or services, or make facilities available with a view, to discriminate against another person on the ground of that person's disability by—

- (a) refusing to provide to a person with a disability any service which he or she provides to other members of the public;
- (b) deliberately making it impossible or unreasonably difficult for persons with disabilities to make use of the service or facility.

(2) The provisions of this section shall apply but shall not be limited to the services indicated in the Second Schedule.

(3) The provisions of subsection (1) shall not apply to any action—

- (a) necessary to protect the health or safety of any person including that of a person with a disability;
- (b) where a person with a disability is incapable of entering into an enforceable agreement or of giving an informed consent.

26. Inaccessible physical features

(1) Where a physical feature such as one arising from the design or construction of a building or the access to premises makes it impossible for persons with disabilities to use that facility, it shall be the duty of the provider of the facility to make adjustments or to provide an alternative method of making the facility available to persons with disabilities.

(2) The provisions of subsection (1) shall not require a provider of services to do any act, which would fundamentally alter the nature of the service provided, the trade, profession or business.

27. Provision of auxiliary aid or services

It shall be the duty of the provider of a service to provide auxiliary aid or service where it enables or facilitates persons with disabilities to make use of a service.

28. Right to supportive services

Government shall provide supportive social services to persons with disabilities through—

- (a) acquisition of assistance devices, medical speciality and assistance personal services;
- (b) specialised training activities to improve functional limitations;
- (c) counselling, rehabilitation and orientation to improve their self-image;
- (d) child care services for the children of persons with disabilities.

29. Access to public facilities

(1) Any person operating a service or public facility shall make the service or facility readily accessible to and usable by all persons including persons with disabilities.

(2) The provisions of subsection (1) shall not require a person or entity—

- (a) to take any action that would alter or destroy any historical property, or
- (b) to take any action that would result in a fundamental alteration of the nature of the service or facility.

30. Sports and recreational activities

(1) It shall be the duty of the appropriate Government organ to promote the right of persons with disabilities to participate in recreational, leisure and sporting activities and shall take appropriate measures to enable persons with disability—

- (a) to participate in mainstream sporting activities at regional, national and international levels;
- (b) to organise and participate in sporting activities receiving necessary instructions, training and resources that are available to other participants;

- (c) have access to sporting and recreational venues;
 - (d) have access to the services of the organisations responsible for specific sporting activities.
- (2) A person shall not exclude any person from a sporting activity or recreational activity in which he or she can participate on ground of his or her disability.
- (3) The provisions of sub section (2) shall not apply to—
- (a) a person who is incapable of performing the required sporting activity;
 - (b) a person conducting sporting activities for persons who have a particular disability and that person does not have that disability.
- (4) At least ten percent of all funds committed to sports and recreational activities shall be used for the the development of the recreation and sports of persons with disability.

31. Advertisements implying discrimination

(1) No person shall, publish, display, circulate cause or permit to be published, circulated or displayed, an advertisement or notice that indicates, or could reasonably be understood to indicate, an intention to do an act that is unlawful under the provisions of this Act.

(2) For the purposes of subsection (1), "advertisement" includes all forms of publicity—

- (a) in newspapers, television or radio;
- (b) by display of notices, signs, labels, show cards or goods;
- (c) by circulation of samples, catalogues price lists, leaflets, handbills or any other form of circular;
- (d) by exhibition of pictures, models, photographs, films or any other form of exhibition.

(e) to guardianship, trusteeship and adoption of children under the relevant laws.

(2) A person with disability has a right and duty to care for and bring up his or her child and shall not be separated from his or her child except in accordance with the law.

(3) A child with disability shall not be separated from his or her family or a person entitled to bring up that child except in accordance with the law.

37. Participation in public life

(1) Persons with disabilities shall have the right to fully participate in political and public life and to vote and be voted in any political office.

(2) Persons with disabilities shall have the right to participate in public administration, civil society, political parties and other associations or organisations.

(3) Persons with disabilities shall have the right to fully participate and take part in the decision-making process.

(4) The Government shall guarantee that persons with disabilities can exercise their political rights by—

(a) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(b) protecting their right to vote by secret ballot in elections and referenda without intimidation and to stand for elections;

(c) allowing assistance in voting by a person of their own choice, on request and facilitating the use of assistive and new technologies where appropriate; and

- (d) generally promoting an environment in which persons with disabilities can fully and effectively participate in political activities and public affairs.

38. Participation in cultural life

Persons with disabilities have the right to fully participate in the cultural life of their community and to—

- (a) develop and utilise their creative, artistic and intellectual potential for the enrichment of their community;
- (b) have access to broadcasting, films, theatres and other cultural activities.

PART VII—EXEMPTIONS

39. Acts done under statutory authority

The provisions of this Act do not render unlawful anything done by a person in direct compliance with—

- (a) an order of a court or tribunal;
- (b) a statutory obligation.

PART VIII—COMPLAINTS AND JUDICIAL PROCEDURES.

40. Exemption for charities

The provisions of this Act, shall not apply to—

- (a) a provision in a charitable instrument that confers charitable benefits, or enables charitable benefits to be conferred, wholly or in part on persons who have a particular disability; or
- (b) any act done to give effect to such provision.

41. Complaints, appeal and judicial proceedings

(1) Any person, who alleges that an act prohibited under the provisions of this Act has been committed, may lodge a complaint with the Council.

(2) Any person aggrieved by a decision of the Council may petition the courts of law for a review of the complaint.

(3) Where a person with disability is party to any judicial proceedings the adjudicating body shall in the application of its legal procedures, take into account the physical and mental condition of the person with a disability.

PART IX—MISCELLANEOUS PROVISIONS

42. General provisions

No person shall in any manner—

(a) exploit a person with disability;

(b) discriminate against a person with disability; or

(c) subject a person with disability to torture, violence, abuse or to cruel, inhuman or degrading treatment.

43. Offences and penalty

(1) A person who contravenes any provision of this Act, commits an offence, and shall be liable on conviction to a fine not exceeding fifty currency points.

(2) A person who knowingly aids another person to commit an offence under subsection (1) shall, on conviction, be deemed to have committed the offence.

(3) For the avoidance of doubt any person who commits an offence under subsection (1), which offence is an offence and is punishable under any other law, that person may be punished under that other law.

(4) A currency point represents the amount in Uganda Shillings prescribed in the Third Schedule.

44. Regulations

(1) The Minister may, after consultation with the Council, by statutory instrument, make regulations prescribing matters giving effect to this Act.

(2) The Minister may by statutory instrument amend the Schedules to this Act.

45. Transitional provisions

Until such time as the disability standards have been operationalised by the Council, the provisions of this Act shall not render unlawful anything done by a person in compliance with another law which is in conflict with this Act.

SCHEDULES.

LAW DEVELOPMENT
REFERENCE LIBRARY
DATE

FIRST SCHEDULE

s. 4(1)

DISABILITY CODINGS

Amputation:

- A. One Arm
- B. Both Arms
- C. One Leg
- D. Both Legs
- E. One Arm, One Leg and
Other Multiple

General Diseases:

- F. Arthritis And Rheumatism
- G. Diseases Of The Digestive System
- H. Disease Of The Urino-Genital System
- I. Diseases Of The Heart Or Circulatory System.

Diseases Of The Respiratory System:

- K 1 A Pneumoconiosis
(Ex Miners)
- K 1 B Pneumoconiosis (Others)
- K 2 Chronic Bronchitis, Emphysema, Asthma And Others.

Skin Diseases:

- L. Diseases Of The Skin And Cellular Tissues

Ear And Eye Defects:

- M. 1 Deaf Without Speech
- M. 2 Deaf With Speech
Deaf and Blind
- N. Hard Of Hearing
- O. Total Blindness
- P. Eye Defects and diseases Other Than Total Blindness.

Common Injuries:

- Q. Injuries to Head, Face, Neck, Thorax, Abdomen, Pelvis And Trunk.
- R. Diseases And Deformities Of Upper Limb, Shoulders, Forearm And
Hand.

Act 20

Persons with Disabilities Act

2006

S. Diseases And Deformities Of Lower Limb, Shoulders, Forearm And Hand.

T. 1 Paraplegia.

T. 2 Injuries Of The Spine (Excluding Paraplegia)

Mental Disorders:

- U. 1 Psychoneuroses (E.G. Anxiety Or Obsessional States Hysteria)
- U. 2 Other Mental Illness
- U. 3 Mental Sub-Normality

Organic Nervous Disease:

- V. 1 Epilepsy
- V. 2 Other (E.G. Cerebral Palsy, Sciatica, Diseases Of The Brain Etc).

Tuberculosis:

- X. Pulmonary T.B.
- Y. Non Pulmonary T.B.

Others:

- Z. Diseases And Injuries Not Specified Above.

SECOND SCHEDULE

s.25(2)

SERVICES PROVIDED TO THE PUBLIC

1. Access to and use of any place which members of the public are permitted to enter.
2. Access to and use of means of communication.
3. Access to and use of information services.
4. Accommodation in a hotel, boarding house or other similar establishment.
5. Facilities by way of banking or insurance or for grants, loans, credit or finance.
6. Facilities for entertainment, recreation or refreshment.
7. Facilities provided by employment agencies or training institutions.
8. Services of any profession or trade, or any local or other public authority.
9. Other services.

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THIRD SCHEDULE

s. 43(4)

A currency point is equivalent to twenty thousand Uganda Shillings

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LAW DEVELOPMENT

Cross references

National Council for Disability Act, 2003, Act No. 14 of 2003.

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ACTS SUPPLEMENT

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Act 21

Refugees Act

2006

THE REFUGEES ACT 2006.

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THE REFUGEES ACT, 2006.

An Act to make new provision for matters relating to refugees, in line with the 1951 Convention relating to the status of refugees and other international obligations of Uganda relating to the status of refugees; to establish an Office of Refugees; to repeal the Control of Alien Refugees Act, Cap. 62; and to provide for other related matters.

DATE OF ASSENT: 24th May, 2006.

Date of commencement: See Section 1(2).

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.**1. Short title and commencement.**

(1) This Act may be cited as the Refugees Act, 2006.

(2) This Act shall come into force on a day to be appointed by the Minister by statutory instrument, and different days may be appointed for the commencement of different provisions.

2. Interpretation

In this Act, unless the context otherwise requires—

“African Charter on Human and People’s Rights” means the charter adopted by the OAU at the Assembly of the heads of state and government held in Nairobi, Kenya, on 26th June, 1981;

“African Charter on the Rights and Welfare of the Child” means the charter adopted by the OAU at the 26th session of the Assembly of heads of state and government held in Addis Ababa on 11th July, 1990;

“Appeals Board” means the Refugees Appeals Board established under section 16 of this Act;

“alien” means a person who is not a citizen of Uganda;

“authorised officer” means a person referred to or designated as such under section 43 of this Act;

“asylum seeker” means a person who has made an application for the grant of refugee status under section 19 of this Act;

“clearly abusive applications” or “manifestly unfounded applications” means those applications which are clearly fraudulent or do not satisfy the criteria for the granting of refugee status under the Geneva Convention, the OAU Convention and this Act;

“Commissioner” means the Commissioner for Refugees appointed under section 9 of this Act;

“Convention on the Elimination of All Forms of Discrimination against Women” means the Convention adopted and opened for signature, ratification and accession by the United Nations Resolution 34/180 of 18th December, 1979;

“Convention on the Rights of the Child” means the United Nations Convention on the Rights of the Child adopted on 20th November, 1989 by the United Nations Conference on the Rights of the Child;

“country of nationality” in relation to a person with more than one nationality, means each of the countries of which that person is a national;

“Eligibility Committee” means the Refugee Eligibility Committee established under section 11 of this Act;

“elementary education” means basic primary education;

“firearm” means a lethal barrelled weapon of any description from which a shot, bullet or other missile can be discharged, or any prohibited weapon whether it is lethal or not and any component or part of that weapon designed or adapted to diminish the noise or flash caused by firing the weapon, and includes an air gun, air rifle or pistol;

“fraudulent”, with its grammatical variations and cognate expressions, means deceitful and dishonest;

“frontier” means the land frontier, port of entry or any other point of entry into Uganda;

“gender discriminating practices” includes strict and forced adherence to a dress code, obligatory pre-arranged marriages, physically harmful facial or genital mutilation, rape, domestic violence and other gender related negative activities;

“Geneva Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and includes the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

“integration” means a process of interaction and peaceful co-existence and the sharing of available services between refugees and nationals;

“member of family of a refugee” means—

(a) a spouse or spouses of the refugee;

(b) a child of the refugee; and

(c) any person who is dependent on the refugee;

“Minister” means the Minister responsible for refugees;

“Ministry” means the Ministry responsible refugees;

“non-political crime” means a crime, which is not of a political character, or a crime, which does not involve opposition to the government of a country on an issue connected with the political control or government of that country; or a crime which is not incidental to, or forming part of, a political upheaval, committed as part of an organised political party or body contending for power or political control of a country;

“OAU” means the Organisation of African Unity established by the Heads of State and Government of Africa in Addis Ababa, Ethiopia on 25th May, 1963, and renamed as “Africa Union” on 9th July, 2001;

“OAU Convention” means the Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted by the Assembly of Heads of State and Government of the OAU at its Sixth Ordinary Session at Addis Ababa on 10th September 1969;

“Office” means the Office of Refugees established under section 7 of this Act;

“persecution” includes any threat to the life or freedom, or serious violation of the human rights of a person on account of that person’s race, religion, nationality, sex, political opinion or membership of a particular social group; and as long as a person is threatened with any harm which can reasonably be seen as part of a course of systematic conduct directed against that person as an individual or as a member of a class of persons, on account of race, religion, nationality, sex, political opinion or membership of a particular social group, that person is being persecuted for the purposes of this Act;

“person” includes any individual, firm, company, association, partnership or body of persons, whether incorporated or not;

“refugee” or “recognised refugee” means a person who, having qualified to be granted refugee status under section 4 of this Act, has been granted refugee status by the Eligibility Committee under section 20 (2) of this Act, or is a member of class of persons declared to be refugees under section 25 of this Act;

“travel document” means a travel document issued under or in accordance with the provisions of the Geneva Convention to a refugee lawfully staying in Uganda, for the purpose of travel outside Uganda;

“UNHCR” means the United Nations High Commissioner for Refugees referred to in the Geneva Convention, and includes his or her representative in Uganda.

3. Granting of refugee status a humanitarian act

(1) Subject to subsection 2 of this section, and for the avoidance doubt, the granting of refugee status to any person under this Act does not imply any judgment of, or may not be construed as an unfriendly act towards, the country of origin of the person granted refugee status, but must be regarded as a peaceful and humanitarian act extended to that person as part of his or her human rights.

(2) The Government of Uganda has the sovereign right to grant or deny asylum or refugee status to any person.

PART II—DETERMINATION OF REFUGEE STATUS.

4. Qualifications for refugee status

A person qualifies to be granted refugee status under this Act if—

- (a) owing to a well-founded fear of being persecuted for reasons of race, sex, religion, nationality, membership of a particular social group or political opinion, that person is outside the country of his or her nationality and is unable, or owing to that fear, is unwilling to return to or avail himself or herself of the protection of that country;

- (b) not having a nationality and being outside the country of his or her former habitual residence owing to a well-founded fear of being persecuted for reasons of race, sex, religion, membership of a particular social group or political opinion, that person is unwilling or unable to return to the country of his or her former habitual residence;
- (c) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either a part or the whole of his or her country of origin or nationality, that person is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her country of origin or nationality;
- (d) owing to a well-founded fear of persecution for failing to conform to gender discriminating practices, that person is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside the country of origin or nationality;
- (e) that person is considered a refugee under any treaty obligation to which Uganda is a party, or any law in force at the commencement of this Act; or
- (f) that person is a member of a class of persons declared to be refugees under section 25 of this Act.

5. Disqualification for refugee status

A person does not qualify to be granted refugee status if—

- (a) that person has committed a crime against peace, a war crime or a crime against humanity as defined in any international instrument to which Uganda is a party;
- (b) that person has committed a serious non-political crime outside Uganda prior to his or her admission to Uganda as a refugee;

- (c) that person has been guilty of acts contrary to the purpose or principles of the United Nations Organisation or the OAU; or
- (d) having more than one nationality, that person has not availed himself or herself of the protection of the second country of which he or she is a national and has no valid reason, based on a well founded fear of persecution or on a reason referred to in section 4(c) of this Act, for not having availed himself or herself of that second country's protection.

6. Cessation of refugee status

- (1) A person shall cease to be a refugee if—
 - (a) that person voluntarily re-avails himself or herself of the protection of the country of his or her nationality, or voluntarily re-establishes himself or herself in the country of origin;
 - (b) that person surrenders his or her refugee status;
 - (c) having lost his or her nationality, he or she acquires it again;
 - (d) that person becomes a citizen of Uganda or acquires the nationality of some other country and enjoys the protection of the country of his or her new nationality; or
 - (e) the circumstances in connection with which that person was recognised as a refugee have ceased to exist, but he or she without compelling reasons arising out of previous persecution—
 - (i) continues to refuse to avail himself or herself of the protection of the country of origin or nationality; or
 - (ii) continues to refuse to return to the country of former habitual residence or to take on another available nationality;
 - (f) being of a class of persons declared to be refugees in accordance with section 25 of this Act—

- (i) that person has committed a serious non-political crime outside Uganda after admission into Uganda as a refugee; or
- (ii) that person has seriously infringed the purposes and objectives of the Geneva Convention or the OAU Convention.

(2) The procedure laid down in section 39 of this Act shall apply in relation to a person who ceases to be a refugee in terms of this section.

PART III—ADMINISTRATIVE MATTERS RELATING
TO REFUGEES.

7. Establishment of Office

There is established an Office of Refugees, which shall be a public office.

8. Functions of Office

(1) The Office shall be responsible for all administrative matters concerning refugees in Uganda and shall, in that capacity, co-ordinate inter-ministerial and non-Governmental activities and programmes relating to refugees.

(2) Without prejudice to the generality of subsection (1), the Office shall—

- (a) be the Secretariat of the Eligibility Committee;
- (b) advise the Government and the Eligibility Committee on policy and other matters relating to refugees;
- (c) advise the Government on international and regional conventions and Government's obligations relating to refugees;
- (d) protect refugees and coordinate the provision of services for their welfare;

- (e) identify and initiate projects for refugees and refugee-affected areas;
- (f) advise and work in liaison with the UNHCR and other organisations on refugee programmes and their implementation;
- (g) implement national and regional development plans relating to refugees, in line with current international refugee practices;
- (h) promote and participate in inter-state and regional initiatives for voluntary repatriation of refugees;
- (i) promote Uganda's regional and international cooperation on refugee matters with other countries and international organisations;
- (j) obtain country of origin information about applications of asylum seekers;
- (k) be the custodian of government properties in refugee settlements;
- (l) issue identity cards and recommendations for travel documents to refugees; and
- (m) ensure the maintenance of law and order in refugee settlements.

9. Commissioner for Refugees

(1) There shall be a Commissioner for Refugees whose office shall be a public office and shall be appointed by the President, acting in accordance with the advice of the Public Service Commission.

(2) The Commissioner shall be the head of the Office and shall be responsible for the day-to-day operations of the Office and for the administration, organisation and control of the staff of the Office.

(3) Without prejudice to the generality of subsection (2) of this section, the Commissioner shall—

- (a) advise the accounting officer on the soliciting of funds for the care and welfare of refugees and the rehabilitation of refugee affected areas;
- (b) liaise with the UNHCR and other agencies for the protection of refugees and the formulation of programmes for ensuring that adequate facilities and services for reception of refugees, settlement and integration are available;
- (c) inform and advise the Eligibility Committee on matters relating to refugees and refugee status;
- (d) receive and process applications for refugee status or other related applications for submission to the Eligibility Committee for consideration and decision;
- (e) report to and advise the Minister and the Permanent Secretary of the Ministry responsible for refugees on matters relating to refugees;
- (f) advise the Minister and the Permanent Secretary of the Ministry on technical matters relating to refugees; and
- (g) perform any other duties that may be assigned to him or her under this Act.

(4) The Commissioner shall, in the performance of his or her functions under this Act, be responsible to the Permanent Secretary of the Ministry.

(5) The Commissioner shall make half-yearly reports on matters and activities relating to refugees to the Minister,

(6) The Minister may give directions of a specific or general nature to the Commissioner and the Commissioner shall comply with those directions.

10. Other officers and employees

There shall be such other officers and employees of the Office as may be necessary for carrying this Act into effect, who shall be appointed by the Public Service Commission.

11. Refugee Eligibility Committee

(1) There is established a Committee to be known as the Refugee Eligibility Committee consisting of—

- (a) the Permanent Secretary of the Ministry responsible for refugees, who shall be the Chairperson of the Committee, or his or her representative;
- (b) the Permanent Secretary of the Ministry responsible for Internal Affairs or his or her representative;
- (c) the Solicitor General or his or her representative;
- (d) the Permanent Secretary of the Ministry responsible for Foreign Affairs or his or her representative;
- (e) the Permanent Secretary of the Ministry responsible for Local Governments or his or her representative;
- (f) the Director General of the Internal Security Organisation or his or her representative;
- (g) the Director General of the External Security Organisation or his or her representative;
- (h) the Director, Special Branch, Uganda Police Force, or his or her representative;
- (i) the Commissioner for Immigration, or his or her representative.

(2) The Commissioner for Refugees, or his or her representative, shall be—

- (a) an *ex officio* member of the Eligibility Committee without power to vote on any matter before the Committee, and

(b) Secretary to the Committee.

(3) The UNHCR may attend meetings of the Eligibility Committee in an advisory capacity.

12. Functions of Eligibility Committee

The functions of the Eligibility Committee are—

- (a) to consider and deal with applications for refugee status in accordance with section 20 (2) of this Act;
- (b) where necessary, to review or revise cases previously dealt with by it;
- (c) to advise the Minister on matters relating to refugee status;
- (d) to recommend to the Minister for his or her action—
 - (i) cases of expulsion or extradition;
 - (ii) cases of cessation of refugee status; and
 - (iii) cases where a person requires assistance to find an alternative country of asylum.

13. Meetings of Eligibility Committee

(1) The Eligibility Committee shall meet as often as is necessary to discharge its functions but shall in any case meet at least once in every month.

(2) The Chairperson of the Committee shall preside at all meetings of the Committee and in his or her absence, the members present shall select one of their number to preside.

(3) The quorum at a meeting of the Committee shall be five members, including the presiding member.

(4) The Secretary shall keep minutes of the meetings of the Eligibility Committee.

(5) The Secretary shall forward copies of the minutes of the meetings of the Eligibility Committee to the Minister.

14. Power to co-opt

(1) The Eligibility Committee may co-opt any person to assist it in dealing with any matter if the Committee is satisfied that the person's experience or qualifications are likely to help it deal with any such matter.

(2) A person co-opted under subsection (1) is entitled to take part in the proceedings of the Eligibility Committee concerning that matter, but is not entitled to vote on any matter coming for decision before the Eligibility Committee.

15. Subcommittees of Eligibility Committee

(1) The Eligibility Committee may appoint one or more subcommittees to—

- (a) inquire into and advise the Eligibility Committee on any matters within the scope of its functions as the Committee may refer to the subcommittee;
- (b) to exercise such powers and perform such duties of the Eligibility Committee as the Committee may delegate or refer to the subcommittee.

(2) A subcommittee shall consist of a chairperson who shall be a member of the Eligibility Committee and such other persons, whether members of the Eligibility Committee or not, as the Eligibility Committee shall determine.

(3) A subcommittee is subject to the control of the Eligibility Committee and may be discharged or reconstituted by the Eligibility Committee at any time.

(4) Subject to any directions that may be given to it by the Eligibility Committee, a subcommittee may regulate its own procedure.

16. Refugee Appeals Board

(1) There is established a Refugee Appeals Board consisting of a Chairperson and four other members appointed by the Minister on such terms and conditions as the Minister may determine.

(2) The members of the Appeals Board shall be appointed from among persons having knowledge of or experience in refugee law or matters relating to immigration, foreign affairs, national security, local administration, human rights and refugees generally.

(3) A member of the Eligibility Committee shall not be a member of the Appeals Board.

17. Functions and powers of Appeals Board

(1) The Appeals Board may receive and hear appeals from the decisions of the Eligibility Committee on questions of law and procedure.

(2) In any appeal before it, the Appeals Board may—

(a) confirm the decision of the Eligibility Committee;

(b) set aside the decision of the Eligibility Committee and refer the matter back to the Committee for further consideration and decision;

(c) order a rehearing of the application; or

(d) dismiss the appeal.

(3) The Appeals Board shall expeditiously hear and determine any appeal referred to it and, in any case, shall make a decision within sixty days after the date of receipt of the appeal.

(4) For the avoidance of doubt, the Appeals Board shall not make a decision granting the status of refugee to an applicant.

(5) An applicant shall be notified of the decision of the Appeals Board in writing within fourteen days after the date of the decision.

(6) Subject to this Act, the Appeals Board may decide its own procedure except so far as its procedures are prescribed by regulations made under this Act.

(7) The Minister shall assign specific persons employed in the Ministry to carry out the administrative functions of the Appeals Board as may be necessary for the functioning of the Board.

18. UNHCR may attend proceedings

(1) The UNHCR may attend proceedings of the Appeals Board.

(2) A representative of the UNHCR may, while attending any proceedings under subsection (1), make oral or written representation on behalf of the person whose appeal is being heard.

PART IV—APPLICATION FOR REFUGEE STATUS AND RELATED MATTERS.

19. Application for refugee status

(1) Any person who enters Uganda and wishes to remain in Uganda as a refugee shall make a written application to the Eligibility Committee for the grant of refugee status within thirty days after the date of his or her entry into Uganda.

(2) An application made under subsection (1) of this section may be submitted to the Commissioner through an authorised officer or to the UNHCR representative.

(3) An authorised officer or UNHCR representative to whom an application is submitted under subsection (2) of this section shall, as soon as is practicable, forward the application to the Commissioner.

20. Grant of refugee status

(1) The Commissioner shall, as soon as is practicable, process the application for presentation before the Eligibility Committee and may—

- (a) require such further information from the applicant as may be necessary to support the application; and
- (b) carry out any inquiry or investigations as he or she may think fit.

(2) The Eligibility Committee shall, within ninety days after the date of receipt of the application by the Commissioner, consider and determine the refugee status of the applicant and may, after making any inquiry or investigations as the Committee may consider necessary—

- (a) reject the application; or
- (b) grant refugee status to the applicant.

(3) The Commissioner shall, within fourteen days after the date of the decision of the Eligibility Committee, inform the applicant in writing of the decision of the Committee.

(4) Where an application is rejected under subsection (2) of this section, the Eligibility Committee shall state the reasons for its decision in writing and the applicant shall be provided with a copy of the statement.

(5) For the avoidance of doubt, the period of ninety days referred to in subsection (2) of this section shall commence on the day following the date on which the applicant submitted the application to—

- (a) the Commissioner;
- (b) the authorised officer; or
- (c) the UNHCR representative.

(6) Where the Eligibility Committee finds that an application before it is a clearly abusive or manifestly unfounded application, the Committee shall take appropriate measures for deportation of the applicant in accordance with the applicable law.

21. Appeal by aggrieved party

(1) An applicant aggrieved by the decision of the Eligibility Committee may appeal to the Appeals Board within thirty days after receipt of the notice of the decision of the Eligibility Committee.

(2) Notwithstanding subsection (1) of this section, the Appeals Board may hear an appeal filed after the expiry of thirty days if the appellant has justifiable cause for having filed a late appeal.

(3) At the hearing of an appeal under this section, the appellant may appear before the Appeals Board in person or may be represented by an advocate at his or her expense.

(4) A decision of the Appeals Board shall be final.

22. Applications requiring urgent and special attention

(1) Without prejudice to the requirement for a just and equitable procedure for the determination of refugee status, the Commissioner shall deal in an expeditious manner with applications, which are considered to be clearly abusive or manifestly unfounded, in accordance with accelerated procedures prescribed by regulations under this Act.

(2) The Commissioner shall deal with applications of—

(a) persons with disabilities;

(b) trauma victims, detained persons and victims of torture;

(c) minors and vulnerable persons; and

(d) other persons requiring urgent attention, in accordance with special procedures prescribed by regulations under this Act.

23. Residence pending decision of Eligibility Committee

(1) Notwithstanding the provisions of any other law, a person who has applied for refugee status and every member of that person's family shall remain in Uganda—

- (a) until his or her application is granted or rejected, and no appeal has been filed with the Refugee Appeals Board;
- (b) where the application is rejected, until that person has exhausted his or her right of appeal under this Act.

(2) Where a person has exhausted the right of appeal in relation to an application and refugee status has not been granted, that applicant shall be allowed to stay in Uganda for a period not exceeding ninety days to enable him or her to seek asylum or admission to a country of his or her choice.

(3) At the expiry of the ninety days referred to in subsection (2) of this section, the person whose application has been rejected shall be subject to expulsion or deportation from Uganda or other appropriate action under the applicable laws.

(4) The Minister may, on application by the person concerned, extend the period of ninety days referred to in subsection (2) of this section if the Minister has reasonable grounds to believe that the person concerned is likely to be given asylum in, or to be admitted to, the country of his or her choice within the extended period.

24. Entitlement of refugee after submission of application

(1) After an applicant has submitted an application for refugee status to the Eligibility Committee under section 19 of this Act, the applicant shall—

- (a) be issued with a temporary document valid for a period of ninety days from the date it is issued, and thereafter the document is renewable every two months until all rights connected with or incidental to applications for refugee status are exhausted; and
- (b) be informed of the presence of the UNHCR representative in Uganda and given the opportunity to contact him or her.

(2) The applicant is entitled, to a hearing during the consideration of his or her application and where necessary the State shall provide the services of a competent interpreter to the applicant.

(3) In the exercise of his or her rights under subsection (2) of this section, the applicant may be represented or assisted by a person of his or her own choice, including an advocate at his or her own expense.

25. Group recognition, mass influx and temporary protection

(1) The Minister may, if it is evident that a class of persons qualifies to be refugees under section 4 of this Act, declare that class of persons to be refugees.

(2) The Minister shall cause a declaration made under subsection (1) of this section to be published in the *Gazette* and in any other manner that will best ensure that the declaration is brought to the attention of the authorised officers and persons to whom it relates.

(3) The Minister may, where there is a mass influx of asylum seekers into Uganda, in consultation with the Minister responsible for internal affairs, issue an order permitting the asylum seekers to reside in Uganda without requiring their individual status to be determined under section 4 of this Act.

(4) A declaration made under subsection (3) of this section is valid for a period of two years from the date of the declaration or until the cause of the influx into Uganda from the country of origin or habitual residence ceases to exist, whichever is sooner.

(5) Where asylum seekers are permitted to reside in Uganda under subsection (3) of this section, they shall be subject to the general treatment and rights accorded to refugees under this Act.

(6) The exclusion of a specified person from a declaration made under subsection (1) of this section shall not preclude that person from applying to the Eligibility Committee for the grant of refugee status under this Act.

(7) The termination of temporary protection granted by the Minister under sub-section (3) of this section shall not preclude any individual of the group of asylum seekers from applying to the Eligibility Committee for the grant of refugee status under this Act.

26. Family of recognised refugee

(1) Every member of the family of a recognised refugee who enters Uganda shall enjoy the same protection as that recognised refugee and shall—

(a) be permitted to enter and remain in Uganda for as long as the recognised refugee is permitted to remain; and

(b) be issued with all necessary documents relevant to his or her status.

(2) On the death of a recognised refugee, any member of the family of the recognised refugee in Uganda shall continue to enjoy the protection referred to in subsection (1) of this section and shall remain in Uganda until otherwise disqualified.

(3) Nothing in this section shall prevent a member of the family of a recognised refugee from applying for the grant of refugee status in accordance with this Act.

27. Reunion of family of recognised refugee

(1) A recognised refugee may apply to the Eligibility Committee for permission for a member of his or her family to enter and reside in Uganda for purposes of reunion.

(2) Regulations made under this Act shall prescribe the procedure for applying for a family reunion under subsection (1) of this section, taking into account the principle of family unity.

(3) Where an application is made to the Eligibility Committee under subsection (1) of this section, the Commissioner shall make investigations regarding the application and submit a report in writing to the Committee, specifying the relationship between the refugee and the person to whom the application relates.

(4) The Eligibility Committee may grant permission to enter and reside in Uganda under this section to—

- (a) any member of the family of a recognised refugee; and
- (b) any dependant of a member of the family of a recognised refugee.

(5) The Commissioner shall investigate and ascertain the family situation of an unaccompanied child who enters Uganda and wishes to remain in Uganda as a refugee, and may make recommendations regarding the adoption of the child under the Children Act, Cap. 59, or any other applicable law.

(6) The Minister may, in writing, revoke the permission of a person to enter and reside in Uganda under this section in the interest of national security or in the public interest.

(7) For the purposes of subsection 5 of this section, “child” means a person below the age of eighteen years.

PART V—RIGHTS AND OBLIGATIONS OF REFUGEES.

28. Refugee entitlements under international conventions

Subject to this Act and any reservations entered by Uganda to any international or regional convention or instrument, every refugee is entitled to the rights and shall be subject to obligations provided for or specified in—

- (a) the Geneva Convention;
- (b) the OAU Convention; and
- (c) any other convention or instrument relating to the rights and obligations of refugees to which Uganda is a party.

29. Rights of refugees while in Uganda

(1) A recognised refugee shall, subject to this Act, the OAU Convention and the Geneva Convention—

- (a) be issued with an identity card in a prescribed form stating the refugee status of the holder for purposes of identification and protection;
- (b) be permitted to remain in Uganda;
- (c) be entitled to fair and just treatment without discrimination on grounds of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion;
- (d) receive at least the same treatment as is generally accorded to aliens under the Constitution and any other law in force in Uganda; and be entitled to privileges that may be granted under the laws of Uganda by any administrative agency or organ of the Government;
- (e) receive at least the same treatment accorded to aliens generally in similar circumstances relating to—
 - (i) movable and immovable property and other rights pertaining to property and to leases and other contracts relating to movable and immovable property;
 - (ii) the right to transfer assets held and declared by a refugee at the time of entry into Uganda, including those lawfully acquired in Uganda;
 - (iii) education, other than elementary education for which refugees must receive the same treatment as nationals, and in particular, regarding access to particular studies, the recognition of foreign certificates, diplomas and degrees and the remission of fees and charges;
 - (iv) the right to engage in agriculture, industry, handicrafts, and commerce and establish commercial and industrial companies in accordance with the applicable laws and regulations in force in

Uganda;

- (v) the right to practice the profession of the refugee who holds qualifications recognised by the competent authorities in Uganda and who wishes to practise that profession;
- (vi) the right to have access to employment opportunities and engage in gainful employment;
- (vii) any other right that may legally be accorded to a refugee;
- (f) have the same rights as the nationals of Uganda with respect to practising their religion and the religious education of their children;
- (g) have a right of association as regards non-political and non-profit making associations and trade unions;
- (h) have free access to courts of law, including legal assistance under applicable laws of Uganda.

(2) A refugee shall be accorded the same protection as is accorded to the nationals of Uganda in respect of the protection of intellectual property rights, including industrial inventions, patents, designs, trade names, copyrights and other artistic and scientific works.

30. Freedom of movement

(1) Subject to subsection (2) of this section, a recognised refugee is entitled to free movement in Uganda

(2) The free movement of a recognised refugees in Uganda is subject to reasonable restrictions specified in the laws of Uganda, or directions issued by the Commissioner, which apply to aliens generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the

protection of the rights and freedoms of others;

31. Right to travel document

(1) A recognised refugee staying in Uganda is entitled to a travel document for the purpose of travel outside Uganda, unless compelling reasons of national security or public order require otherwise.

(2) A travel document issued to a recognised refugee shall be valid for all countries except the refugee's country of origin and those countries with respect to which Uganda has restrictions.

(3) A recognised refugee in possession of a valid passport issued by the country of origin shall surrender that passport to the issuing officer before acquiring a travel document.

(4) A person who has ceased to be a recognised refugee under this Act shall not be issued with a travel document, and if such person is in possession of a travel document, he or she shall surrender it to the immigration office.

(5) For the purposes of this section, "travel document" means a travel document issued under or in accordance with article 28 of the Geneva Convention.

32. Rights of refugee children

(1) Refugee children shall be accorded the same treatment as nationals with respect to elementary education.

(2) Every refugee child is entitled to the enjoyment of the rights and freedoms contained in—

(a) the Children Act, Cap. 59;

(b) the African Charter on the Rights and Welfare of the Child, 1981;

(c) the Convention on the Rights of the Child, 1989; and

(d) the Geneva Convention, irrespective of the child's parent's or legal guardian's race, ethnic group, colour, sex, language, relation, political or other opinion, national and social origin, fortune, birth or other status.

(3) Identification documents for children and unaccompanied minors shall be issued in accordance with the principles applicable to a recognised refugee.

33. Rights of women refugees

(1) A woman refugee shall have equal opportunities and access to procedures relating to refugee status; and affirmative action shall be taken to protect women refugees from gender discriminating practices.

(2) A woman refugee is entitled to equal enjoyment and protection of all human rights and fundamental freedoms in economic, social, cultural, civil or any other fields as provided for in the Constitution and other relevant laws in force in Uganda and international and regional instruments to which Uganda is a party, and in particular the following—

(a) the Convention on the Elimination of All Forms of Discrimination Against Women, 1979; and

(b) the African Charter on Human and People's Rights, 1981.

34. Personal status

(1) The personal status of a recognised refugee shall be governed by the law of the country of his or her domicile or, if he or she has no domicile, by the law currently in force in Uganda.

(2) All rights previously acquired by a refugee and dependent on personal status, particularly rights attaching to marriage, shall be respected, subject to the laws of Uganda.

35. Duties and obligations of refugee

Subject to this Act, a recognised refugee shall—

(a) be bound by and conform to all laws and regulations

currently in force in Uganda;

- (b) conform to measures taken for the maintenance of public order;
- (c) not engage in activities which may endanger state security, harm public interests or disrupt public order;
- (d) not engage in any political activities within Uganda, whether at local or national level;
- (e) not engage in any activity contrary to the principles of the Charter of the United Nations and the Statute of the African Union, and in particular, shall not undertake any political activities within Uganda against any country, including his or her country of origin; and
- (f) if engaged in gainful employment or fully integrated and has a source of income, pay taxes in accordance with the applicable tax laws of Uganda.

36. Rights of family member of refugee

A member of the family of a recognised refugee is entitled to the same rights and subject to the same obligations as the recognised refugee.

PART VI—MISCELLANEOUS.

37. Principles of international instruments to be followed

In the exercise of their functions under this Act, the Eligibility Committee and the Appeals Board shall be guided by the principles laid down in relevant or applicable international conventions or instruments.

38. Prosecution for unlawful entry or presence in Uganda

(1) Notwithstanding the provisions of the Uganda Citizenship and Immigration Control Act, Cap. 66, proceedings shall not be instituted or continued against any person or any member of the family of any such person in respect of his or her unlawful entry or

presence in Uganda if that person—

- (a) intends to make an application to be recognised as a refugee under this Act ; or
- (b) has been granted refugee status.

(2) Any person who, having applied and exhausted all rights for the grant of refugee status under this Act, fails to be recognised as a refugee and unlawfully continues to stay in Uganda, shall be dealt with under the Uganda Citizenship and Immigration Control Act, Cap. 66, or any other applicable law.

39. Procedure for withdrawal of recognition of refugee status

(1) Where the Commissioner has reasonable grounds to believe that a person who has been recognised as a refugee under this Act—

- (a) should not have been so recognised; or
- (b) has ceased to be a refugee under this Act,

the Commissioner shall refer the case to the Eligibility Committee for a determination whether or not that person's eligibility status should be withdrawn.

(2) Where a case has been referred to the Eligibility Committee under subsection (1) of this section, the Committee shall cause a written notice to be served upon the person whose refugee status is under consideration—

- (a) informing that person of the fact that his or her refugee status is under consideration for withdrawal; and
- (b) inviting that person to make written representations regarding his or her refugee status to the Eligibility Committee within fourteen days after the date of service of the notice on him or her.

(3) The Eligibility Committee—

- (a) shall consider a case referred to it under subsection (1) of this

section;

- (b) may make such inquiries or investigations as it may consider necessary concerning the case; and thereafter
- (c) may withdraw the recognition of that person as a refugee on the grounds of misrepresentation of facts of a material or substantial nature regarding—
 - (i) his or her nationality, or
 - (ii) his or her qualification for refugee status under this Act.

(4) The Eligibility Committee shall notify the person concerned in writing of its decision under this section.

(5) Any person who is aggrieved by the decision of the Eligibility Committee under this section may, within seven days of being notified of the decision, appeal to the Appeals Board.

(6) In any appeal under subsection (5) of this section, the Appeals Board may—

- (a) confirm or set aside the decision of the Eligibility Committee and recommend that the person should still be recognised as a refugee and notify the Eligibility Committee of its decision;
- (b) refer the matter to the Eligibility Committee for further investigation and advice or recommendations; or
- (c) make such further enquiries and investigations into the matter as the Board thinks fit.

40. Expulsion of refugees

(1) The Minister may, after consultation with the Minister responsible for internal affairs, order the expulsion of any recognised refugee from Uganda, if the Minister considers the expulsion to be necessary or desirable in the interest of national security or public

order.

(2) Before ordering the expulsion of a recognised refugee under subsection (1) of this section, the Minister shall give due consideration to any representation made by the refugee concerned or his or her representative or the representative of the UNHCR.

41. Extradition of refugees

(1) Where—

- (a) a country with which Uganda has extradition arrangements or treaty; or
- (b) an international tribunal,

makes a request to Uganda for the extradition of a recognised refugee on the ground that such refugee—

- (i) is required to answer criminal charges; or
- (ii) has been convicted by a court of competent jurisdiction of a serious criminal offence, which is a non-political offence,

the Minister may, after consultation with the Minister responsible for internal affairs and the Attorney-General, order the extradition of that refugee in accordance with the provisions of the applicable extradition law.

(2) A request for an extradition under subsection (1) of this section may be granted only if the offence that gave rise to the extradition request was committed in the territory of the requesting country.

(3) Subject to the provisions of any written law, the Minister may deny a request for extradition under this section, if the offence for which extradition has been sought can be tried under the laws of Uganda, or if the Minister is of the opinion that it will not be in the

public interest to grant the request.

42. Extradition, return of refugee, etc

(1) Notwithstanding the provisions of any other law, no person shall be refused entry into Uganda, expelled, extradited or returned from Uganda to any other country or subjected to any similar measures if, as a result of such refusal, expulsion, return or other measure, that person is compelled to return to or remain in a country where—

- (a) he or she may be subjected to persecution on account of race, religion, sex, nationality, membership of a particular social group or political opinion; or
- (b) his or her life, person or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in a part of or in the whole of that country.

(2) Where necessary, the Minister shall take such steps as he or she considers appropriate to ensure that a person referred to in subsection (1) of this section gets admission into another country of his or her choice.

43. Authorised officers

(1) The officers of the Office, Resident District Commissioners, Chief Administrative Officers, Immigration Officers, District Internal Security Officers and police officers not below the rank of inspector, shall be authorised officers for the purpose of this Act.

(2) The Minister may, by notice published in the *Gazette*, designate any other public officer or any class of public officers to be authorised officers for the purposes of this Act.

(3) An authorised officer shall in the implementation of any provision of this Act consult the Refugee Eligibility Committee and the office responsible for refugees.

(4) An authorised officer may, for the purposes of exercising the powers and carrying out his or her duties under this Act, and bearing

in mind an individual's right to privacy of person, home, correspondence, communication and other property—

- (a) subject to subsections (5) and (6) of this section, search any person or property;
- (b) take the photograph of any recognised refugee or asylum seeker or any person who claims to be a refugee under this Act or any member of the family of that person; and
- (c) question any recognised refugee or asylum seeker or any person who claims to be a refugee under this Act or any member of the family of that person.

(5) A search of any person or property under subsection (3)(a) of this section shall not be conducted unless the authorised officer concerned has reasonable grounds to believe that the search is necessary for the prevention, investigation or detection of—

- (a) a contravention of this Act; or
- (b) a fraudulent misstatement or concealment by a recognised refugee, asylum seeker or person claiming to be a refugee under this Act or any member of the family of that person, of any fact relevant to his or her identity or status.

(6) Where a woman is to be searched under subsection (3) (a), the search shall only be done by an authorised woman officer and shall be conducted with strict regard for decency, and where there is no authorised woman officer available, the search shall be done by a woman specially named for the purpose by an authorised officer.

44. Settlements and transit centres

(1) The Minister may, in accordance with the Constitution and any other law, by notice published in the *Gazette*, designate places or areas on public land to be transit centres or refugee settlements for the purposes of—

- (a) temporarily accommodating persons who have applied for grant

of refugee status pending the processing and consideration of their applications by the Eligibility Committee; and

- (b) local settlement and integration of refugees whose applications for refugee status have been granted.

(2) An applicant or refugee who may wish to stay in a place other than the designated places or areas may apply to the Commissioner for permission to reside in any other part of Uganda.

(3) A refugee who is authorised to stay in a place other than a designated place or area under subsection (2) of this section, may be required to report to the local or urban council of the area or to an authorised officer from time to time.

(4) The Commissioner shall, in collaboration with and the support of non-governmental organisations, the UNHCR, international organisations and the international community—

- (a) where there is need, give relief and assistance to persons whose applications are pending before the Eligibility Committee; and
- (b) promote self-reliance among refugees and sustainable development in the affected areas.

45. Naturalisation of recognised refugee

The Constitution and any other law in force in Uganda regulating naturalisation shall apply to the naturalisation of a recognised refugee.

46. Voluntary repatriation of refugee

(1) A recognised refugee who voluntarily wishes to be repatriated shall express his or her wish in writing to the Commissioner who shall, in consultation with UNHCR cause arrangements to be made for the repatriation of that refugee.

(2) Where an application for voluntary repatriation is received by the UNHCR, it shall inform the Commissioner accordingly.

47. Penalty against certain carriers

(1) Subject to subsection (2) of this section, any carrier who knowingly carries or transports into Uganda a person without a valid travel document is liable to the punishment prescribed under the law in force in Uganda relating to immigration and is, in addition, responsible for carrying that person out of Uganda at his or her expense.

(2) Nothing in this section shall be construed as preventing a carrier from carrying or transporting into Uganda a refugee whom he or she has reasonable grounds to believe is genuinely seeking asylum.

(3) For the purposes of this section, “carrier” means a person who is in charge of a ship, aircraft, train or vehicle arriving from any place outside Uganda;

48. Regulations

(1) The Minister may, by statutory instrument, make regulations prescribing matters—

- (a) required or permitted to be prescribed by or under this Act; and
- (b) necessary or convenient to be prescribed for giving effect to this Act.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made under subsection (1) shall provide for—

- (a) the exercise of the right of appeal conferred by this Act;
- (b) procedures at meetings of the Eligibility Committee and the Appeals Board, including the participation at those meetings of the representative in Uganda of the United Nations High Commissioner for Refugees and particular

- voluntary organisations which are engaged in refugee assistance in Uganda;
- (c) the procedure for the consideration of applications for the grant of refugee status and the form in which the applications shall be made;
 - (d) quick and accelerated procedure for dealing with applications that are considered to be clearly abusive or manifestly unfounded;
 - (e) the form and issuance of identification and travel documents to refugees and members of their families;
 - (f) the assignment to subcommittees of the Eligibility Committee or to other persons, of the functions relating to the investigation, country of origin information and determination of refugee status;
 - (g) the form of any order or notice required to be served on a refugee under this Act;
 - (h) the surrender of firearms by refugees;
 - (i) the procedure for extradition of refugees;
 - (j) the procedure for affirmative action in the integration of refugee women, refugee children and refugees with disabilities;
 - (k) the procedure for the protection and integration of refugees in host communities for the purpose of self-reliance and sufficiency of the refugees;
 - (l) support by the Government to refugee affected areas to enable them to cope with the impact of the refugees;
 - (m) the integration of refugee concerns in local, national and regional development plans;
 - (n) the procedure for the conduct of voluntary organisations

dealing with the Office on matters concerning the activities and welfare of refugees; and

- (o) the procedure for the meetings and conduct of other organisations or bodies involved in refugee activities;
- (p) the regulation of user rights of refugees with respect to lands on which they are settled.

49. Repeal of Cap. 62 and transitional provisions

(1) The Control of Alien Refugees Act, Cap. 62, is repealed.

(2) Notwithstanding the repeal under subsection (1) of this section—

- (a) any public officer or employee holding office or employment under the repealed Act immediately before the commencement of this Act, shall continue to hold such office or employment as if he or she was appointed or employed under this Act; and
- (b) any regulations made under the repealed Act shall, in so far as they are consistent with the provisions of this Act, continue in force as if they were made under this Act.

ACTS

SUPPLEMENT No. 8

4th August, 2006.

ACTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006.

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Act 22

*Administration of Parliament
(Amendment) Act*

2006

THE ADMINISTRATION OF PARLIAMENT (AMENDMENT) ACT, 2006

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Cap. 257.
2. Amendment of section 2 of principal Act.
3. Insertion of new Parts IIA and IIB.

**THE ADMINISTRATION OF PARLIAMENT
(AMENDMENT) ACT, 2006.**

An Act to amend the Administration of Parliament Act to provide for inclusion of the Leader of the Opposition in the membership of the Parliamentary Commission and to provide for the manner of choosing and ceasing to hold office, the status, role and functions of and the benefits and privileges to be attached to the office of Leader of the Opposition; to provide for a Government Chief Whip and a Chief Opposition Whip and Party Whips in Parliament and their roles; and for related matters.

DATE OF ASSENT: 31st May, 2006.

Date of Commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows:

1. Amendment of Cap. 257.

The Administration of Parliament Act, in this Act referred to as the principal Act, is amended in section 1, as follows—

- (a) by inserting immediately before paragraph (a) the following—

“(a1) “Chief Opposition Whip” means the person referred to in section 6I”;

(b) by inserting immediately after paragraph (d) the following—

“(da) “Government Chief Whip” means the person referred to in section 6H”;

(c) by inserting immediately after paragraph (e) the following—

“(ea) “Leader of the Opposition” means the member of Parliament who is the leader in Parliament of the party in opposition to the Government and having the greatest numerical strength in Parliament”.

(b) by inserting immediately after paragraph (f) the following—

“(fa) “Party Whip” means the person referred to in section 6J”;

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by substituting for subsection (2) the following—

“(2) The Commission shall be composed of the Speaker, the Leader of Government Business or his or her nominee, the Leader of the Opposition or his or her nominee, the Minister responsible for finance and four members of Parliament one of whom shall come from the opposition and none of whom shall be a Minister.

(2a) Without prejudice to subsection (2), one of the four Members of Parliament referred to in that subsection shall be a woman.

(2b) Nomination of the candidates for election to the Commission of the four members of Parliament referred to in subsection (2) shall be made by the Government and opposition sides.

(2c) The four Members of Parliament referred to in subsection (2) shall hold office as members of the Commission for two and a half years”.

3. Insertion of new Parts IIA and IIB.

The principal Act is amended by inserting immediately after Part II the following—

“PART IIA—LEADER OF THE OPPOSITION

“6A. Leader of the Opposition.

As required by article 82A of the Constitution, there shall be in Parliament under the multiparty system, a "Leader of the Opposition.”

“6B. How Leader of Opposition to be chosen.

(1) Subject to subsections (2) and (3), the Leader of the Opposition shall be elected by the party in opposition to the Government having the greatest numerical strength in Parliament.

(2) In electing the Leader of the Opposition the party to which he or she belongs may consult other political parties in opposition to the Government and the independent members of Parliament.

(3) A person elected Leader of the Opposition under this section shall take office upon a formal announcement by the Speaker.

6C. How Leader of the Opposition ceases to hold office.

The Leader of the Opposition ceases to hold that office—

- (a) if removed by the party that elected him or her;
- (b) if he or she resigns from that office;
- (c) if he or she leaves the party which elected him or her;
- (d) if he or she ceases to be a member of Parliament under article 83 of the Constitution;
- (e) if the party which elected him or her ceases to have the position in Parliament described in section 6B(1).

6D. Status of the Leader of the Opposition.

The Leader of the Opposition shall be accorded the status of a Cabinet Minister.

6E. Role and functions of Leader of the Opposition.

(1) The principal role of the Leader of the Opposition is to keep the government in check.

(2) The Leader of the Opposition shall under subsection (1), in consultation with his or her party leadership appoint a shadow cabinet from members of the opposition in Parliament with portfolios and functions that correspond to those of Cabinet Ministers.

(3) The Leader of the Opposition shall be a member of the Committee of Parliament responsible for determining and scheduling of business in Parliament and the Committee responsible for appointments and shall hold regular consultations with the Leader of Government Business and the Speaker.

(4) The Leader of the Opposition shall study all policy statements of government with his or her shadow ministers and attend committee deliberations on policy issues and give their party's views and opinions and propose possible alternatives.

6F. Benefits and privileges of Leader of the Opposition.

(1) The Leader of the Opposition being a member of Parliament shall enjoy all benefits and privileges of a member of Parliament.

(2) The benefits and privileges of the Leader of the Opposition shall be the same as those of a Cabinet Minister.

6G. Rules to prescribe other matters.

In addition to the provisions of this Part, the Rules of Procedure of Parliament may prescribe other matters in relation to the office of the Leader of the Opposition consistent with the status conferred on the holder by this Act.

PART IIB—CHIEF WHIPS AND PARTY WHIPS**6H. Government Chief Whip.**

(1) There shall be in Parliament a Government Chief Whip appointed by the Government from among members of Parliament representing the ruling party.

(2) The role and functions of the Government Chief Whip is to ensure due attendance, participation in proceedings and voting in Parliament of members of the ruling party.

(3) The Government Chief Whip shall also perform such functions as may be prescribed by the Rules of Procedure of Parliament.

6I. The Chief Opposition Whip.

(1) There shall be in Parliament a Chief Opposition Whip appointed by the party in opposition to the Government and having the greatest numerical strength in Parliament.

(2) The role and functions of the Chief Opposition Whip is to ensure due attendance, participation in proceedings and voting in Parliament of members of the party in opposition to the Government and having the greatest numerical strength in Parliament.

(3) The Chief Opposition Whip shall also perform such functions as may be prescribed by the Rules of Procedure of Parliament.

6J. The Party Whips.

(1) A party in opposition may appoint its party whip.

(2) The role and functions of a party whip is to ensure due attendance, participation in proceedings and voting in Parliament of members of the party.

(3) The party whip shall also perform such functions as may be prescribed by the Rules of Procedure of Parliament.”

Cross References

The Constitution

The Administration of Parliament Act, Cap 257

ACTS SUPPLEMENT

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Act 23

Firearms (Amendment) Act

2006

THE FIREARMS (AMENDMENT) ACT, 2006.

ARRANGEMENT OF SECTIONS.

Section.

1. Short title.
2. Amendment of section 1 of the principal Act.
3. Amendment of the principal Act.
4. Amendment of section 4 of the principal Act.
5. Amendment of section 5 of principal Act.
6. Amendment of section 10 (2) of the principal Act.
7. Amendment of section 12 of the principal Act.
8. Amendment of section 13 of the principal Act.
9. Amendment of section 14 of the principal Act.
10. Amendment of section 16 (3).
11. Amendment of section 17 (6) of the principal Act.
12. Amendment of section 18 of the principal Act.
13. Amendment of section 20 of the principal Act.
14. Amendment to section 21 of the principal Act.
15. Amendment to section 25 of the principal Act.
16. Amendment to section 26 of the principal Act.

Section.

17. Amendment of section 27.
18. Amendment of section 28 (2) of the principal Act.
19. Amendment of section 30 of the principal Act.
20. Amendment of section 31 of the principal Act.
21. Amendment of section 32 of the principal Act.
22. Amendment of section 33 (4) of the principal Act..
23. Amendment of section 36 of the principal Act.
24. Amendment of section 41 of the principal Act.
25. Amendment of section 42 of the principal Act.
26. Power of a Minister to amend the value of currency point.
27. Introduction of new Schedule to principal Act.

SCHEDULE**CURRENCY POINT.**

THE FIREARMS (AMENDMENT) ACT, 2006.**An Act to amend the Firearms Act.**

DATE OF ASSENT: 24th May, 2006.

Date of Commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows:

1. Short title.

This Act may be cited as the Firearms (Amendment) Act, 2006.

2. Amendment of section 1 of the principal Act.

Section 1 of the Firearms Act, in this Act referred to as the principal Act, is amended by the insertion immediately after the definition of “chief licensing officer”, of the following new definition—

“currency point” has the value assigned to it in the Schedule to this Act”.

3. Amendment of the principal Act.

The principal Act is amended in section 3—

(a) in subsection (2), by substituting for the words “a fine not exceeding twenty thousand shillings or both” the words “a fine not exceeding sixty currency points or both”; and

(b) by substituting for subsection (4) the following—

“(4) Any person who contravenes subsection (3), commits an offence and is liable on conviction, to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

4. Amendment of section 4 of the principal Act.

Subsection (10) of section 4 of the principal Act is amended by substituting for the words “to a fine not exceeding twenty thousand shillings or both” the words “to a fine not exceeding sixty currency points or both”.

5. Amendment of section 5 of principal Act.

Subsection (2) of section 5 of the principal Act is amended by substituting for the words “a fine not exceeding one thousand shillings”, the words “imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

6. Amendment of section 10 (2) of the principal Act.

Section 10 of the principal Act is amended by substituting for subsection (2) the following—

“(2) Any person who fails to comply with a demand made under subsection (1) commits an offence and is liable on conviction, to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

7. Amendment of section 12 of the principal Act.

For subsection (3) of section 12 of the principal Act there is substituted the following new subsection—

“(3) Any person who contravenes any of the provisions of subsection (1) commits an offence and on conviction, is liable to imprisonment not exceeding five years or a fine not exceeding three hundred currency points or both”.

8. Amendment of section 13 of the principal Act.

Subsection (4) of section 13 of the principal Act is amended by substituting for the words “to a fine not exceeding twenty thousand shillings or both” the words “to a fine not exceeding one hundred twenty currency points or both”.

9. Amendment of section 14 of the principal Act.

Subsection (4) of section 14 of the principal Act is amended by substituting for the words “to a fine not exceeding twenty thousand shillings or to both” the words “to a fine not exceeding one hundred twenty currency points or both”.

10. Amendment of section 16 (3).

Subsection (3) of section 16 of the principal Act is amended by substituting for the words “a fine not exceeding one thousand shillings”, the words “imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

11. Amendment of section 17 (6) of the principal Act.

Subsection (6) of section 17 of the principal Act is amended by substituting for the words “six months or to a fine not exceeding two thousand shillings or both”, the words “two years or a fine not exceeding one hundred and twenty currency points or both”.

12. Amendment of section 18 of the principal Act.

Section 18 of the principal Act is amended by substituting for subsection (4) the following—

“(4) Any person who fails to comply with any of the provisions of this section commits an offence and is liable on conviction to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

13. Amendment of section 20 of the principal Act.

Section 20 of the principal Act is amended by substituting for subsection (2) the following—

“(2) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to imprisonment not exceeding ten years or a fine not exceeding six hundred currency points or both”.

14. Amendment to section 21 of the principal Act.

Subsection (4) of section 21 of the principal Act is amended by substituting for the words “to a fine not exceeding twenty thousand shillings or to both”, the words “to a fine not exceeding one hundred twenty currency points or both”.

15. Amendment to section 25 of the principal Act.

Section 25 of the principal Act is amended—

- (a) by substituting for subsection (2) the following new subsection—

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment not exceeding five years or a fine not exceeding three hundred currency points or both; and

- (b) in subsection (7) by substituting for the words “six months or to a fine not exceeding two thousand shillings or both”, the words “two years or a fine not exceeding one hundred twenty currency points or both”.

16. Amendment to section 26 of the principal Act.

Subsection (7) of section 26 of the principal Act is amended by substituting for the words “to a fine not exceeding twenty thousand shillings or to both”, the words “to a fine not exceeding one hundred twenty currency points or both”.

17. Amendment of section 27.

Section 27 of the principal Act is amended by substituting for subsection (4) the following—

“(4) Any person who contravenes any of the provisions of this section commits an offence and is liable on conviction, to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

18. Amendment of section 28 (2) of the principal Act.

Subsection (2) of section 28 of the principal Act is amended by substituting for the words “for a term not exceeding six months or a fine not exceeding two thousand shillings or both”, the words “not exceeding one year or a fine not exceeding sixty currency points or both”.

19. Amendment of section 30 of the principal Act.

Section 30 of the principal Act is amended by substituting for subsection (3) the following—

“(3) Any person who contravenes any of the provisions of this section commits an offence and is liable on conviction to imprisonment not exceeding two years or a fine not exceeding one hundred and twenty currency points or both”.

20. Amendment of section 31 of the principal Act.

For section 31 of the principal Act there is substituted the following—

“31. Carrying firearm while drunk or disorderly.

Any person who, whether by reason of intoxication or otherwise, while carrying a firearm, acts in a dangerous or disorderly manner commits an offence and is liable on conviction to imprisonment not exceeding two years or a fine not exceeding one hundred and twenty currency points or both”.

21. Amendment of section 32 of the principal Act.

Section 32 of the principal Act is amended by substituting for subsections (2) and (3) the following—

“(2) Any person who displays or attempts to display any firearm or imitation firearm in a public place in such manner as to cause alarm to any member of the public, commits an offence and is liable on conviction, to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both.

(3) Any person who discharges any firearm deliberately or negligently in a public place thereby causing alarm to any member of the public commits an offence and is liable on conviction, to imprisonment not exceeding five years or a fine not exceeding three hundred currency points or both”.

22. Amendment of section 33 (4) of the principal Act.

Subsection (4) of section 33 is amended by substituting for the words “to a fine not exceeding one thousand shillings”, the words “on conviction to imprisonment not exceeding one year or a fine not exceeding sixty currency points or both”.

23. Amendment of section 36 of the principal Act.

Section 36 of the principal Act is amended by substituting for the words “to a fine not exceeding ten thousand shillings or both” the words “to a fine not exceeding one hundred and twenty currency points or both”.

24. Amendment of section 41 of the principal Act.

Section 41 of the principal Act is amended by substituting for subsection (2) the following—

“(2) Any person who contravenes, refuses or neglects to comply with any order made under subsection (1) commits an offence and is liable on conviction, to imprisonment not exceeding five years or a fine not exceeding three hundred currency points or both”.

25. Amendment of section 42 of the principal Act.

Section 42 of principal Act is amended by inserting immediately after subsection (2) the following new subsection—

“(3) Regulations made under this section may prescribe in relation to the contravention of any provision of the regulations—

- (a) a penalty not exceeding three years imprisonment or a fine not exceeding one hundred and eighty currency points or both;
- (b) in the case of a second or subsequent offence a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding four years or both;
- (c) a requirement that the court convicting the offender shall order the forfeiture to the state of anything used for or in connection with the offence”.

26. Power of a Minister to amend the value of currency point.

The principal Act is amended by inserting immediately after section 43 the following new section—

“43A. Power of the Minister to amend Schedule.

The Minister may, with approval of the Cabinet and in consultation with the Minister responsible for finance, by statutory instrument, amend the Schedule to this Act”.

27. Introduction of new Schedule to principal Act.

The principal Act is amended by inserting at the end, the following new Schedule—

SECTIONS 1 AND 43A

CURRENCY POINT.

A currency point is equivalent to twenty thousand Uganda shillings”.

Act 24/2006

(1)

THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL
(AMENDMENT) ACT, 2006.

ARRANGEMENT OF SECTIONS.

- on
1. Short title.
 2. Amendment of section 2 of the Act.
 3. Substitution of the word Commissioner.

LAW DEVELOPMENT CENTRAL
REFERENCE LIBRARY

UGANDA ONLINE LAW LIBRARY

**THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL
(AMENDMENT) ACT, 2006.**

**An Act to amend the Uganda Citizenship and Immigration Control Act, Cap.
66.**

DATE OF ASSENT: 24th May, 2006.

Date of commencement: 4th August, 2006.

LAW DEVELOPMENT CENTRE
REFERENCE LIBRARY

BE IT ENACTED by Parliament as follows—

1. Short title

This Act may be cited as the Uganda Citizenship and Immigration Control (Amendment) Act, 2006.

2. Amendment of section 2 of the Act

The Uganda Citizenship and Immigration Control Act is amended in section 2—

- (a) by repealing the definition of “commissioner”; and
- (b) by inserting in its appropriate alphabetical position, the following definition—

““Director” means the Director for Immigration established under section 8.”

3. Substitution of the word Commissioner

The Uganda Citizenship and Immigration Control Act is amended by substituting for the word “commissioner” wherever it occurs, the word “Director”.

ACTS

SUPPLEMENT No. 8

4th August, 2006.

ACTS SUPPLEMENT

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Act 25

*Non-Governmental Organisations
Registration (Amendment) Act*

2006

**THE NON-GOVERNMENTAL ORGANISATIONS REGISTRATION
(AMENDMENT) ACT, 2006.**

ARRANGEMENT OF SECTIONS.

Section.

1. Short title.
2. Amendment of Cap. 113.
3. Amendment of section 1.
4. Amendment of section 2.
5. Amendment of section 3.
6. Amendment of section 4.
7. Amendment of section 7.
8. Amendment of section 9.
9. Amendment of section 11.
10. Amendment of section 13.
11. Schedule.

**THE NON-GOVERNMENTAL ORGANISATIONS
REGISTRATION (AMENDMENT) ACT, 2006.**

**An Act to amend the Non-Governmental Organisations
Registration Act, Cap. 113.**

DATE OF ASSENT: 24th May, 2006.

Date of commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows—

1. Short title

This Act may be cited as the Non-Governmental Organisations Registration (Amendment) Act, 2006.

2. Amendment of Cap. 113

For the long title to the Non-Governmental Organisations Registration Act, in this Act referred to as the principal enactment, there is substituted, the following—

“An Act to provide for the registration of non-governmental organisations, to provide for the monitoring of non-governmental organisations, to establish a Board for these purposes and for other connected matters”.

3. Amendment of section 1

Section 1 of the principal enactment is amended by inserting immediately after the definition of “Chairperson” the following new definition—

“currency point” has the value specified in relation to a currency point in Schedule 1”.

4. Amendment of section 2

Section 2 of the principal enactment is amended—

- (a) by substituting for subsection (1) the following new subsection—

“(1) No Organisation shall operate in Uganda unless it has been duly registered with the Board established under section 3 of this Act and has a valid permit issued by the Board;

- (b) by inserting immediately after subsection (1) the following new subsections—

“(1a) Subsection (1) shall not apply to organisations which elect to register under the Trustees Incorporation Act or the Companies Act.

(1b) No organisation shall be registered by the Board without prior application having been made to the Registrar of Companies to have its proposed name reserved and approved for registration.

(1c) Notwithstanding the provisions of sub-section (1a) where an NGO has submitted its application for renewal of a permit and paid the prescribed fees and the Board has not made and communicated its decision, giving reasons in writing to the applicant within ninety days, the NGO shall continue its operations and shall be presumed to be operating with a valid permit.”

- (c) by substituting for subsection (3) the following new subsection—

“(3) Upon the registration of an organisation under this Act and the registration under this section, the Organisation shall become a body corporate with perpetual succession and with power to sue and be sued in its corporate name;”

- (d) by substituting for subsection (4) the following new subsection—

“(4) An organisation shall not be registered under this Act if the objectives of the Organisation as specified in its constitution are in contravention of the law”.

- (e) by inserting immediately after subsection (4) the following new subsection—

“(5) An organisation which—

- (a) contravenes any provisions of this Act;
- (b) operates contrary to the conditions or directions specified in its permit;
- (c) carries out any activity without a valid permit or certificate of incorporation;

commits an offence and is liable, on conviction, to a fine not exceeding twenty five currency points.

(6) Where an organisation commits an offence under subsection (5), any director or officer of the organisation whose act or omission gave rise to the offence also commits an offence and is liable on conviction—

- (a) in the case of an offence under subsection (5) (a), to a fine not exceeding fifty currency points or imprisonment not exceeding one year or both;
- (b) in the case of an offence under subsection (5) (b) or (c), to a fine not exceeding twenty currency points or imprisonment not exceeding six months or both.”

5. Amendment of section 3

Section 3 of the principal enactment is amended—

- (a) by substituting for subsection (3) the following—

“(3) The Minister may, in an emergency situation, exempt an Organisation from any of the provisions of this section; except that the exemption shall not include the payment of the prescribed fee.”

- (b) by inserting immediately after subsection (3) the following new subsection—

“(4) No exemption made under this section shall exceed a period of one year.”

6. Amendment of section 4

Section 4 of the principal enactment is amended by substituting for subsection (2) the following new subsections—

- “(2) The Board shall consist of the following—

- (a) three members from the public one of whom shall be a female;
- (b) one member from each of the Ministries responsible for the following—
 - (i) internal affairs;
 - (ii) justice and constitutional affairs;

- (iii) local governments;
- (iv) health;
- (v) agriculture, animal industry and fisheries;
- (vi) gender and social development;
- (vii) education and sports.

- (c) one member from the office of the Prime Minister;
- (d) one member from the Internal Security Organisation; and
- (e) one member from the External Security Organisation.

(2a) The persons to be appointed under subsection (2) shall be appointed by the Minister in consultation with the Minister responsible for the body referred to in that subsection.

(2b) At least one third of the members in subsection (2) shall be female”.

7. Amendment of section 7

Section 7 of the principal enactment is amended—

- (a) by renumbering section 7 as section 7(1);
- (b) by substituting for paragraph (a) the following—
 - “(a) consider applications for registration and incorporation by organisation”;
- (c) by substituting for paragraph (c) the following—
 - “(c) guide and monitor organisations in carrying out their services at all levels of Government; and
- (d) by inserting immediately after paragraph (c) the following paragraph—
 - “(cc) develop policy guidelines for community based organisations”

(e) by adding the following new subsections—

“(2) Community based organisations shall not be required to be incorporated under this Act but they shall register with the District administration of the area where they operate.

(3) In this section, community based organisation means a non-governmental organisation operating at a subcounty level and below, whose objective is to promote and advance the well-being of its members or the community.”

8. Amendment of section 9

Section 9 of the principal enactment is amended by substituting for “one month” the words “three months”.

9. Amendment of section 11

Section 11 of the principal enactment is amended—

(a) by substituting for subsection (2) the following—

“(2) The Chairperson or, in his or her absence, the Vice-Chairperson, shall preside at any meeting of the Board and in the absence of both the Chairperson and the Vice Chairperson, the members present may elect a member from amongst their number to preside at the meeting”.

(b) by substituting for subsection (3) the following new subsection—

“(3) The quorum at any meeting of the Board shall be one third of all members of the Board”.

10. Amendment of section 13

Section 13 of the principal enactment is amended—

(a) by inserting immediately after paragraph (b) the following new paragraphs—

“(c) prescribing the manner in which Organisations shall be wound up when they cease to operate;

(d) prescribing the duration and the form of a permit;

(e) prescribing the fees to be paid by an Organisation on application for renewal of a permit;

(f) prescribing conditions and all directions that may be inserted in the permit;

(b) by renumbering paragraph (c) as paragraph (g)

(c) by inserting a new subsection (2) to read as follows—

(2) Regulations made by the Minister under this section shall be laid before Parliament”.

11. Schedule

The principal enactment is amended by inserting immediately after section 13 the following new Schedule—

“SCHEDULE

Section 1.

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings”

ACTS SUPPLEMENT

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Act 26

Animal Diseases (Amendment) Act

2006

THE ANIMAL DISEASES (AMENDMENT) ACT, 2006

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Amendment of Animal Diseases Act

THE ANIMAL DISEASES (AMENDMENT) ACT, 2006

An Act to amend the Animal Diseases Act, Cap. 38, in order to increase the penalty prescribed for offences under the Act, or otherwise contravening any of the provisions of the Act.

DATE OF ASSENT: 24th May, 2006.

Date of Commencement: 4th August, 2006.

BE IT ENACTED by Parliament as follows:

1. Short title

This Act may be cited as the Animal Diseases (Amendment) Act, 2006, and shall be read as one with the Animal Diseases Act, Cap. 38.

2. Interpretation

In this Act, unless the context otherwise requires—

“currency point” has the value ascribed to it in the Schedule to this Act.

3. Amendment of Animal Diseases Act

The Animal Diseases Act is amended by substituting for section 25, the following—

“25. Offences and penalties

Any person who contravenes or fails to comply with any provision of this Act or any rule, order or direction lawfully made or given under this Act, commits an offence and, notwithstanding the provisions of any written law, is liable to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding two years, or both.”

STATUTORY INSTRUMENTS

2006 No. 33.

The Employment Act 2006 (Commencement) Instrument, 2006.

(Under section 1 of the Employment Act, 2006, Act No. 6 of 2006)

IN EXERCISE of the powers conferred upon the Minister by section 1 of the Employment Act, 2006, this Instrument is made this 27th day of July, 2006.

1. This Instrument may be cited as the Employment Act, 2006 (Commencement) Instrument, 2006.

Title.
2. The 7th day of August, 2006 is appointed as the date on which the Employment Act, 2006 shall come into force.

Commence-
ment of
Act.

SYDA BBUMBA,

Minister of Gender, Labour and Social Development

STATUTORY INSTRUMENTS
SUPPLEMENT No. 19

4th August, 2006

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006

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STATUTORY INSTRUMENTS

2006 No. 34.

**The Occupational Safety and Health Act 2006
(Commencement) Instrument, 2006.**

*(Under section 1 of the Occupational Safety and Health Act, 2006, Act No.9
of 2006)*

IN EXERCISE of the powers conferred upon the Minister by
section 1 of the Occupational Safety and Health Act, 2006, this
Instrument is made this 27th day of July, 2006.

1. This Instrument may be cited as the Occupational
Safety and Health Act, 2006 (Commencement) Instrument, 2006. Title.

2. The 7th day of August, 2006 is appointed as the date on
which all the provisions of the Occupational Safety and Health
Act, 2006 shall come into force. Commence-
ment of
Act.

SYDA BBUMBA,
Minister of Gender, Labour and Social Development.

STATUTORY INSTRUMENTS
SUPPLEMENT No. 19

4th August, 2006

STATUTORY INSTRUMENTS SUPPLEMENT
to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006
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STATUTORY INSTRUMENTS
2006 No. 35.

The Labour Disputes (Arbitration and Settlement) Act 2006
(Commencement) Instrument, 2006.

(Under section 1 of the Labour Disputes (Arbitration and Settlement)
Act, 2006, Act No.8 of 2006

IN EXERCISE of the powers conferred upon the Minister by
section 1 of the Labour Disputes (Arbitration and Settlement)
Act, 2006, this Instrument is made this 27th day of July, 2006.

1. This Instrument may be cited as the Labour Disputes
(Arbitration and Settlement) Act 2006 (Commencement)
Instrument, 2006. Title.

2. The 7th day of August, 2006 is appointed as the date on
which all the provisions of the Labour Disputes (Arbitration and
Settlement) Act, 2006 shall come into force. Commence-
ment of
Act.

SYDA BBUMBA,
Minister of Gender, Labour and Social Development.

STATUTORY INSTRUMENTS

SUPPLEMENT No. 19

4th August, 2006

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2006 No. 36.

The Labour Unions Act 2006 (Commencement) Instrument,
2006.

(Under section 1 of the Labour Unions Act, 2006, Act No.7 of 2006)

IN EXERCISE of the powers conferred upon the Minister by section 1 of the Labour Unions Act, 2006, this Instrument is made this 27th day of July, 2006.

1. This Instrument may be cited as the Labour Unions Act 2006 (Commencement) Instrument, 2006. Title.

2. The 7th day of August, 2006 is appointed as the date on which all the provisions of the Labour Unions Act, 2006 shall come into force. Commence-
ment of
Act.

SYDA BBUMBA,
Minister of Gender, Labour and Social Development.

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STATUTORY INSTRUMENTS
SUPPLEMENT No. 19

4th August, 2006

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006

Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS

2006 No. 37.

The Capital Markets Authority (Accounting and Financial Requirements) (Amendment) Regulations, 2006.

(Under section 101(1) of the Capital Markets Authority Act, Cap. 84)

IN EXERCISE of the powers conferred on the Capital Markets Authority by section 101(1) of the Capital Markets Authority Act, these Regulations are made this 20th day of July, 2006.

1. These Regulations may be cited as the Capital Markets Authority (Accounting and Financial Requirements) Regulations, 2006. Title.

2. The Capital Markets Authority (Accounting and Financial Requirements) Regulations, are amended by inserting immediately after regulation 10 the following regulation— Amendment of S.I 84-4.

"Restriction
on audit
services

10(A) (1) Listed companies and other licensed persons shall not engage the same auditors for a period exceeding five years.

(2) Where a listed company or other licensed person has engaged an auditor for five years, the listed company or other licensed person shall not engage the same auditor until the lapse of three years after the end of five years.

(3) In any case where a listed company or other licensed person has engaged an auditor for less than five years, then, upon the termination of the engagement, the listed company or other licensed person shall not engage the same auditor until the lapse of three years from the date of the termination of the engagement.”

TWAHA KAAWAASE KIGONGO,
Chairman, Capital Markets Authority.

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STATUTORY INSTRUMENTS
SUPPLEMENT No. 19

4th August, 2006

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006

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STATUTORY INSTRUMENTS

2006 No. 38.

THE LOCAL GOVERNMENTS (RATING) REGULATIONS,
2006.

ARRANGEMENT OF REGULATIONS.

Regulation

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STATUTORY INSTRUMENTS

2006 No. 38.

The Local Governments (Rating) Regulations, 2006.

*(Under section 38 of the Local Governments (Rating) Act, 2005,
Act No. 8 of 2005)*

IN EXERCISE of the powers conferred upon the Minister by section 38 of the Local Governments (Rating) Act 2005, these Regulations are made this 26th day of June, 2006.

1. These Regulations may be cited as the Local Governments (Rating) Regulations, 2006. Title

2. In these regulations, unless the context otherwise requires— Inter-pretation.

“Act” means the Local Governments (Rating) Act, 2005;

“court” means the valuation court appointed by a district, city or municipal council under the Act;

“rateable property” means immovable property and includes a building (industrial or non-industrial) or structure of any kind, but does not include a vacant site;

“Registrar of the High Court” includes Deputy Registrars in charge of High Court circuits;

“valuation list” means the valuation list prepared under the Act.

3. (1) The Minister may, upon request by a district local government or on his or her own motion, declare an area as an urban area for the purposes of the Act. Declaration of urban area for rating purposes.

(2) In declaring an area as an urban area for purposes of the Act, the Minister shall have regard to the following matters—

- (a) population density;
- (b) level of economic activity;
- (c) level of infrastructure;
- (d) any scheme in relation to that area developed under the Town and Country Planning Act.

(3) An area declared as an urban area for the purposes of the Act shall have clear boundaries demarcated or defined as far as possible with regard to existing geographical or administrative boundaries.

(4) A request made to the Minister by a local government under sub-regulation (1) may be rejected in total or approved with such modifications as the Minister may deem appropriate.

(5) A declaration of an urban area made under this regulation shall be published by the district local government in the *Gazette* and in at least one newspaper having circulation in the district to which the declaration relates and in the absence of a newspaper having circulation in the area, in such other manner as it may consider sufficient for the information of the persons who will be affected.

(6) For the avoidance of doubt, where an area has been declared an urban area for purposes of the Act but which otherwise would not be an urban area, the rating authority shall be the district local government until such time when the area declared becomes an urban area under the Local Governments Act.

(7) The rates collected by the district local government under this regulation shall be utilized in accordance with the Act and these Regulations for the benefit of that area.

4. (1) A local government shall produce a valuation list every five years.

Exceeding
five year
valuation.

(2) Where for reasons of financial or other constraints a local government does not produce a valuation list as required by subregulation (1), the local government shall produce the valuation list within six months after the expiry of five years.

5. (1) Every owner of a rateable property which is an exempt rateable property under paragraphs 2 to 6 of Part I of the Second Schedule to the Act shall, within thirty days after the coming into force of these Regulations and thereafter once in every financial year, notify the local government concerned in writing of the exempt status of the rateable property.

Notification
of exempted
status.

(2) The notification under sub-regulation (1) shall be in form RF1 in the Schedule to these Regulations and shall contain the following details—

(a) the owner of the rateable property;

(b) the location of the rateable property;

(c) the category of exemption;

(d) where applicable, the date, if known when the rateable property acquired the exempt status.

6. (1) Rate is not payable on a residential house in a rural area.

Remission
or reduction
of rates.

(2) A property owner living and residing in his or her own house in an urban area shall not pay property rate on that house; but, a property owner shall pay property rate on any other residential building which he or she owns and rents in an urban area.

(3) A local government may, on application of a rate payer, exempt, reduce or remit a rate payable in respect of a rateable property.

(4) A local government shall not exempt, reduce or remit the rate except under the following circumstances—

(a) inability of the rate payer to pay by reason of poverty arising from old age, infirmity or loss of income;

(b) where there is loss of value of the rateable property due to damage by natural circumstances such as earthquakes or lightening or where the physical and economic circumstances of the area in which the rateable property is located can no longer support the rate as imposed; or

(c) when any statutory authority or body prohibits the occupation of a rateable property.

(5) Where a local government remits or reduces the rate, it shall record the fact of remission or reduction of rates in the account of the rate payer concerned and the rate payer shall be informed accordingly.

(6) A remission or reduction of rate granted under this regulation may be reviewed when there is a change in the circumstances of the rate payer that led to the reduction or remission of the rate.

Additional
particulars
of valuation
list.

7. A valuation list shall, in addition to the particulars specified in section 10 of the Act, contain the following particulars—

(a) the serial number assigned to each rateable unit;

(b) the name and address of the occupier of the rateable property;

- (c) the common base valuation date, if applicable; and
- (d) the reference number of the title deed for the property in question.

8. The Minister shall, in consultation with the local government establish and implement a coding system by which all rateable properties in the area of jurisdiction of any local government shall be identifiable and recorded.

Establishment of a coding system.

9. The amount to be deducted under section 11(a) of the Act shall be such percentage of the gross value of the rateable property as determined by the Minister from time to time by statutory order under section 11(a) and the amount which shall represent a reasonable estimate of money that may be spent on repairs or other undertakings to maintain the rateable property in a state to command the gross value.

Deductions under section 11(a).

10. In determining the annual rental value under sections 11 and 12 of the Act, it shall be presumed that the rateable property is in a good state of repair except for such repairs that may be considered uneconomic by a reasonable owner and that fixtures and fittings relating to the rateable property are of average quality for a rateable property of that type.

Certain presumptions to be made.

11. (1) A notice of objection by an aggrieved person required to be served under section 15 of the Act shall be made in Form RF2 specified in the Schedule to these Regulations.

Service, filing and hearing objections.

(2) The local government concerned shall—

- (a) retain a copy of the notice of objection;
- (b) return a copy to the objector;
- (c) serve a copy on the valuer; and
- (d) file the original in court.

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(3) Objections to a draft valuation list by rate payers in respect of rateable property in a town council area shall be heard by the court.

(4) Where a notice of objection has been served upon the local government under sub-regulation (1), a valuer may, under instructions from the local government, before the date appointed for hearing of the objection, re-inspect the rateable property in respect of which the objection was filed for the purpose of reviewing the nature of the objection.

(5) If the person who gave notice of objection and the local government agree to the valuation, the objector may withdraw the objection by filing a notice of withdrawal in Form RF3 specified in the Schedule to these Regulations.

(6) Every notice of withdrawal filed under sub-regulation (5) shall be presented together with the notice of objection to the court at the time of hearing of other objections on Form RF4 specified in the Schedule to these Regulations and the withdrawal of the objection shall be recorded and confirmed by the court.

Disqualifi-
cation from
being
membership
or clerks of
court.

12. (1) The following persons shall not be eligible for appointment as members or clerks of the court, under section 17 of the Act—

- (a) a person adjudged bankrupt or declared to be of unsound mind by a court of competent jurisdiction in Uganda;
- (b) a person convicted of an offence involving fraud or corruption;
- (c) a person disqualified under the applicable rules from practicing in the professional capacity which makes him or her eligible for appointment as member or clerk of the court; and

(d) a person who is in arrears of a rate or other service charge to any local government for a period longer than twelve months.

(2) The remuneration payable to members of the court shall, subject to the provisions of the Act, be determined by the appointing local government.

(3) The Minister shall set remuneration ceilings and limits, and review them periodically.

(4) Where objections are heard by a court under sub-regulation (2), the remuneration payable to members and the clerk of the court shall be shared in proportion to the number of objections filed by each local government.

13. (1) Subject to section 19 of the Act, the date of hearing objections by the court shall be determined by the clerk of the court in consultation with the chairperson of the court and shall be served in Form RF5 specified in the Schedule to these Regulations.

Service of
summons
and orders
to objector,
valuer etc.

(2) The clerk of the court shall cause—

(a) notice for hearing of the person who lodged the objection under section 19 of the Act to be served upon the person who lodged the objection and the valuer not later than thirty days prior to the date of hearing;

(b) orders or other findings of court in relation to the objections to be served upon the person who lodged the objection and the local government within fourteen days from the date of the order or finding.

14. (1) When the valuation court has completed hearing of all the objections to the draft valuation list and has made such alterations in the draft valuation list as may be necessary to give effect to its findings, the chairperson shall submit the altered draft valuation list to the Minister for approval.

Submission
of altered
draft
valuation
list to
Minister.

(2) Upon approval by the Minister of the draft valuation list submitted under subregulation (1), the chairperson shall certify and sign the draft valuation list in the form set out in Form D in the Third Schedule to the Act.

Appeals to
the High
Court.

15. (1) Appeals to the High Court from the valuation court under section 22 of the Act shall be lodged within thirty days from the date of notification of the finding of the court and shall be made in Form RF6 specified in the Schedule to these Regulations.

(2) The notice of appeal filed under sub-regulation (1) shall be served upon the clerk of the court who shall prepare the relevant court record of proceedings and submit it to the Registrar of the High Court within fifteen days from the date of receipt of the notice of appeal.

(3) Subject to these Regulations, any rules applicable to appeals to the High Court in civil matters shall apply to appeals to the High Court under the Act with such modifications as the High Court may consider to be in the interest of justice and the expedition of the proceedings.

Offsetting
against
pending
rate.

16. (1) Where the owner of rateable property wishes to spend money, otherwise payable as a rate, on infrastructure work meant to be done by the local government, he or she shall submit a proposal to the local government in Form RF7 specified in the Schedule to these Regulations containing sufficient information to enable a proper evaluation of the project or proposal by the local government.

(2) A local government shall not approve a proposal submitted under sub-regulation (1) unless it is satisfied that the proposal—

(a) serves the general good of the rate payer or rate payers in the area;

(b) complies with the infrastructure, planning and budgetary provisions for infrastructural development of the relevant local government; and

(c) the district, city, municipal or town engineer has certified that the proposed infrastructure works—

(i) conform to the relevant standards set by the local government or any relevant regulatory body; and

(ii) will be provided in a cost effective manner.

(3) Offsetting of rate shall not be made under this regulation unless a certificate of completion, in Form RF8 specified in the Schedule to these Regulations, has been issued by the district, city, municipal or town engineer to the effect that the infrastructural works have been carried out in accordance with this regulation.

(4) Where approval of the proposal is granted and the works are carried out under sub-regulations (1) and (2) the local government shall, subject to sub-regulations (3) to (6) offset the rate payable by issuing a certificate in Form RF9 specified in the Schedule.

(5) If the district, city, municipal or town engineer is not satisfied that the infrastructural works have been carried out in strict compliance with this regulation, he or she shall determine the true value of the works to the local government and that value as determined shall be the amount by which the pending rate shall be offset unless the relevant owner proves otherwise.

(6) The offset allowed against the rate shall not exceed seventy five percent of the pending rate and the balance of twenty five percent not offset is considered to be relating to the administration costs and supervision of the local government.

Adminis-
tration costs.

17. (1) The percentage of the rates collected to be expended by the local government on administration matters shall be determined by the Minister periodically, but it shall not exceed twenty five percent as prescribed in section 37(3) of the Act.

(2) In determining a percentage of the rates collected to be expended on administration matters, the Minister shall have regard to the realistic cost of administering the rating system under the Act, which include among others, remuneration of members and clerks of court and the cost of valuation.

Formation
of rate
payers
association.

18. (1) A rate payer's association formed under section 37(4) of the Act shall—

- (a) have a written constitution to regulate the activities of that association under section 37 of the Act including election of the leaders of the association;
- (b) notify the relevant local government of the formation of the association; and
- (c) provide a copy of the association's constitution and names of the leaders of the association to the local government.

(2) A dissolution of, or any change in the leadership or constitution of the rate payers' association shall be notified to the local government.

Service of
notices,
summons or
other
documents.

19. (1) Except where the Act provides otherwise, any notice, summons or document of whatever description required to be served under the Act or the Regulations shall be deemed to be duly served—

- (a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or place of business, and it is—

- (i) sent by post; or
- (ii) delivered to that office or place of business of the company;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business identifying it by name or the style under which its business is carried on, and is—

- (i) sent by post; or
- (ii) delivered to that office or the principal office or place of business;

(c) where the person to be served is a public body, a corporation, a society or other body, if the document is addressed to the president, secretary, treasurer or other principal officer of that body, as the case may be, at its principal office and is either—

- (i) sent by post; or
- (ii) delivered to that office;

(d) where the person to be served is a district, city, municipal or town, local government, by delivering it to, or by sending it by registered post addressed to the chief administrative officer, or town clerk of the local government;

(e) in any other case, if the document is addressed to the person to be served and is sent to him or her by post or delivered to his or her residence or place of business.

(2) Any document which is required or authorized to be served upon the owner of any rateable property or properties may be addressed to "the owner" of that rateable property or properties, naming it or them, without further name or description, and shall be deemed to have been duly served—

(a) if the document is sent or delivered in accordance with sub-regulation (i)(e); or

(b) if the document or a copy of it is affixed to some conspicuous part of the rateable property or properties.

(3) Sub-regulation (2) applies, with the required changes, to service upon the "occupier" of a rateable property where recovery of rates is done under section 31 of the Act.

(4) Where a document is served on a partnership in accordance with this regulation, the document shall be taken to have been duly served on each partner.

(5) For the purpose of enabling any document to be served on the owner of any rateable property, the person authorized to serve may require the occupier of the rateable property to state the name and address of the owner.

(6) The court may, with regard to any document required to be served under the Act or these Regulations, order service to be effected otherwise; and in that case service shall be effected in accordance with that order.

Forms,
notices etc.

20. The forms and notices specified in the Schedule shall be used in the cases to which they relate and for the purposes to which they relate under the Act or these Regulations.

Inspection
of
documents,
records etc.

21. (1) A rate payer may at all reasonable times on payment of a cost-recovery based fee, inspect and obtain copies of an extract from—

(a) any valuation list;

(b) any draft valuation list;

(c) any notice of objection served by the rate payer; or

(d) minutes of proceedings of the court;

(2) No fee is payable for an inspection provided for under the Act.

(3) For the purposes of this regulation "rate payer" includes an occupier or tenant on whom a rate has been levied under section 31 of the Act.

22. Any person who without justifiable cause contravenes or fails to comply with any requirement, order or request made under these Regulations commits an offence and except where the punishment is prescribed by the Act or other Act of Parliament, is on conviction liable to imprisonment not exceeding three months.

Offences
and
penalties.

23. The Local Governments (Rating) (Rateable value) Order is revoked.

Revocation
of S.I. 242 -
2.

SCHEDULE

FORM RF1
Regulation 5, 19

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

NOTIFICATION OF EXEMPT STATUS
Under Section 5 of the Act and Regulation 5(i)

To
(Name of local government)

Name of owner _____

Address of owner _____

Physical address of rateable property _____

Category of exemption _____

Start date of exemption (if known) _____

End date of exemption (if known) _____

Date _____ Signed _____

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT
NOTICE OF OBJECTION TO DRAFT VALUATION LIST*
Under Section 15 of the Act

FOR: _____
(specify local government or rating area)

Name and address of objector _____

I/We the owner(s)/occupier(s)/other (give details below)

of the rateable property(ies) specified below

(physical address of the rateable property) object against:-
*(please mark the applicable box)

- (i) the inclusion of any rateable property;
- (ii) the value of a rateable property;
- (iii) any other statement made or omitted to be made about any rateable property or;
- (iv) the decision to split or combine the listing of any rateable property or properties.

Details of objection and amendments required

(continue on a separate page if required)

- * This form should be filled in triplicate. The original and duplicate should be left at the relevant local government and the triplicate kept by the objector.
- * Objectors are encouraged to retain proof of service of the form upon the local government concerned.

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

IN THE VALUATION COURT SITTING AT _____

NOTICE OF WITHDRAWAL OF OBJECTION

Under Regulation 11(4)

The Chairperson,
Valuation Court

Whereas I lodged an objection under section 15 of the Act with the _____ (local government) in respect of the rateable property(ies) described _____ in the draft valuation list, I hereby notify you of the withdrawal of the objection for reason that:

- (1) _____
(2) _____
(3) _____
(Specify reason, if any.)

Dated at _____ this _____ day of _____ 20____

Signed _____
Objector

I certify that _____ (*name of the objector*) being a person who lodged an objection under section 15 of the Act in respect of the rateable property(ies) specified above has this _____ day of _____ 20____ confirmed the withdrawal of the objection.

Signed _____ Date _____
Chairperson of the Valuation Court

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

APPLICATION FOR REVALUATION OF RATEABLE PROPERTY
Under Section 15 (4) of the Act

The Chairperson,
Valuation Court.

(insert place where court is sitting)

I _____ being the owner/valuer* of rateable
property number _____ in the Draft Valuation List, having reached an
agreement with the valuer/owner* in accordance with section 15(4)
of the Act that _____

_____, *(specify the area of agreement as per
provisions of section 15(4) of the Act)*

Accordingly apply to Court for an order—

- (i) that the rateable property be revalued or
- (ii) for any other appropriate order.*

Dated at _____ this _____ day of _____ 20____.

Signature of Applicant

I confirm the correctness of the information in the form

Signature of (valuer or owner as the case may be)

*Strike out as appropriate

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

IN THE VALUATION COURT SITTING AT _____

OBJECTION NO. _____ OF 20_____

LODGED BY _____

OWNER OF RATEABLE PROPERTY KNOWN AS

(physical address of the rateable property)

To: 1. _____
(Name of Objector)

2. _____
(Local Government)

3. _____
(Valuer)

HEARING NOTICE

Take notice that the hearing of this objection has been fixed for the
_____ day of _____ 20____ at _____ fore/afternoon.

You must appear in person or by advocate, otherwise, the court shall
proceed to determine the objection in your absence.

Issued this _____ day of _____ 20_____

Clerk of the Court

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

IN THE HIGH COURT OF UGANDA AT _____
(here insert the relevant High Court circuit)

IN THE MATTER OF THE LOCAL GOVERNMENTS
(RATING) ACT

AND

IN THE MATTER OF AN APPEAL AGAINST THE DECISION
OF THE VALUATION COURT SITTING AT _____

To The Registrar,
High Court
(Insert applicable High Court circuit)

NOTICE OF APPEAL

(Under section 22 of the Local Governments (Rating) Act, and regulation
14 (1) & (3) of the Local Governments (Rating) Regulations 2006)

I/We (insert name _____) of (insert address
_____) hereby give notice of appeal against the
decision of the Valuation Court sitting at (insert place where court
sat) which was given on the _____ day of _____ 20____
in respect of the rateable property described below.

(physical address of the rateable property) _____

The grounds of appeal are: (specify grounds)

1. _____
2. _____
3. _____

All communication regarding the appeal should be addressed to me
at the address below:- *(insert address)*

or to my advocates, namely _____.
(Name of Advocate or firm and address thereof)

Dated at _____ this _____ day of _____ 20____.

Signature of Appellant or of Advocate for Appellant

- IMPORTANT: 1. This form should be filled in triplicate. The Appellant shall serve a copy of the Notice of Appeal to the Clerk of Valuation Court after filing a copy in the High Court.
2. Appellants are reminded that an appeal to the High Court does not stay the payment of rates.

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

PROPOSAL TO OFFSET RATES

Under Section 27(3) of the Act and Regulation 15(1)

To. _____
(Name of local government)

Name and address of the applicant(s) _____

Physical address of rateable property(ies) _____

Nature of proposed services _____

Estimated total amount required to be offset
Ugx _____
(amount in words)

Estimated project completion time _____

(Append fully costed details of the proposed project) –
NOTE: Approval is dependent on the provision of full details and
costing of the project.

Signature of Applicant(s) Date _____

FOR OFFICIAL USE

_____ (Proposal no. _____)

ENGINEERS REPORT:

SUPPORTED ☐ SUPPORTED WITH AMENDMENTS ☐ NOT SUPPORTED ☐

Reasons for choice above and comments _____

Suggested amendments appended (yes/no)

Name and designation _____

Signature.....

Date.....

LOCAL GOVERNMENT APPROVAL

Approved ☐ Conditional approval ☐ Not approved ☐

Comments _____

Name and designation _____

Signature.....

Date.....

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

APPLICATION FOR CERTIFICATION TO OFFSET RATES
Under Section 27(3) of the Act and Regulation 15(4)

To. _____
(Name of local government)

Names and address of the applicant(s) _____

Physical address of rateable property(ies) _____

Approved services _____

Total amount required to be offset

Ugx _____
(amount in words)

Project completion time _____
(Append fully costed details of the project)

NOTE: certification is dependent on the provision of full details
and costing of the project.

Signature of applicant(s)

Date

FOR OFFICIAL USE

_____ (Proposal no. _____)

ENGINEERS REPORT:

SUPPORTED

☐

SUPPORTED WITH
AMENDMENTS

☐

NOT
SUPPORTED

☐

Reasons for choice above and comments _____

Suggested amendments appended (yes/no)

Name and designation _____

Signature.....

Date.....

LOCAL GOVERNMENT APPROVAL

Approved

☐

Conditional approval

☐

Not approved

☐

Comments _____

Name and designation _____

Signature.....

Date.....

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

OFFSET OF RATES

Under Section 27(3) of the Act and Regulation 15(4)

(Name of local government)

Project code _____

Names and address of the ratepayer(s) _____

Physical address of rateable property(ies) and amount to be offset

Total amount required to be offset

Ugx _____ (amount in words)

Project completion date _____

Local government approval _____

Name and designation _____

Signature _____ Date _____

THE REPUBLIC OF UGANDA
THE LOCAL GOVERNMENTS (RATING) ACT

NOTICE TO PROVIDE INFORMATION/PARTICULARS*
Under Section 13(5) of the Act

To: _____

(insert name of owner or occupier or tenant)

By virtue of section 13 (5) of the Act, YOU ARE REQUIRED to provide the following information in relation to the rateable property described as *(give physical address of rateable property)*. The information required is intended to enable me to make a correct valuation of the rateable property and must be provided to me within fourteen (14) days from the date of this notice.

INFORMATION/PARTICULARS REQUIRED

- (1) _____
(2) _____
(3) _____
(4) _____

IMPORTANT: It is an offence:

- (i) to neglect to provide the information or particulars as requested; or
(ii) to give false or misleading statements or particulars in respect to the rateable property

Dated at _____ this ____ day of _____ 20__

Signature of Valuer

* The valuer should retain proof of service of this Notice upon the owner, tenant or occupier.

THE LOCAL GOVERNMENTS (RATING) ACT

(Insert in Capital Letters the Name of the Rating Authority)

OFFICE OF CHIEF ADMINISTRATIVE
OFFICER/TOWN CLERK,
P.O. BOX _____, UGANDA.

NOTICE OF COMPLETION OF DRAFT VALUATION LIST
UNDER SECTIONS 11, 12 & 14

IN ACCORDANCE with the provisions of the Local Governments (Rating) Act, 2005, Notice is hereby given to the general public that:-

1. The draft valuation list for area _____ e.g. *(the entire rating area or relevant part of rating area)* has been completed.
2. A copy of the draft valuation list is available for inspection for a period of thirty (30) days from the ____ of _____ 20__.
3. A person may take a copy(ies) and extract(s) from the draft valuation list upon payment of the relevant fee.
4. Any person who is aggrieved by—
 - (i) the inclusion of any rateable property in the draft valuation list; or
 - (ii) by any value ascribed in the draft valuation list to a rateable property or;
 - (iii) by any other statement made or omitted to be made in the draft valuation list with respect to any rateable property; or
 - (iv) in the case of a building or portion of a building occupied in parts, by the valuation in the draft valuation list of that building or portion of a building as a single rateable property, may, within thirty (30) days of publication of this notice, serve notice of objection upon the local government to the draft valuation list in relation to the rateable property.

IMPORTANT: A person shall not be entitled to be heard by the valuation court unless he or she had lodged a notice of objection within the stipulated time.

Signed _____
(Town Clerk/Chief Administrative Officer)

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

NOTICE OF ALTERATION IN A VALUATION LIST

Under Section 25 of the Act

To: _____

} (*insert name and address of
rateable property owner and
physical address of rateable
property*)

Under section 25 of the Act, the local government is empowered to make alterations in the valuation list in respect of any rateable property.

This is to notify you that pursuant to the aforesaid provision, the following amendments are proposed to be made in the valuation list in respect to the rateable property described above:-

- (1) _____
 (2) _____
 (3) _____
- } (*specify proposed
amendments*)

Unless the local government receives objections from you within fourteen (14) days from the date of receipt of this notice, it shall proceed to effect the proposed amendments, which according to the provisions of the Act, shall become binding on you.

Dated at _____ this _____ day of _____ 20____.

Signed: _____
 TOWN CLERK/CHIEF ADMINISTRATIVE OFFICER
 (*insert name of the Local Government*)

*This Notice must be served whenever the local government intends to amendments to correct clerical and arithmetical errors other than errors in totals

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

DEMAND NOTICE

Under Section 29(1) of the Act

To: _____

*(insert name and address of rateable property owner)**(owner of _____ (physical address of the rateable property))*

We _____ *(specify the local government)* hereby demand the payment of the sum of Ug. Shs _____ being the rate that was payable by _____ of _____ 20__ to the local government in respect of the rateable property above described.

You are now directed to pay this sum together with interest at 2% from the _____ *(here insert date when rate became due)* within two months from the date of receipt of this notice.

IMPORTANT: If payment is not received within the prescribed time an application shall be made to the Magistrate to recover the rate.

Dated at _____ this _____ day of _____ 20__.

Signed: _____
CHIEF ADMINISTRATIVE OFFICER/TOWN CLERK
(insert name of the Local Government)

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT
(insert name of Local Government)

To: _____

(Insert details of occupier or tenant and physical address of
rateable property)

NOTICE OF DEMAND OF RATES FROM OCCUPIERS OR TENANTS
Under Section 31 of the Act

1. Under section 37 of the Act, the local government is empowered to collect rates from occupiers and tenants of properties in respect of which a rate is due.
2. A rate of Ug.shs _____ is owing in respect of the rateable property described above in which you are a tenant /or in occupation.
3. This is to demand that rental or other payments due from you to the owner be paid directly to the local government and a receipt for the payment be obtained.
4. If you pay this sum to the local government you will not be liable to the owner for rent or other payment to the owner to the extent of the amount paid by yourself to the local government. **If you refuse to pay to the local government as required of you by this demand notice you will be charged with an offence under the Act.**

Dated at _____ this _____ day of _____ 20____.

Signed: _____
CHIEF ADMINISTRATIVE OFFICER/TOWN CLERK
(insert name of the Local Government)

IMPORTANT: This notice is only effective if the payment obligation of the occupier or tenant to the owner is due.

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

(insert name of local government)

CERTIFICATE OF ARREARS*Under Section 33 of the Act*

This is to certify that the rate arrears for the rateable property

*(insert physical address of rateable property)*currently owned by

*(provide the owner's detail)*is Ug.shs

Dated at

 this

 day of

 20

.

(Signature of certifying officer)

NW DEVELOPMENT CENTRE
REFERENCE LIBRARY

FORM RF16
Section 35

THE REPUBLIC OF UGANDA

THE LOCAL GOVERNMENTS (RATING) ACT

NOTIFICATION OF TRANSFER OF RATABLE PROPERTY
Under Section 35 of the Act

To: The Town Clerk/
Chief Administrative Officer
(insert name of local government)

NOTICE OF TRANSFER

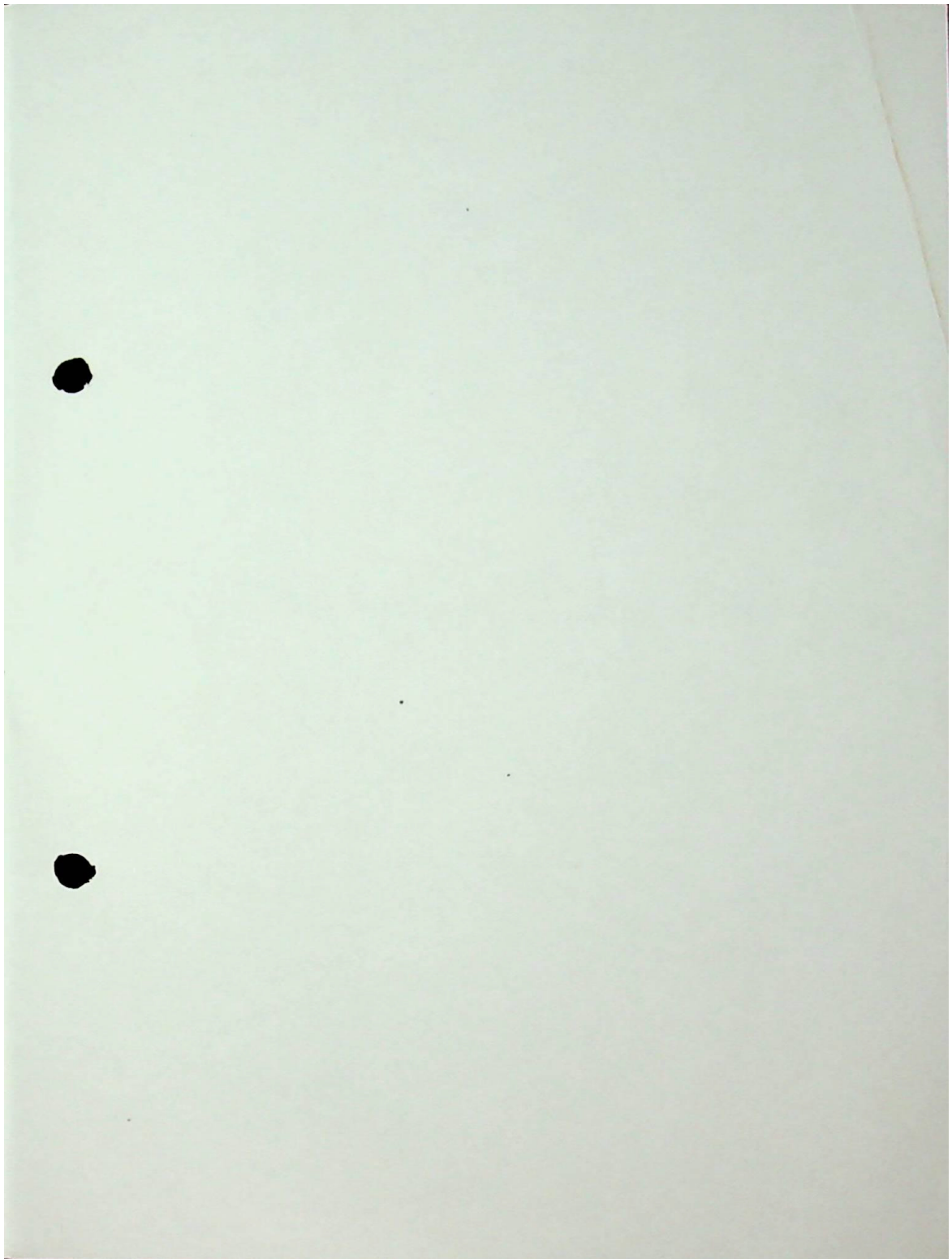
I/We _____ *(insert name of owner(s))* being the owner(s) of rateable property known as _____ *(insert physical address of the rateable property)* in respect of which a rate of Ug.shs _____ is owing, do hereby notify you that I/We intend to transfer the rateable property to _____ *(insert name of intending buyer)* who has agreed to pay the pending rate.

Signed: _____
(Signature of owner intending to sell)

Dated _____

c.c. Copy to intending buyer

MAJ GEN. K. OTAFIIRE,
Minister of Local Government.



STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 47 Volume XCVIX dated 4th August, 2006

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S T A T U T O R Y I N S T R U M E N T S

2006 No. 39.

**THE LOCAL GOVERNMENTS (PUBLIC PROCUREMENT
AND DISPOSAL OF PUBLIC ASSETS) REGULATIONS, 2006**

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STATUTORY INSTRUMENTS

2006 No. 39.

The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006

(Made under section 175 of the Local Governments Act, Cap 243)

IN EXERCISE of the powers conferred upon the Minister responsible for local governments by section 175 of the Local Governments Act, these Regulations are made this 20th day of June, 2006.

PART I—PRELIMINARY

1. These Regulations may be cited as the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006. Title.

2. (1) These Regulations shall guide and regulate Local Government Councils, Administrative Units and other entities using public funds in functions and operations relating to procurement of goods, services, works and disposal of public assets under the Local Governments Act, as read with the Public Procurement and Disposal of Public Assets Act, 2003. Application of regulations.

(2) Where there is a conflict between these Regulations and any regulations, guidelines or circulars, relating to procurement and disposal for local governments, and in existence before these Regulations, these Regulations shall prevail.

(3) Where these Regulations conflict with an obligation of the Republic of Uganda arising out of an agreement with one or more states, or with an international organisation, the provisions of the agreement shall prevail over these Regulations.

3. In these Regulations, unless the context otherwise requires— Inter-pretation.

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“accounting officer” means an accounting officer of a procuring and disposing entity;

“Authority” means the Public Procurement and Disposal of Public Assets Authority established by section 5 of the Act;

“bid” means an offer and the terms and conditions to provide or acquire goods, services or works or a combination of them based on a statement of requirements and specifications given by the bidder to a procuring and disposing entity in response to a specific request and includes pre-qualification where applicable;

“bidder” means a person who has submitted a bid or is in the process of putting one together;

“bid documents” means the written compilation of a statement of requirements, specifications, conditions of contract to be used; instructions to be followed and forms to be filled to obtain a bid by a procuring and disposing entity;

“bid request” means an invitation by a procuring and disposing Entity for an offer to provide goods, services and works in accordance with bid documents;

“bid security” means a guarantee by an approved financial institution that when a bidder is offered a contract and the bidder declines to take the offer, the financial institution as a guarantor shall compensate a procuring and disposing entity of the value specified in bid documents without recourse to any other procedure;

“community” means a group of at least three people with at least a chairperson, a treasurer, and a secretary with common objectives and identity;

“competent authority” means a government office, which has the mandate to perform a specified function;

“consultancy services” means a service of an intellectual or advisory nature, provided by a practitioner who is skilled and qualified in a particular field or profession and includes, but is not limited to, engineering design or supervision, accountancy, auditing, financial services, procurement services, training and capacity building services, management advice, policy studies and advice and assistance with institutional reforms;

“consultant” means a person or a firm contracted by the procuring and disposing entity to carry out consultancy service;

“contract management” means the management of contract including, but not limited to, performance and compliance with the terms and conditions of the awarded contract by the provider and the procuring and disposing entity;

“contracts committee” means a contracts committee, established under sections 91 or 94A of the Local Governments Act;

“Council” means a district, city or municipal council as defined by the Local Governments Act;

“council asset” means any assets owned by the council, tangible or intangible, including but not limited to physical property, land, shares or proprietary rights;

“currency point” has the same meaning as specified in the Sixth Schedule to the Local Governments Act;

“corrupt practice” includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;

“deadline” means the time or day by which something must be done;

“effective date” means the date on which the contract comes into force;

“foreign provider” means a provider whose business is not registered in Uganda;

“framework contract” means a contractual arrangement which allows the procuring and disposing entity to procure works, services or supplies that are needed continuously or repeatedly at an agreed price over a period of time, through the placement of a number of orders;

“fraudulent practice” means misrepresentation of facts in order to influence a procurement or disposal process or the execution of a contract to the detriment of a procuring and disposing entity; and includes collusive practices among bidders prior to or after a bid submission designed to establish bid prices at artificial non competitive levels and to deprive the procuring and disposing entity of the benefits of free and open competition;

“goods” includes commodities, materials, machinery, equipment and industrial plant which the supplier is required to supply to the procuring and disposing entity under a contract;

“guidelines” means directives issued by the Authority under section 97 of the Act in consultation with the Minister;

“methodology” means the system of methods and principles used in a particular discipline;

“micro procurement” means small procurements within the threshold defined in the guidelines;

“Minister” means Minister responsible for local governments;

“national provider” means a provider registered in Uganda and wholly owned and controlled by Ugandans;

“non-consultancy services” means a service of a skilled or non-skilled nature, which is not a consultancy service, and includes, but is not limited to, cleaning, security, maintenance and repair services;

“pre-qualification” means a screening process designed to ensure that invitations to bid are confined to capable providers;

“procuring and disposing entity” means a district, city or municipal council as defined by the Local Governments Act;

“procurement” means acquisition by purchase, rental, lease, higher purchase, licence, tenancy, franchise or any other contractual means, of any type of works, services or supplies or any combination;

“provider” means a natural person or an incorporated body including a consultant, contractor or supplier licensed by a competent authority to undertake business activities;

“public officer” means any officer employed in the public service; and includes an officer employed in a statutory body, a department of the central government, local government and any other body established by government to carry out public functions;

“record” means any document relating to any stage of a procurement or disposal process and shall be the original document, unless otherwise stated in writing by the Authority or Minister;

“registered provider” means firm or person who have been short listed through a screening process and is kept in records which are updated regularly to be called upon as and when the need arises to bid either through competition with other short listed firms or directly or for micro-procurement sourcing;

“registration” means an annual pre bid process where bidders for works, services and services of a routine nature are short listed;

“resident bidder” means a bidder registered in Uganda who is not a national bidder;

“services” means any object of procurement or disposal other than works and supplies, that is intangible and includes professional, non professional and commercial types of services as well as supplies and works which are incidental to, but not exceeding the value of those services;

“specification” means the description of an object of procurement in accordance with national and international standards, adopted and approved by the Authority after consultation with the National Bureau of Standards or other appropriate trade associations and professions, which shall be mandatory in all bidding documents;

“statement of requirements” means a document that contains a full and complete description of the requirements that are the subject of the procurement;

“supplies” means goods, raw materials, products, equipment or objects of any kind and description in solid, liquid or gaseous form, or in the form of electricity, or intellectual and proprietary rights as well as works or services incidental to the provision of those supplies where the value of the works or services does not exceed the value of the supplies;

“the contract” means the agreement entered into between the procuring and disposing entity and the supplier, bidder, or consultant signed by the parties, including all attachments and appendices to it and all documents incorporated by reference in it;

“the contract price” means the price payable to the provider of supplies, works, and services under the contract for the full and proper performance of its contractual obligations;

“third party procurement and disposal provider” means a provider pre-qualified by the Authority and contracted independently by a procuring and disposing entity on a competitive basis to offer procurement related services to the procuring and disposing entity;

“threshold” means the financial limit or ceiling;

“trade-in” means the exchange of a council asset to off-set the purchase price of another asset for the council;

“user department” means any department, division, branch or section of the procuring and disposing entity, including any project unit or community groups working under the authority of the procuring and disposing entity, which initiates procurement and disposal requirements and is the user of the requirements; and includes lower local governments and any other body as may be prescribed in regulations made by the Minister;

“works” means any work associated with the construction, reconstruction, demolition, repair, or renovation of a building or structure, on the surface or underground, on and underwater, and includes the preparation, excavation, erection, assembly, installation, testing and commissioning of any plant, equipment or materials, decoration and finishing, turnkey projects, build own and operate projects, build operate and transfer projects or any arrangement of this nature, or any other form of private and public partnerships or joint development activities, all or any of which may include management, maintenance, testing, commissioning and training; as well as supplies or services incidental to those works where the value of the incidental supplies or services does not exceed the value of the works.

4. (1) Any dispute under these Regulations relating to the application of these Regulations shall be submitted in writing to the Authority by the accounting officer of the procuring and disposing entity within twenty one working days from the date on which the council became aware of the circumstances giving rise to the dispute.

Procedure
on disputes
as to
application.

(2) A submission in sub regulation (1) shall include—

- (a) the full details of the procuring and disposing entity;
- (b) full details of the source of funding, amount of funding, and any legislation, document or other agreement applicable to the funding;
- (c) any other relevant information

(3) The Authority shall make its decision in writing within twenty-one working days from receipt of the dispute.

(4) The decision shall indicate—

- (a) whether or not these Regulations apply to the procurement and disposal activities of which the procuring and disposing entity has complained about, giving reasons;
- (b) if these Regulations apply to only a part of the procurement and disposal activities of the procuring and disposing entity, the part to which they apply, including a clear definition of the funding, activity or expenditure, which is subject to these Regulations.

PART II—THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

5. (1) In the exercise of its functions and powers under the Act the Authority shall undertake compliance monitoring, build procurement and disposal capacity, undertake procurement audits, inspections and investigations of a procuring and disposing entity's procurement and disposal functions and shall—

Exercise of
Authority's
functions.

- (a) analyse procurement and disposal performance data and reports from a procuring and disposing entity;
- (b) analyse information and data received from providers;
- (c) consider all deviations requested by a procuring and disposing entity to the use of—
 - (i) the basic procurement or disposal rules or methods by the issue of deviations in accordance with these Regulations;
 - (ii) the bid documents in accordance with these Regulations; and
 - (iii) any provisions of these Regulations;

prior to their use or issue;

- (d) consider all requests for accreditation of an alternative procurement or disposal system;
- (e) set training standards, competence levels certification requirements, and professional development paths in consultation with competent authorities;
- (f) inspect and audit the procurement processes and issue an inspection or audit report to which the procuring and disposing entity shall respond within twenty one working days;
- (g) investigate the following—
 - (i) the conduct or performance of bidders;
 - (ii) the conduct or performance of procuring and disposing entities and their subsidiary bodies;

- (iii) compliance with the use of guidelines, bid documents and specifications issued by the Authority;
- (iv) any breach, wrong doing, mismanagement or collusion that has been alleged, reported or proven against a procuring and disposing entity or a bidder.

(2) Upon completion of a compliance check, inspection, audit or an investigation, the Authority shall produce a final report detailing its findings and recommendations, if any to the competent authority.

(3) The recommendations of the Authority referred to in sub-regulation (2) may include one or more of the following—

- (a) suspension of the officer concerned with the procurement or disposal process in question;
- (b) replacement of the head or member of a procurement and disposal unit;
- (c) replacement of the chairperson or selected member of the contracts committee;
- (d) disciplining of the accounting officer;
- (e) transferring the procurement and disposal function of a procuring and disposing entity to a third party procurement provider; or
- (f) withholding the funds of a procuring and disposing entity which continuously contravenes the Act, these Regulations or the guidelines made under the Act.

(4) The competent authority shall respond in writing to the Authority's report within twenty one working days from the date of receipt of the report of the Authority, indicating the action that will be taken or any disagreement with the report or both.

Issue of document-
ation.

6. In consultation with the Minister, the Authority shall prepare, update and issue authorized versions of standardized bid documents, procedural forms and any other attendant documents to procuring and disposing entities.

Central data manage-
ment.

7. (1) A procuring and disposing entity shall submit to the Authority quarterly procurement and disposal reports and performance data.

(2) The Authority shall analyse the data, make conclusions and recommendations to the appropriate organs for improvement of the procurement and disposal functions and operations; and shall also make the information and reports available to the public upon request.

Capacity building

8. The Authority shall, in collaboration with the Ministry responsible for local governments, build procurement and disposal capacity with a view to promoting institutional and human resource development, professionalism and best practices.

Cooperation with other competent authorities.

9. (1) The Authority shall cooperate and work closely with any other authority responsible for investigation and for that purpose, may establish a mechanism for sharing information and methodologies with other authorities.

(2) The competent authorities include but are not limited to—

- (a) the Minister;
- (b) the Ministry responsible for finance;
- (c) any relevant line Ministry;

- (d) the Inspectorate of Government;
- (e) the Auditor General;
- (f) the Police; and
- (g) any procuring and disposing entity;

10. (1) Where a competent authority disagrees with the findings or the recommendations of the Authority, the competent authority shall state—

Disagree-
ment with
the other
competent
authorities

- (a) the findings or recommendations of the report with which it disagrees;
- (b) the reasons for the disagreement; and
- (c) any alternative recommendations or measures proposed.

(2) Upon receipt of a response stating a disagreement, the Authority shall, within a period of twenty-one working days, call a meeting with the competent authority seeking to resolve the disagreement.

PART III—MINISTRY RESPONSIBLE FOR LOCAL GOVERNMENTS

11. (1) The Ministry responsible for local governments shall be responsible for the coordination and advocacy of the procurement functions of local governments with a view to ensuring the harmonisation and implementation of national standards.

Coordination,
advocacy
and support
supervision
of
procurement
functions.

(2) The Ministry responsible for local governments shall, in the course of execution of its co-ordination and support supervision functions, inform the Authority of any failure of a local government to comply with these Regulations.

12. (1) The Authority shall, in consultation with the Ministry responsible for local governments, issue guidelines, manuals and other standard documentation for the effective implementation of these Regulations.

Guidelines,
manuals and
other
standard
document-
ation.

(2) Without prejudice to the general effect of subregulation (1), guidelines may—

- (a) require the use of forms prescribed under the Act or under regulations made under the Act for the purposes of any process or matter in respect of which forms are not prescribed under these Regulations;
- (b) where appropriate, require the use of any practices or procedure prescribed under regulations made under the Act in respect of any process or matter under these Regulations;
- (c) require the adoption with or without modifications of any regulations made under the Act where the Authority is satisfied that the provisions of these Regulations are inadequate in relation to any matter.

PART IV—LOCAL GOVERNMENTS PROCUREMENT AND DISPOSAL ORGANS

Independence of functions and powers.

13. (1) Subject to the provisions of the Act or these Regulations, the accounting officer, the contracts committee, the procurement and disposal unit, the user department and the evaluation committee of a procuring and disposing entity shall each act independently in relation to their respective functions and powers.

(2) An accounting officer or organ of a procurement and disposal entity referred in subregulation (1) shall not seek to influence the decisions or activities of the others, except as permitted under the Act or these Regulations.

(3) Every accounting officer or organ of a procurement and disposal entity referred to in sub-regulation (1) shall ensure that its duty is properly and professionally performed in accordance with the legal requirements and in order to guarantee independence of action with the objective of eliminating corrupt or fraudulent practices.

(4) Where there is a disagreement between the procurement and disposal organs of the procuring and disposing entity, the disagreement shall be resolved in accordance with the procedure provided for under the Act.

14. An accounting officer shall have the overall responsibility for the successful execution of the procurement, disposal and contract management processes in the procuring and disposing entity and be responsible for—

Exercise of functions of accounting officer.

- (a) establishing a contracts committee in accordance with the Local Governments Act and subject to the provisions of these Regulations;
- (b) causing to be established a procurement and disposal unit staffed at an appropriate level;
- (c) advertising bid opportunities;
- (d) communicating decisions on awards;
- (e) certifying the availability of funds to support the procurement or disposal activities;
- (f) signing contracts for procurement or disposal activities on behalf of the procuring and disposing entity;
- (g) investigating complaints by providers;
- (h) submitting a copy of any complaint and report of the findings to the Authority; and
- (i) ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the award;
- (j) certifying the availability of funds prior to the commencement of any procurement activities;
- (k) implementing the recommendations of the Authority;

- (l) submitting all reports as required under the Act, these Regulations and as may be required by the Authority;
- (m) submitting applications to the Authority, for any deviations from the procedures in the Act;
- (n) submitting to the Authority a list of providers who have failed to perform their contractual obligations; and
- (o) any other thing prescribed by these Regulations.

Composition
and tenure
of contracts
committee.

15. (1) The contracts committee shall consist of five members nominated by the chief administrative officer in the case of a district contracts committee or the town clerk in the case of a municipal contracts committee from among the public officers of the procuring and disposing entity and approved by the Secretary to the Treasury.

(2) The contracts committee shall seek the services of the district legal advisor in the execution of its work.

(3) In assessing a candidate for suitability for appointment to a contracts committee, the chief administrative officer or the town clerk as the case may be shall seek to establish a balance of skills and experience among members to ensure that the contracts committee—

- (a) consists of persons of proven track record of sound judgment;
- (b) has an appropriate level of seniority and experience in decision-making;
- (c) includes persons with experience in at least one recognised professional discipline;

(d) does not have more than two members from one department;

(e) includes experience in the procuring and disposing entity; and

(f) includes experience in public procurement and disposal.

(4) The tenure of the members of the contracts committee shall be three years and a member may be re-appointed for only one further term.

(5) When reappointing members to a contracts committee, the accounting officer shall consider the need for both continuity and rotation of personnel in the membership of the contracts committee.

(6) The accounting officer may appoint a temporary member of the contracts committee, with the prior approval of the Secretary to the Treasury, to replace a permanent member who may be absent for a prolonged period.

(7) The head of the procurement and disposal unit of the procuring and disposing entity, shall be the secretary to the contracts committee.

(8) The letter of appointment to be issued to a member of the contracts committee shall be in the form specified in Part A of the First Schedule to these Regulations.

(9) All members of a contracts committee shall, on appointment, sign the Code of Ethical Conduct for Public Officers specified in Part B of the First Schedule to these Regulations.

16. (1) The chief administrative officer or the town clerk as the case may be may at any time terminate the appointment of a member of the contracts committee—

Termination of officer or removal of a member of contracts committee.

- (a) for abuse of office;
- (b) for corruption;
- (c) for incompetence;
- (d) for physical or mental incapacity which renders the member incapable of performing his or her duties;
- (e) for failure to attend three consecutive scheduled meetings without reasonable grounds;
- (f) for conviction of an offence involving moral turpitude;
- (g) adjudged or declared bankrupt under any law in force in Uganda; or
- (h) on any other reasonable ground.

(2) The accounting officer may remove and substitute any member of the contracts committee, prior to the expiry of his or her term of office where it is necessary, and in particular where—

- (a) the structure or status of the procuring entity has changed; or
- (b) the post of an incumbent contracts committee member has changed.

(3) Termination of appointment or removal of a member of a contracts committee shall be subject to the prior approval of the Secretary to the Treasury.

Functions of
contracts
committee.

17. (1) A contracts committee shall be responsible for—

- (a) adjudication of recommendations from the procurement and disposal unit and award of contracts;

- (b) approving the evaluation committee;
- (c) approving bidding and contract documents;
- (d) approving procurement and disposal procedures;
- (e) ensuring that best practices in relation to procurement and disposal are strictly adhered to by procuring and disposal entities;
- (f) ensuring compliance with the Act; and
- (g) liaising directly with the Authority on matters within its jurisdiction.

(2) A contracts committee shall for the purposes of subregulation (1)—

(a) authorize—

- (i) the choice of a procurement and disposal procedure;
 - (ii) solicitation documents before issue;
 - (iii) technical, financial or combined evaluation reports;
 - (iv) contract documentation in line with the authorized evaluation reports; and
 - (v) any amendment to an awarded contract;
- (b) recommend for the delegation of a procurement or disposal function by the accounting officer whenever the necessity arises; and
- (c) award contracts in accordance with applicable procurement or disposal procedures as the case may be.

(3) In addition, in the performance of its functions under this regulation a contracts committee shall—

- (a) approve any amendments to bids before issuing them to bidders;
- (b) nominate contracts committee members to attend and witness pre-bidding meetings and bid openings and closings;
- (c) approve negotiation teams;
- (d) approve evaluation reports for bidders;
- (e) receive and consider micro procurement reports;
- (f) approve amendments of contract documents; and
- (g) ensure compliance with these Regulations.

Proceedings
of the
contracts
committee.

18. (1) The quorum at any meeting of the contracts committee is three including the chairperson.

(2) At every meeting of the contracts committee all members of the contracts committee present and the secretary shall sign the record of attendance of contracts committee meeting in the form specified in the Second Schedule to these Regulations.

(3) A contracts committee shall consider each submission made and, based on the information contained in the forms and the supporting documents submitted, approve or reject the submission made.

(4) Decisions of a contracts committee shall be by consensus, and where consensus cannot be reached, decisions shall be made by simple majority of the members present.

(5) The Secretary to the contracts committee has no right to vote on any question at a meeting of the contracts committee.

(6) The chairperson of a contracts committee does not have a second or casting vote.

(7) Where there is an equality of votes at a meeting of the contracts committee on any submission the submission shall be taken to be rejected.

(8) Notwithstanding the recommendations of the procurement and disposal unit, a contracts committee shall take an independent decision based on the Act, these Regulations, the guidelines and best practices, and shall act in good faith.

(9) A contracts committee shall give in writing the reasons for rejecting a submission.

(10) A contracts committee may co-opt an adviser to assist it in the discharge of its functions.

(11) An advisor shall not take part in the decisions of the contracts committee and shall only attend the part of a meeting which considers the matter on which the advice is required.

(12) A contracts committee may require any member of a user department, an evaluation committee or a negotiation team to attend a contracts committee meeting as an adviser to offer clarifications on a submission.

(13) The adviser shall sign the record of meetings specified in the Second Schedule to these Regulations but shall not be permitted to vote at the contracts committee meeting.

19. (1) The chairperson of a contracts committee shall preside over the meetings of the committee.

(2) In the case of a district where the chairperson of a contracts committee is unable to attend a meeting, he or she shall notify the chief administrative officer and the chief administrative officer may designate from among the remaining members of the contracts committee a person to

Responsi-
bilities of
the
chairperson
of the
contracts
committee.

preside at the meeting.

(3) In the case of a municipal contracts committee in the absence of the chairperson at any meeting the members present shall elect a person from among their number to preside over the meeting.

(4) The chairperson shall be responsible for—

(a) guiding the secretary in drawing up the agenda for any meeting;

(b) ensuring that the performance of the contracts committee is in accordance with the legal requirements, the code of conduct and the standards established by the Authority;

(c) ensuring that the Authority or the relevant line ministry is consulted if required, especially in international bids, large scale contracts, or expensive projects of a highly specialised nature;

(d) ensuring that minutes of meetings of the contracts committee are signed by all members of the committee and the secretary and delivered under confidential cover to each member of the committee, and the accounting officer;

(e) ensuring that quarterly summary reports of all bids awarded are published and submitted to the Authority, the ministry responsible of local governments and copies distributed to all relevant local councils in the district.

(5) The chairperson shall ensure that order is maintained at all meetings and that the record of meetings in the form specified in the Second Schedule is signed by all

members and any other persons attending the meetings.

20. (1) The members present at a meeting of a contracts committee and all persons attending the meeting shall—

Conduct of members of contracts committee, councillors etc in relation to bidding.

(a) sign the record of meetings in the form specified in the Second Schedule to these Regulations;

(b) declare any pecuniary or personal interest which may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter requiring the consideration and decision by the contracts committee and shall leave the meeting while the matter is considered and shall not participate in the deliberations or decision-making process of the contracts committee in relation to the item or the matter in which he or she has an interest.

(2) Councillors, employees of a council, members of the contracts committee and other statutory bodies of a council are prohibited from being bidders or providers to the council either directly or indirectly.

21. (1) A contracts committee shall act only on the request of a user department approved by the accounting officer of the council and the council shall decide what to be procured, where the procurement is within the approved budget of that council.

Relationship between contracts committees and council.

(2) Procurement of goods, services or works shall be approved by the procuring and disposing entity at the time of approval of the budget.

(3) Records of all details of proceedings of the contracts committee including particulars of bids examined and decisions reached and copies of minutes shall be sent, under confidential cover to each member of the contracts

committee, the accounting officer, the chief finance officer, head of internal audit, user department, council's standing committee responsible for finance, Auditor General, Inspector General of Government, the ministry responsible for local governments and the Authority

(4) The standing committee of the council responsible for finance shall review all the minutes of the contracts committee and the awards made on a quarterly basis to ensure that care is exercised by the contracts committee to safeguard the interests of the council.

Remuner-
ation and
facilitation
of the
contracts
committee.

22. (1) The chairperson and members of a contracts committee shall be paid such remuneration and at such rates as the Minister may in consultation with the Minister responsible for public service determine.

(2) The relevant procuring and disposing entity shall provide all the facilities that are essential for the contracts committee meetings to take place.

Establish-
ment of the
procurement
and disposal
unit.

23. (1) Every procuring and disposing entity that is required to have a contracts committee shall establish a procurement and disposal unit staffed at an appropriate level to be determined by the expected—

- (a) number of procurement and disposal requirements;
- (b) value of procurement and disposal requirements;
- (c) complexity of procurement or disposal requirements; and
- (d) range of different procurement and disposal methods to be used.

(2) The accounting officer shall inform the Authority of the membership of the procurement and disposal unit and the qualifications of its staff within twenty one working days

from its establishment or from any change in staff.

(3) A member of a procurement and disposal unit shall, upon his or her appointment, sign the Code of Ethical Conduct for Public Officers in the form specified in Part B of the First Schedule to these Regulations.

24. The procurement and disposal unit shall be headed by a procurement officer appointed on full time basis who shall be the secretary of the contracts committee and shall be responsible for—

Head of the procurement and disposal unit to be secretary of contracts committee.

- (a) assisting the chairperson in convening meetings and preparing the agenda;
- (b) organising and providing the necessary facilities for meetings of the contracts committee;
- (c) ensuring that the agenda, submissions and any other documentation are distributed to members of the contracts committee within a reasonable time before any meeting;
- (d) recording the minutes of the meetings;
- (e) keeping all records of the contracts committee, including, but not limited to agendas, submissions and minutes;
- (f) promptly notifying the relevant officials, and in particular the procurement and disposal unit, of the decisions of the contracts committee;
- (g) co-ordinating all activities of the contracts committee, including correspondence with the Authority and other bodies;
- (h) preparing reports of the contracts committee; and
- (i) monitoring the term of membership of contracts committee members and notifying the accounting officer at least two months prior to

the expiry of the term of membership.

25. (1) The procurement and disposal unit shall in relation to the functions under the Local Governments Act—

- (a) manage all procurement or disposal activities of the procuring and disposing entity except adjudication and the award of contracts;
- (b) support the functioning of the contracts committee;
- (c) implement the decision of the contracts committee;
- (d) liaise directly with the Authority on matters within its jurisdiction;
- (e) plan the procurement and disposal activities of the procuring and disposing entity;
- (f) recommend procurement and disposal procedures;
- (g) check and prepare statements of requirements;
- (h) prepare bid documents;
- (i) prepare advertisements of bid opportunities;
- (j) issue bidding documents;
- (k) maintain a providers list;
- (l) prepare contract documents;
- (m) issue approved contract documents;
- (n) maintain and archive records of the procurement and disposal process;
- (o) prepare monthly reports for the contracts committee;
- (p) co-ordinate the procurement and disposal activities of all the departments of the

procuring and disposing entity;

(q) prepare any other such reports as may be required from time to time.

(2) A procurement and disposal unit shall have for the purposes of subregulation (1) the powers to—

(a) recommend the composition of evaluation committees for the approval of the contracts committee;

(b) contract independent advice as may be necessary in the discharge of its functions;

(c) ensure compliance with the Act, regulations and guidelines made under the Act, and best practices;

(d) manage bid proposals and pre-qualification submissions and make recommendations on them to the contracts committee;

(e) provide bid clarifications; and

(f) receive bids.

(3) The procurement and disposal unit shall in addition in relation to its procurement and disposal functions—

(a) advise user departments on individual procurement and disposal methods and practices;

(b) ensure that submissions are made to a contracts committee on time and in the correct manner and to request additional meetings when

- required;
- (c) manage pre-bid closings and tender openings;
- (d) manage bid closings and bid openings;
- (e) manage the evaluation process;
- (f) monitor contract management by user departments and ensure implementation of contracts in accordance with the terms and conditions of the awarded contract;
- (g) report any significant departures from the term and conditions of an awarded contract to the chief administrative officer and contracts committee;
- (h) issue bid documents and any amendments;
- (i) make recommendations for award of contract to a contracts committee; and
- (j) require reports from user departments relating to contract management.

Role of user
departments.

26. (1) Every user department shall—

- (a) prepare an annual and quarterly procurement and disposal work plan based on the approved budget, which shall be submitted to the procurement and disposal unit for implementation and may seek technical assistance, where necessary.
- (b) initiate procurement and disposal requirements;
- (c) recommend a statement of requirements to the

procurement and disposal unit;

(2) For each procurement or disposal requirement, the heads of user department shall liaise with the procurement and disposal unit on all matters relating to that procurement or disposal requirement.

(3) A user department shall be responsible for contract management, once a contract is signed.

(4) The user department shall inform the procurement and disposal unit of the name of the official responsible for managing each contract.

(5) A user department may be represented on the evaluation committee when the evaluation committee is considering the request of the user department.

(6) A procurement and disposal unit shall monitor contract management and prepare contract amendments that may be required.

(7) The user department shall report any departure from the terms and conditions of the contract to the accounting officer with a copy to the procurement and disposal unit.

Evaluation
committee.

27. (1) There shall be an evaluation committee for each bid consisting of technical officers and persons recommended by the procurement and disposal unit and approved by the contracts committee.

(2) The number of members of the evaluation committee shall depend on the value and complexity of the procurement requirement, but shall in all cases be a minimum of three.

(3) The members shall be of an appropriate level of seniority and experience, depending on the value and complexity of the procurement and disposal requirement.

(4) A member of the user department in a lower local government or community shall be present on the evaluation committee, when bids concerning the community or lower

local government are being evaluated.

(5) A member of a procurement and disposal unit or a user department may be a member of an evaluation committee, where he or she has appropriate skills or experience.

(6) The evaluation committee shall include members with the relevant type of skills and experience and the skills required shall be determined by the nature of the procurement requirement, but may include—

(a) end-user representatives;

(b) procurement and contracting skills;

(c) financial management skills; or

(d) technical skills relevant to the subject of the procurement.

(7) The accounting officer of a council and the members of the contracts committee shall not be qualified to be members of an evaluation committee.

(8) The evaluation committee shall undertake the assessment of bids submitted, rank them and submit an evaluation report and assessment scores to the procurement and disposal unit for submission to the contracts committee.

(9) All members of an evaluation committee shall on appointment sign the Code of Ethical Conduct For Public Officers in the form specified in Part B of the First Schedule to these Regulations.

(10) At all meetings of the evaluation committee all members of the committee and all persons present at a meeting of the evaluation committee shall sign the record of meetings in the form specified in Second Schedule to these

Regulations.

28. The head of the internal audit department of a procuring and disposing entity, in accordance with the Local Governments Act shall audit procurement and disposal procedures and payments to ensure that all goods, services and works are properly ordered, received, examined and paid for in accordance with these Regulations and the Local Governments (Financial and Accounting) Regulations.

Role of
internal
audit
department.

29. (1) With the exception of the delegation of his or her own functions, an accounting officer may only delegate a procurement or disposal function to a user department upon a written recommendation by a contracts committee, signed by the chairperson of the contracts committee.

Procedure
for
delegation
of
functions.

(2) A procurement and disposal unit may submit a recommendation to delegate a function to the contracts committee in writing, stating the reasons for the recommendation.

(3) A recommendation to delegate a function shall be considered by the contracts committee in the same manner as any other contracts committee decision.

(4) A recommendation to delegate a function shall state—

- (a) the body or individual to whom the delegation is recommended;
- (b) the functions to be delegated;
- (c) any value limitations on the delegation;
- (d) any other limitations or exceptions to the delegation;
- (e) the proposed reporting mechanisms to monitor the delegation;

- (f) the commencement date of the delegation; and
- (g) the duration of the delegation, which may be for a specified period of time or indefinite.

(5) Where the accounting officer approves a recommendation for delegation without modifications, he or she shall forward the decision to the authorised body to whom the functions are delegated and send a copy of the approved delegation to the contracts committee.

(6) Where the accounting officer approves a recommendation for delegation with modifications, he or she shall discuss the modifications with the contracts committee before issuing his or her decision.

(7) Where the accounting officer rejects a recommendation to delegate functions, he or she shall forward the decision to the contracts committee, stating the reasons for the rejection.

Procedure
for revoking
delegation
of
functions.

30. (1) A delegation of functions may be revoked at any time by the accounting officer—

- (a) at his or her own initiative; or
- (b) following a written recommendation by the contracts committee.

(2) A procurement and disposal unit may submit a recommendation to revoke a delegation to the contracts committee, stating the reasons for the recommendation.

(3) A delegation of functions may be revoked—

- (a) where the circumstances necessitating the delegation have changed;

- (b) where a malpractice is alleged, proved or suspected;
- (c) where the holder of the delegated functions is not complying with the Act, these Regulations, the guidelines, reporting requirements or any conditions of the delegation; or
- (d) for any other justified reason.

(4) Where an accounting officer revokes a delegation of functions at his or her own initiative, he or she shall inform the contracts committee in writing, stating the reasons for the revocation.

(5) A delegation of functions shall be revoked by written instructions to the holder of a delegated function and shall have immediate effect unless otherwise stated.

Third party
procurement
and
disposal.

31. (1) Where a procuring and disposing entity is satisfied that there is lack of technical capacity regarding any procurement and disposal services the procuring and disposing entity may, subject to guidelines and with the prior approval of the Authority, engage third party procurement and disposal services.

(2) A procuring and disposing entity may contract out any of the following procurement and disposal functions of a procurement and disposal unit to a third party procurement or disposal provider—

- (a) advising a user department on an individual procurement and disposal method or practice;
- (b) recommending appropriate procurement and disposal methods;
- (c) preparing—
 - (i) a statement of requirements;

- (ii) bid documents and any clarifications or amendments;
- (iii) contract documents; or
- (iv) contract amendments;

- (d) receiving bids;
- (e) coordinating bid openings; or
- (f) managing the bid evaluation process.

(3) A procuring and disposing entity may contract out any of the following contract management functions of a user department to a third party procurement or disposal provider—

- (a) administering and managing contracts;
- (b) reporting to the procurement and disposal unit any departure from the terms and conditions of an awarded contract;
- (c) preparing change orders in accordance with the terms and conditions of the contract; or
- (d) certifying invoices for payments to providers.

(4) A procuring and disposing entity shall not contract both the procurement or disposal functions and the contract management functions to the same third party procurement and disposal provider.

(5) The functions of the accounting officer and the contracts committee shall not be contracted out to a third party procurement or disposal provider.

(6) Where a procuring and disposing entity contracts a third party procurement provider, it shall select the provider from among providers pre-qualified by the Authority.

(7) The procurement process for contracting the third party procurement provider shall be in accordance with these Regulations and the guidelines.

(8) Notwithstanding subregulation (6), where a provider pre-qualified by the Authority is not competent to provide services for a particular specialised procurement requirement, a procuring and disposing entity may identify a competent third party procurement provider and apply to the Authority to pre-qualify that provider.

PART V—PROCUREMENT PRACTICES

Procurement
practices
and
methods

32. A procuring and disposing entity shall use any of the following procurement practices and methods—

- (a) pre-qualification;
- (b) registration;
- (c) open national bidding;
- (d) open international bidding;
- (e) selective national bidding;
- (f) selective international bidding;
- (g) direct procurement;
- (h) micro-procurement; or
- (i) community purchase.

Choice of
procurement
method.

33. (1) The choice of a procurement method shall be in accordance with these Regulations and guidelines, and shall be on the basis of—

- (a) the estimated value of the requirement; or
- (b) the circumstances pertaining to the requirement.

(2) The estimated value of the requirement shall be the main criterion for determining the choice of procurement method.

(3) The choice of procurement method shall be in accordance with the thresholds issued by the Authority in guidelines.

Pre-
qualification

(4) The circumstances pertaining to the requirement to be procured may be used as additional criteria in determining the choice of procurement method.

34. (1) Pre-qualification may be used under open national bidding or open international bidding to obtain a shortlist of bidders and to ensure that invitations to bid are confined to capable providers only.

(2) Pre-qualification may be used where—

(a) the works, services or supplies are highly complex, specialised or require detailed design or methodology;

(b) the costs of preparing a detailed bid would discourage competition; or

(c) the evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources from a procuring and disposing entity.

(3) Pre-qualification shall be open to all providers using public advertisement of a pre-qualification notice, which shall invite potential bidders to—

(a) obtain the pre-qualification documents from a procuring and disposing entity; or

(b) submit an expression of interest directly to a procuring and disposing entity.

(4) A pre-qualification notice or document, shall contain—

- (a) details of the scope of the procurement;
- (b) a statement of the requirements and criteria for pre-qualification;
- (c) a statement of the information required from a bidder;
- (d) instructions on the location and the latest date for submission of pre-qualification submissions or expressions of interest; and
- (e) instructions on the sealing and labelling of pre-qualification submissions or expressions of interest.

(5) The information required from a bidder shall be the minimum required to make a judgement on the firm's suitability and shall not be so complex as to discourage a bidder from expressing interest.

(6) A bidder shall submit sealed written pre-qualification submissions or expressions of interest to a procuring and disposing entity.

Registration.

(7) Only the pre-qualified providers shall receive invitations to bid where pre-qualification is a requirement.

35. (1) A procuring and disposing entity shall establish, maintain and update a register of short-listed providers of works, services and supplies for every financial year and renew it at least at the beginning of each financial year through an open invitation.

(2) Prices of common user items may be reviewed at intervals shorter than a year.

(3) At the registration advertisement, companies shall

be required to submit necessary documents that may include—

- (a) business bank account where applicable;
- (b) certificate of registration or incorporation where applicable;
- (c) memorandum and articles of association where applicable;
- (d) annual tax clearance where applicable;
- (e) Value Added Tax registration where applicable;
- (f) list of owners of the firm;
- (g) list of directors of the firm;
- (h) name, address and physical location of business;
- (i) a record of current and past contracts by a provider;
- (j) annual business turn over for the last two years where applicable; and
- (k) any such documents as the contracts committee may require.

(4) An applicant whose application for registration is rejected may resubmit an application for registration at a subsequent registration.

(5) A registered provider shall inform the procuring and disposing entity of any material change in the circumstances or details relating to the registration within twenty one working days after the change.

(6) Where a provider fails to notify the procuring and disposing entity of any change as required by subregulation (5) the procuring and disposing entity may cancel the provider from the list of registered providers and notify the provider of

the cancellation.

36. (1) Open national bidding shall be open to all bidders and shall be by public advertisement of a bid notice in at least one newspaper of wide national circulation.

(2) Notwithstanding sub regulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one newspaper of wide national circulation; except that the procedure described in Regulation 34 shall be complied with.

(3) Bid documents may be sold to a prospective bidder at a cost agreed by the contracts committee.

Open
international
bidding.

(4) A public bid opening shall be held for open national bidding.

37. (1) Open international bidding may be used instead of open national bidding where competition will not be effective without foreign bidders or where foreign bids will increase value for money.

(2) Nothing shall prevent a national bidder from participating in open international bidding.

(3) Notwithstanding sub regulation (1), a bidder may be selected through a pre-qualification process, following publication of a pre-qualification notice in at least one newspaper of wide international circulation; except that the procedure described in Regulation 34 shall be complied with.

(4) Open international bidding shall be open to all bidders following the public advertisement of a bid notice in a publication of wide international circulation.

(5) Bid documents may be issued to prospective bidders at a fee, which shall be agreed upon by the contracts committee.

Selective
national
bidding.

(6) A public bid opening shall be held for open international bidding.

38. (1) Selective national bidding may be used where—

- (a) the supplies, works or services are available only from a limited number of providers;
- (b) there is insufficient time for an open bidding procedure in an emergency situation; or
- (c) the estimated value of the procurement or disposal does not exceed the threshold stated in the procurement guidelines issued under these Regulations.

(2) The invitation to bid under selective national bidding shall be addressed to a limited number of potential bidders on a short list without advertising the opportunity in a bid notice.

(3) The shortlist shall include sufficient bidders to ensure effective and real competition.

(4) A procuring and disposing entity shall use the following information in developing a shortlist for selective national bid requirements—

- (a) the Authority's register of providers;
- (b) a procuring and disposing entity's own list of pre-qualified or registered providers; and
- (c) any other public procuring and disposing entity's list of pre-qualified providers.

(5) The following considerations shall be taken into account in developing a short list—

- (a) a fair and equal opportunity shall be afforded to all providers;

(b) there shall be a rotation of different providers on successive shortlists;

(c) a bidder shall not be included unless he or she is expected to satisfy fully the eligibility requirements;

(d) a bidder shall not be included unless he or she is expected to satisfy fully the qualification requirements of competence, capacity, resources and experience required for the execution of the bid in question;

(e) bidders included shall not all have the same ownership or compromised business linkages; and

(f) two or more bidders shall not have the same ownership or compromising business linkages.

(6) The proposed shortlist shall be recorded, with reasons for the selection of each bidder, and submitted to the contracts committee for approval.

(7) The approved shortlist shall be displayed on the notice board of the procuring and disposing entity not later than the date of issue of the invitation and shall remain on display until after the closing date for submission of bids.

Selective
international
bidding.

Direct
procurement.

39. The selection of a bidder under selective international bidding shall be by the development of a shortlist approved by the contracts committee in accordance with these Regulations.

40. (1) Direct procurement or disposal is a sole source procurement or disposal method for procurement or disposal requirements where exceptional circumstances prevent the use of competition.

(2) A contracts committee shall approve a direct procurement method prior to the commencement of procurement.

(3) Direct procurement or disposal may be used—

(a) where—

- (i) there is insufficient time for any other procedure such as in an emergency situation;
- (ii) the works, services or supplies are available from only one provider;
- (iii) an existing contract could be extended for additional works, services or supplies of a similar nature and no advantage could be obtained by further competition, if the prices on the extended contract are reasonable;
- (iv) additional works, services or supplies are required to be compatible with existing supplies, works or services and it is advantageous or necessary to purchase the additional works, services or supplies from the original supplier, if the prices on the additional contract are reasonable; or
- (v) it is essential or preferable to purchase additional works, services or supplies from the original supplier to ensure continuity for additional works, including continuity in technical approach, use of experience acquired or continued professional liability, if the prices on the additional contract are reasonable;

- (b) in the circumstances set out in paragraph (a) where the value of the new works, services or supplies does not exceed fifteen percent of the value of the original or existing contract and the original or existing contract has been awarded through a competitive process;
- (c) where a contract is amended more than once and the cumulative value of all contract amendments does not increase the total contract price by more than twenty five percent of the original contract price.

(4) Where the new contract value exceeds the value in subregulation 3(b) or (c) above, the procuring and disposing entity shall seek a waiver from the Authority prior to amendment.

(5) Evaluation under direct procurement shall be by a technical compliance selection.

(6) For the purposes of financial evaluation under direct procurement there shall be an analysis of value for money, through comparison with prices previously obtained through a competitive method or a breakdown analysis of the costs of each component, taking into account the circumstances and value of the procurement.

(7) Value for money must be demonstrated prior to award of a contract through direct procurement by the evaluation committee recommending whether—

- (a) the bid should be considered for contract award, subject to any negotiations required;
 - (b) further competition should be obtained, where possible, in order to ensure value for money or to meet the technical or other requirements of the council; or
- Micro-procurement.

(c) the requirement should be cancelled or redefined.

41. (1) Micro procurement or disposal is a simple direct procurement or disposal method which shall be used for very low value procurement requirements to achieve efficient and timely procurement where the value does not justify a competitive procedure.

(2) The selection of a provider may be conducted on a single provider basis without competition.

(3) A procuring and disposing entity may where practicable obtain competitive bids for a procurement process under micro procurement.

(4) A micro procurement process shall not require—

(a) written bid documents;

(b) publication of a notice of the single provider;

(c) a written bid;

(d) a public bid opening;

(e) a notice of best evaluated bidder;

(f) a signed contract document; or

(g) a notice of award of contract.

(5) An original invoice or receipt for the procurement of works, services or supplies and the price paid shall be obtained and the receipt shall state the name of the official undertaking the procurement.

(6) The procuring and disposing entity shall be responsible for ensuring that value for money is obtained to the extent practicable, under the micro procurement method.

(7) An accounting officer may delegate authority to a user department to undertake micro procurement up to the maximum value specified in the guidelines or a lower limit

prescribed by the contracts committee.

Community
purchase.

(8) Micro procurement shall be reported to the contracts committee on a monthly basis by the holder of the delegated authority.

(9) A procuring and disposing entity shall, where appropriate, use a framework contract for the frequent procurement of regularly required items.

42. (1) A procuring and disposing entity may purchase goods, services and works using a community purchase method for community programmes or projects, in accordance with thresholds prescribed by the Authority in consultation with the ministry responsible for local governments from time to time.

(2) An accounting officer on the recommendation of the contracts committee may delegate the community purchase process to a community and the community shall procure goods, services and works for their own programme and projects to achieve their common objectives through the community purchase committee

(3) A community may purchase through direct contracting or shopping through display of written notice within the area, word of mouth, local media notices; and there shall be no national notice of bid opportunities.

(4) The chairperson, treasurer and the secretary of the lower administrative unit and two other members nominated by the chairperson of the contracts committee shall constitute the community purchase committee with quorum of at least three members and a decision shall be by at least two members.

(5) The decision of the community purchase committee shall be displayed to the public and it shall consist of the description and price of the purchased goods, services and works.

(6) The secretary at any sitting of the community purchase committee shall communicate in writing the decision of the committee to the procurement and disposal unit for recording.

(7) The community purchase committee shall by resolution request the contracts committee to carry out a specific procurement on their behalf.

(8) The contracts committee shall provide to the community purchase committee all records of the proceedings of the specific procurement before contract signing and recording.

(9) For direct contracting, at least two of the community purchase committee members shall participate in the negotiation.

(10) The contracts committee may receive applications from communities and place a general procurement notice within the area declaring opportunities for provision of goods, services and works required.

(11) The contracts committee shall provide comparative market prices for common goods, services and works to assist the community purchase committee in purchasing their requirements

(12) The contracts committee shall provide to communities a list of registered providers with a description of areas of goods, services and works that each provider covers.

(13) The procurement and disposal unit of the procuring and disposing entity that has jurisdiction over the community may assist the community purchase committee in preparing their procurement plan and implementation.

Basic public
procurement
and disposal
principles.

PART VI—PROCUREMENT RULES

43. (1) A bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except under guidelines made under these Regulations or by any other competent authority.

(2) A procuring and disposing entity that limits participation on the basis of nationality shall—

- (a) obtain prior written approval of the Authority; and
- (b) include the exception to nationality and the grounds relied on in the bid documents as well as in the record of the procurement or disposal process.

(3) All procurement and disposal shall be conducted in a manner that promotes transparency, accountability and fairness.

(4) All procurement and disposal shall be conducted in such a manner as to maximize competition and achieve value for money irrespective of the method of procurement used or the nature of the works, services or supplies to be procured.

(5) A procuring and disposing entity shall not, except when required to do so by an order of court, disclose any information where the disclosure would—

- (a) amount to a breach of the law;
 - (b) impede law enforcement;
 - (c) prejudice legitimate commercial interests of the parties;
 - (d) inhibit fair competition; or
 - (e) in any way not be in the public interest,
- until the successful bidder is notified of the award.

(6) All procurement and disposal shall be conducted

in a manner which promotes economy, efficiency and value for money.

Publication
and display
of notices.

(7) All procurement and disposal shall be carried out in accordance with the relevant Codes of Ethics that promote the principles of impartiality, independence and integrity.

(8) A contract shall be awarded to the bidder with the best evaluated offer ascertained on the basis of the methodology and criteria detailed in the bid documents.

(9) Bid documents shall state any limitations on the currency of bidding and payment that may apply to a procurement proceeding or resulting contract.

44. (1) A procuring and disposing entity shall place a notice board at a location within its premises, which is freely accessible to members of the public.

(2) The notice board shall display the following for public information—

- (a) a pre-qualification notice;
- (b) a bid notice;
- (c) notices of a shortlist;
- (d) a bid opening record;
- (e) a notice of best evaluated bidder;
- (f) a notice of award of contract, for both procurement and disposal;
- (g) a quarterly report of all micro procurement transactions;
- (h) a notification of public auctions; and
- (i) a public invitation notice under disposal by public

(3) Where a procuring and disposing entity has a website, it may post the notice on its website in addition to displaying it on the notice board.

(4) The use of a notice board or website shall not relieve a procuring and disposing entity of its responsibility to publish a relevant notice publicly in the media or on the Authority's website where the publication is provided for in the Act or these Regulations.

45. (1) Participation by bidders in public procurement and disposal shall be open on equal terms to bidders who meet the minimum eligibility requirements that are—

- (a) a bidder has the legal capacity to enter into a contract;
- (b) a bidder is not—
 - (i) insolvent;
 - (ii) in receivership;
 - (iii) bankrupt; or
 - (iv) being wound up;
- (c) a copy of the bidder's income tax clearance certificate or its equivalent;
- (d) a copy of the bidder's Value Added Tax registration or its equivalent;
- (e) a signed statement that the bidder does not have a conflict of interest in the subject of the procurement; and
- (f) any other relevant documents or statements contained in the bid documents.

(4) A contracts committee shall verify the accuracy,

validity and authenticity of the eligibility documents provided by a bidder.

(5) Verification of eligibility shall form an integral part of the preliminary examination to be met by a bidder.

(6) Notwithstanding subregulation (2), where eligibility has been verified as part of a pre-qualification process, the bid documents shall not require documentary evidence of eligibility; and verification of eligibility shall not form part of the preliminary examination.

(7) Bid documents shall state that any bidder whose circumstances in relation to eligibility change during a procurement or contract management process shall immediately inform the procuring and disposing entity.

Record
keeping.

(8) Eligibility shall always be evaluated on a pass or fail basis and any bid which fails the eligibility examination shall be rejected and not evaluated further.

(9) Subject to regulations 75 and 81(5) but notwithstanding sub regulation (8), where the omission of any documentary evidence to certify eligibility is determined to be a non-material omission, the evaluation committee may request a bidder to submit that documentation as a clarification.

46. (1) The following records shall be kept by a procuring and disposing entity for inspection by the Authority or other competent authority during working hours—

- (a) a record of the procurement process;
- (b) a record of contracts management;
- (c) all records of the contracts committee; and
- (d) any records of the accounting officer which relate

to procurement, contracts management, disagreements with the contracts committee, investigations of complaints, or any other matter related to the Act or these Regulations.

(2) Procurement records maintained by a procurement and disposal unit shall contain, where appropriate—

- (a) a request to initiate procurement proceedings;
- (b) a copy of the published advertisement or shortlist;
- (c) a copy of the pre-qualification and bid documents and any amendments or clarifications;
- (d) a record of bid closing and bid openings;
- (e) a copy of all bids evaluated or clarifications requested and responses received;
- (f) the evaluation report;
- (g) minutes of meetings on procurement, including pre-bid and negotiation meetings;
- (h) a notice of best evaluated bidder;
- (i) any letter of bid acceptance to the bidder;
- (j) the contract document;
- (k) contract amendments;
- (l) all correspondence between a procuring and disposing entity and a bidder or potential bidder; and
- (m) a copy of all submissions to and decisions of the contracts committee related to the procurement including, but not limited to, the choice of procurement method, approval of pre-qualification and bid documents, approval of

evaluation reports, contract award, approval of contract documents and contract amendments and any decision to suspend or cancel procurement proceedings.

(3) Contract management records maintained by a user department shall include—

- (a) a copy of the signed contract document, including any signed contract amendments;
- (b) any variations or change orders issued under the contract;
- (c) post-contract documents relating to the fulfilment of contract obligations, and in particular, copies of bank guarantees or payment guarantees;
- (d) minutes of any meetings related to contracts management, including contract progress or review meetings;
- (e) delivery documents evidencing delivery of supplies or completion certificates in relation to a contract for services or works under the contract;
- (f) a copy of all invoices for works, services or supplies including work papers verifying the accuracy of payments claimed and details of the actual payment authorised by a contract supervisor;
- (g) a copy of cumulative payment worksheets evidencing management of all payments made;
- (h) a copy of any claims made by the contract supervisor on behalf of the procuring and disposing entity in respect of any warranty, non-warranty, short supply, damage and other claims upon the bidder or upon the procuring and disposing entity;

- (i) all correspondence between the procuring and disposing entity and the bidder; and
- (j) a copy of all submissions to the contracts committee and decisions related to the contract management including, but not limited to, the approval of contract amendments.

(4) A security, negotiable document or other financial instrument received by a procurement and disposal unit or a user department shall be deposited by the officer responsible for the procurement or contract management in a secure place under arrangements made by each procuring and disposing entity.

(5) A copy of the documents referred to in subregulation (4) shall be kept as a procurement record and shall be annotated with details of the location of the original documents and the date of receipt of the original documents.

(6) For the avoidance of doubt, the following original documents shall not be retained in a procurement or contract management record but shall be kept in a secure place—

Language of
communication

- (a) a bid security;
- (b) a performance security;
- (c) an advance payment guarantee or security;
- (d) a stage payment guarantee or security;
- (e) a retained payment guarantee or security;
- (f) any other payment guarantee or security;
- (g) a bill of lading, airway bill or similar documents;
- (h) a power of attorney; and
- (i) any other document required to be kept that is deemed of intrinsic or inherent value.

47. (1) English shall be the language of communication in all procurement and disposal proceedings.

Bid
documents

(2) The language of communication shall be specified in all bid documents.

(3) Subject to the provisions of these Regulations minutes of a meeting between a procuring and disposing entity and a bidder shall be taken and kept, and any agreement shall be confirmed in writing.

(4) The Authority may issue guidelines regarding the use of electronic media where appropriate.

48. (1) Standard bid documents, and other documents issued by the Authority and any other competent authority, may be customised for use by a procuring and disposing entity by the entry of the contact details of the procuring and disposing entity such as, name and address, the addition of a logo or any other form of identification of the procuring and disposing entity.

(2) Bid documents shall have a statement of requirements that defines the requirements precisely and in a manner that leaves no doubt or assumption by a bidder of the requirements of the procuring and disposing entity and that determines how closely and effectively a bidder can meet these requirements.

(3) The description in the statement of requirements shall be prepared with a view to ensuring that the works, services or supplies are fit for the purpose for which they are being purchased and are of appropriate quality ensuring value for money.

(4) The bid documents shall have the most appropriate evaluation methodology and evaluation criteria to compare and evaluate the bids received.

(5) The bid documents shall clearly state the type of contract to be entered into and shall contain the draft contract to be used resulting from the procurement proceedings including all the proposed contract forms and conditions applicable.

(6) The bid documents may be sold in order to recover costs but the price shall be calculated to cover only those costs related to printing, copying and distribution.

(7) The bid documents shall state that no change in the substance of bids including changes in price shall be sought, offered or permitted after the date and time of closing the bid.

(8) The statement of requirements in the bid documents shall not be issued with reference to a particular trademark, brand name, patent, design, type, specific origin, producer, manufacturer, catalogue or numbered item. Bid validity.

(9) Notwithstanding subregulation (8) where a standardisation policy has been approved, the corresponding trademark, brand name, patent, design, type, specific origin, manufacturer, producer, catalogue or numbered item may be used in the statement of requirements.

(10) Where there is no other sufficiently precise or intelligible way of characterising a requirement except by the use of a form of identification referred to in subregulation (1), the description shall be used, followed by the words “or equivalent”, and shall only serve as a benchmark during the evaluation process.

49. (1) Bid documents shall state the period within which a bid is to remain valid.

(2) The bid validity period shall be calculated from the closing date of the bid submission and shall remain in force until the close of business on the last day of the validity period.

(3) When determining the duration of a bid validity period, sufficient time shall be allowed to enable—

- (a) the procuring and disposing entity to undertake an evaluation, post-qualification and negotiations, as appropriate;
- (b) the contracts committee to adjudicate the award of contract recommendations;
- (c) a bidder to challenge the award decision before a contract is formed; and

- (d) the procurement and disposal unit to prepare a letter of bid acceptance or contract document and obtain all necessary approvals prior to issue of the letter or document,

within the validity period of the bid .

Bid
security.

(4) An extension to the initial period of a bid validity shall not normally be requested from a bidder.

(5) Where an extension to the bid validity period becomes necessary, a bidder shall be requested in writing, before the expiry of validity of their bid, to extend the validity for a minimum period to complete the process outlined in sub regulation (3).

(6) In extending the validity of a bid, the bidder shall not be permitted to change the price or any other details of the bid except those conditions relating to the validity of the bid.

(7) A bidder is free to refuse to extend the validity of the bid, without forfeiting his or her bid security.

50. (1) The bid documents shall state any requirement for a bid security.

(2) The amount of a bid security shall be specified in the guidelines.

(3) A bid security may be requested to deter irresponsible bidders and encourage bidders to fulfill the conditions of their bids.

(4) A procuring and disposing entity shall require a bid security to be—

- (a) in a format provided by the Authority and included in the bid documents;

(b) in a form and from an institution that is acceptable to the Bank of Uganda in accordance with the guidelines; and

(c) valid for a period prescribed in the bid documents.

(5) A bid security shall be released promptly by a procuring and disposing entity to an unsuccessful bidder upon expiry of the term of the security or upon the entry into a contract with the successful bidder.

(6) The bid security of the successful bidder shall not be returned to the bidder until a corresponding performance security is received, where required by the contract.

(7) The proposed release of a bid security shall be communicated to the bidder and returned in accordance with the instructions of the bidder.

(8) The conditions for forfeiture of a bid security shall be specified in the bid documents and shall include the following—

List of approved bidders and comparative market prices.

(a) where a bidder withdraws its bid during the period of bid validity; or

(b) where the successful bidder fails to—

(i) accept the correction of its bid price;

(ii) sign the contract within the specified period; or

(iii) furnish the required performance security within the specified period.

51. (1) The procurement and disposal unit shall maintain a list of approved providers which shall be kept under constant review by a contracts committee and renewed annually at the beginning of each financial year to remove defunct providers;

Preference schemes.

(2) Applications from providers for inclusion in the approved list shall be considered and approved by the contracts committee and the contracts committee may qualify or disqualify a company, firm or individual seeking to provide goods, services or works

(3) The procurement and disposal unit shall compile and maintain a list of reserve prices approved by the contracts committee, where applicable, to which comparison may be made when awarding bids.

52. (1) The procurement of works, services or supplies may be subject to a preference scheme consistent with the Government economic and social policies, or with international obligations.

(2) A preference scheme shall have as its objective the development of national businesses, giving national businesses a competitive advantage when competing for public procurement contracts, by adding a specified margin to the evaluated price of non-national bidders during the financial comparison stage of the evaluation.

(3) A preference scheme shall—

(a) be determined and developed only by a competent authority;

(b) be based only on the bid price;

(c) apply to all competitive procurement methods;

(d) clearly state—

(i) the target group of providers and eligibility requirements; and

(ii) the period of the scheme and arrangements for introducing and discontinuing it;

(e) contain quantifiable objectives to be achieved and

benchmarks to assess progress;

- (f) compare the estimated costs of implementing the scheme against the costs of implementing the relevant procurement activities without the preference scheme; and
- (g) be non-discriminatory in terms of the capacity, specialisation and ownership classifications of eligible providers.

(4) Eligibility for participation in a preference scheme shall require certification by a competent authority.

(5) The band or level of preference to be accorded to a provider shall—

- (a) be related to the percentage of a procurement activity to be undertaken as national inputs;
- (b) be proportional to the percentage of the contract to be actually executed by a national or resident provider and a national or resident sub-contractor;
- (c) take into account the complexity of a procurement activity to be assigned to a national or resident bidder in terms of technology transfer or on-the-job training; and
- (d) be in accordance with guidelines prescribed by the Authority.

(6) For the purposes of evaluation, comparison and ranking of bids, the applicable percentage preference shall be added to the bids of all bidders not entitled to the preference or the full measure of the preference.

(7) The preference margin shall be clearly stated in the standard bid documents.

Reservation
schemes.

(8) A preference scheme shall apply in the following order—

- (a) a sole national provider or joint venture or association agreement between national providers;
- (b) a joint venture or association agreement between a national provider and a resident provider;
- (c) a sole resident bidder or joint venture or association agreement between resident providers;
- (d) a joint venture or association agreement between a national provider and a foreign provider;
- (e) a joint venture or association agreement between a resident provider and a foreign provider; and
- (f) a sub-contracting arrangement between a national or resident sub-contractor and a foreign provider.

(9) The preference to be accorded shall be proportional to the percentage of the contract to be executed by national or resident providers or sub-contractors.

53. (1) The procurement of works, services and supplies, may be subject to a reservation scheme.

(2) A reservation scheme shall have as its objective the development of a target group and community, by reserving certain public procurement contracts for such groups and communities.

(3) Membership of a target group or community shall be a requirement for eligibility to participate in a reservation scheme.

(4) A reservation scheme shall apply to—

- (a) a targeted provider of works and services, both consultancy and non-consultancy; and

- (b) a specific disadvantaged community and geographic area that is subject to conflict, calamity or neglect.

(5) A competent authority may determine and develop a reservation scheme.

(6) A reservation scheme shall—

- (a) clearly state the target group of providers and eligibility requirements;

- (b) clearly state the period of the scheme and arrangements for introducing and discontinuing it;

- (c) contain quantifiable objectives to be achieved and benchmarks to assess progress;

- (d) compare the estimated costs of implementing the scheme against the costs of implementing the relevant procurement activities without the reservation scheme;

- (e) be non-discriminatory in terms of the capacity, specialisation and ownership classifications of eligible providers; and

Joint ventures, association and sub-contracting.

- (f) be in accordance with the guidelines issued by the Authority.

(7) A procurement under a reservation scheme shall, at all times, be based on—

- (a) competition among the eligible providers; and

- (b) qualification of a provider to satisfy fully the requirements of each procurement activity.

(8) Eligibility for participation in a reservation scheme shall require certification by the competent authority.

54. (1) Unless otherwise specified in the bid documents, a bidder shall be permitted to submit a bid as part of a joint venture, consortium or association and where one party is ineligible, the whole joint venture or association shall be declared ineligible.

(2) Where a bidder submits a bid as part of a joint venture, consortium or association, the bid or contract document shall state where appropriate—

- (a) that a party to a joint venture, consortium or association shall be jointly and severally liable for the performance of the contract;
- (b) that a copy of the joint venture, consortium or association agreement may be required to be submitted as part of the bid; and shall not be substantially altered without the prior written approval of the contracts committee;
- (c) that a member of a joint venture, consortium or association shall nominate a lead member who shall have authority to bind the joint venture, consortium or association and shall at the time of award of the contract confirm the appointment by the submission of a power of attorney to the procuring and disposing entity;

(3) Where sub-contracting of a procurement activity is permitted, the bid or contract document shall state—

- (a) that subcontracting shall not relieve the main bidder of any of its obligations, duties, responsibilities or liabilities under the contract and where appropriate state that approval by the client is required before entering into a subcontract, or before amending a subcontract agreement;

- (b) that a subcontractor must be eligible, in the same

way as the main provider and that the obligations or conditions imposed on a main provider shall also be imposed on a sub-contractor;

(c) that approval by the client is required before entering into a subcontract, or before amending a subcontract agreement; and

(d) that a main provider shall not impose onerous obligations or conditions on a subcontractor.

55. (1) The bidding period shall start on the date the bid notice is first published in a media of wide circulation or on the date of issue of bid documents to bidders and shall be used to allow a potential bidder sufficient opportunity to prepare a bid.

Approval of
procurement
and disposal
process

(2) The bidding period shall be determined by taking into consideration—

(a) the time required for the preparation of bids considering the level of detail required and the complexity of bids;

(b) the requirement for bidders to submit authenticated legal documents as part of their bids and the time required to obtain those documents.

(3) Guidelines shall be issued under these Regulations to guide procuring and disposing entities on the bidding period applicable for the different procurement methods.

56. The following require the approval of a contracts committee or a holder of delegated authority—

(a) the choice of a procurement method prior to commencement of the procurement process;

(b) pre-qualification documents prior to issue;

- (c) bid documents and any amendments prior to issue;
- (d) evaluation reports prior to post-qualification or negotiations;
- (e) cancellation of a procurement or disposal process;
- (f) contract award decisions prior to publication of any notice of best evaluated bidder or release of a contractual document;
- (g) a letter of bid acceptance and contract documents prior to issue;
- (h) contract amendments prior to issue; and
- (i) termination of a contract.

57. (1) A user department shall, if it deems necessary, prepare a recommendation to a contracts committee through the procurement and disposal unit for cancellation of a procurement process and shall indicate—

- (a) the procurement reference number and subject of procurement;
- (b) detailed reasons why cancellation is recommended;
- (c) the status of the procurement process;
- (d) an alternative procurement process recommended, if any; and
- (e) any other relevant information.

(2) Reasons for cancellation may include, but shall not be limited to—

- (a) a significant change in the technical details of the requirement;
- (b) a significant change in the circumstances of the procurement;
- (c) that the circumstances giving rise to the need have changed significantly; or
- (d) a lack of responsive bidders.

Automatic
disqualification
of
bidders.

Due
diligence
test on
bidders

(3) Cancellation of the bid may also be made in one or more of the lots in which a call for bid may have been divided.

(4) In all cases of cancellation of the bid procedure, the procurement and disposal unit shall inform the bidders who are still bound by their bids, and immediately release their bid security, and in case bids have not yet been opened, return them to the bidders unopened.

58. A contracts committee shall disqualify the bid of a bidder who attempts to influence the contracts committee or the evaluation committee in the process of examination, clarification, evaluation and comparison of bids and in decisions concerning the award of the contract upon the relevant evidence being availed to the contracts committee.

59. (1) A procuring and disposing entity may at any time during a procurement and disposal process carry out a due diligence test on a bidder and shall not be confined to the pre- or post-qualification stage or the procedure or content relating to those stages.

Suspension
of
providers.

(2) A due diligence test may cover any operations of a bidder that a contracts committee determines as requiring verification or checking in exercising an obligation of due care in a procurement or disposal process.

(3) The nature and extent of the due diligence test conducted shall be determined by—

(a) the nature, size and type of the potential contract;

(b) the risks associated with non performance of the bidder; and

(c) the procuring and disposing entity's existing knowledge or past association with the bidder.

60. (1) A provider may be suspended from participating in public procurement or disposal of public assets proceedings for contravention of the provisions of the Act, these Regulations and the Code of Ethics for bidders specified in Part B of the First Schedule.

(2) A recommendation to suspend a provider shall be submitted to the Authority in writing by a contracts committee.

(3) A public officer of a procuring and disposing entity may make a submission to a contracts committee regarding a recommendation to suspend a provider.

(4) A contracts committee shall consider all submissions and decide whether or not to submit a recommendation to the Authority to suspend a provider.

(5) A recommendation to suspend a provider shall include—

(a) the name of the provider;

(b) the grounds for the recommendation;

(c) details of the procurement or disposal proceedings or contract to which the recommendation relates;

(d) documentary or other evidence supporting the recommendation; and

(e) any other information relevant to the recommendation.

(6) A provider who is subject to a suspension recommendation, shall be permitted to submit information or evidence in his or her defence either in person, through presentation of witnesses, in writing, or through a representative.

(7) Upon receipt of a recommendation to suspend a provider, the Authority shall—

(a) immediately notify the provider, giving full details of the recommendation and inviting him or her to submit information or evidence in his or her defence; and

(b) immediately institute an investigation;

(c) issue its decision to the provider and contracts committee within twenty-one working days after the date of receipt of the recommendation;

(d) where the recommendation to suspend a provider is upheld, place the provider on the list of suspended providers and notify all procuring and disposing entities.

Deviations
from
applicable
procurement
and disposal
methods
and
documents.

(8) A procuring and disposing entity shall not—

(a) award contracts to a suspended provider;

(b) sell or issue bid documents to a suspended provider or in any other way solicit bids from the provider; or

(c) enter into any other dealings or communications

with a suspended provider, except in respect of existing contracts placed prior to a suspension from public procurement and disposal.

(9) After the expiry of the period of suspension, a provider may apply to the Authority, in writing, to be removed from the list of suspended providers and the Authority shall remove the provider from the list of suspended providers within fifteen working days after the application.

61. (1) A deviation from the use of a procurement or disposal method or documents under these Regulations may be permitted by the Authority—

- (a) where exceptional requirements make it impossible, impracticable or uneconomical to comply with these Regulations;
- (b) where market conditions or behaviour do not allow effective application of the Act and these Regulations; or
- (c) for specialised or particular requirements that are regulated or governed by harmonised international standards or practices.

(2) An application for a deviation from the use of a procurement or disposal method or document shall be submitted to the Authority in writing and shall include—

- (a) a statement of the method, rule or documentation from which a deviation is required;
- (b) the reasons for deviation from a procurement and disposal method, rule or documentation, including an explanation of the exceptional requirements or market conditions or the international standards or practices which regulate or govern the requirement;

(c) an explanation of the proposed alternative method or rule or a copy of the proposed alternative document, including a summary of how it differs from the standard method, rule or documentation;

(d) a statement of how a procuring and disposing entity will ensure compliance with the intentions and standards of the public procurement and disposal principles, rules, methods or documentation as far as practicable;

(e) a statement of whether the deviation is required for a single requirement or for a number of requirements of the same class over a period of time; and

Procurement
and disposal
planning

(f) any other relevant information.

(3) The Authority shall within twenty one working days after receipt of the application, consider each application and issue its decision stating the reasons for the approval or rejection.

(4) A deviation from a public procurement method or document for a specified period of time may be resubmitted to the Authority for renewal and any application for renewal shall include the information in subregulation (2).

(5) Where a deviation is requested from a standard document, the Authority may, where it considers it appropriate, adopt the proposed alternative document as an additional standard document.

PART VII—PROCUREMENT PROCESS

62. (1) A user department shall prepare an annual work plan for procurement based on the approved budget, which shall be submitted to the procurement and disposal unit to facilitate orderly execution of annual procurement activities.

(2) A procurement work plan shall be integrated into the annual sector expenditure programme to enhance financial predictability and accounting and control over procurement budgets.

(3) A procurement and disposal unit shall use the combined work plan to plan, organise, forecast and schedule the procurement activities of the procuring and disposing entity for the financial year.

(4) The combined work plan for the procuring and disposing entity shall include—

- (a) a detailed breakdown of activities of works, services and supplies to be procured;
- (b) a schedule of procurement requirements in order of priority;
- (c) a statement of required resources supported by a schedule of the projected funding; and
- (d) a plan of the likely method of procurement for each requirement and the likely time required for each stage in the procurement cycle.

(5) Planning for a procurement activity shall take into account the following considerations—

- (a) aggregation of requirements to achieve lower unit costs;
- (b) allocation of bid lots to ensure that requirements are not split up without justification;
- (c) procurement of common user items with other procuring and disposing entities;
- (d) joint procurement with other procuring and

Aggregation
of require-
ments.

disposing entities, where possible;

- (e) pre-qualification to cover groups of contracts where similar works, services or supplies requiring a pre-qualification exercise are required during the financial year, or where it would facilitate short listing of providers;
- (f) scheduling of available resources to process the procurement requirements of the procuring and disposing entity, in particular those relating to evaluation teams; and
- (g) the need for framework contracts where appropriate, to the individual procurement requirements.

63. (1) Requirements shall be aggregated for—

- (a) all departments of a procuring and disposing entity;
- (b) a complete financial year or other appropriate period of time; and
- (c) any other appropriate circumstance.

(2) The aggregation of requirements shall take into account—

- (a) the market structure for the items required;
- (b) items which are of a similar nature and which are likely to attract the same potential bidders;
- (c) the optimum size and type of contract to attract the greatest and most responsive competition or the best prices;
- (d) items which shall be subject to the same method of procurement and bidding conditions;
- (e) items which shall be ready for bidding at the same time;

Splitting of
require-
ments.

- (f) items which shall be subject to the same conditions of contract;
- (g) potential savings in time or transaction costs;
- (h) the appropriate size of contract to facilitate the application of any preference and reservation schemes; and
- (i) the optimum number and size of contracts to facilitate management and administration of contracts by the procuring and disposing entity.

64. (1) A procuring and disposing entity shall not, with the intention of avoiding a particular method of procurement or the benefits of scale, split up procurement requirements which can be procured as a single contract.

(2) Splitting of procurement or disposal requirements, which are broadly similar or related, shall only be permitted when the split offers clear and calculable economic or technical advantages.

(3) A procuring and disposing entity may divide requirements allocated to a single procurement process into separate lots, where it is anticipated that the award of several separate contracts would result in the best overall value for the procuring and disposing entity.

Initiation of procurement or disposal requirements and confirmation of funding.

(4) Where requirements are divided into lots, which may result in separate contracts, the choice of a procurement method shall be determined by the estimated value of each individual lot and not the total value of all the lots.

(5) Where a number of lots are to be procured under the same procurement process, the bid documents shall clearly state—

- (a) the number of lots included in the procurement

process;

- (b) the nature and size of each lot;
- (c) the minimum and maximum number of lots, if any, for which a bidder may bid;
- (d) the proportion of each lot for which a bidder may bid , or whether a bid shall be for complete lots; and
- (e) the method of evaluating multiple lots.

65. (1) Procurement requirements shall be documented using a requisition form that shall include—

- (a) a clear indication of the works, services or supplies required;
- (b) the estimated value of the works, services or supplies;
- (c) confirmation of availability of funding; and
- (d) the approval of the procurement requirement in accordance with subregulation (4).

(2) In estimating the value of the works, services or supplies required and confirming the availability of funds, a procuring and disposing entity shall ensure that the estimate is realistic and that—

- (a) the estimate is based on up-to-date information;
- (b) technical advice is sought, where required; and
- (c) the confirmation of availability of funding takes into account the total acquisition cost.

(3) A specific reference number shall be allocated to each procurement requirement at the initiation stage, using the

numbering system given in the guidelines.

(4) Approval of procurement requirements shall be evidenced by the signature of the authorised official on the procurement requisition form.

(5) A procuring and disposing entity shall not initiate any procurement proceedings or activities for which funds are neither available nor adequate, except where-

(a) the delivery of goods, services or supplies and consequent payments to a provider are expected to be effected from future financial years;

(b) for framework contracts, funds will be committed at the time of issue of each specific call of order; or

(c) the Secretary to the Treasury has confirmed in writing that the required funding shall be made available.

(6) Availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years.

(7) Certification of the availability of funds shall be made by the accounting officer or by any officer authorised by the accounting officer.

(8) Where payment to a provider is expected to last more than one financial year, the accounting officer shall ensure that financial provision is made in the budget estimates for the appropriate year to support the procurement during the subsequent years.

(9) The accounting officer shall ensure that sufficient funds are budgeted for framework contracts every financial year, to cover the full cumulative cost of call off orders expected for each year for a framework contract.

Invitation of
bidders

66. (1) The method for selection of a bidder to be invited to bid shall be in accordance with the procurement method and shall be—

- (a) by publication of a bid notice in at least one newspaper of wide circulation and on the notice board of the procuring and disposing entity;
- (b) through a pre-qualification exercise;
- (c) by development of a shortlist; or
- (d) by selection of a sole or single bidder.

(2) A contracts committee shall issue or sell bid documents to—

- (a) a bidder who requests the documents in the case of open bidding;
- (b) the single or sole source approved by the contracts committee in the case of direct procurement; or
- (c) a bidder on the shortlist approved by the contracts committee in the case of all other methods of procurement.

(3) Where bid documents are sold, the local government shall allow a potential bidder to inspect the bid documents before purchasing.

Clarification
and
amendment
of bid
documents.

(4) A procuring and disposing entity shall record the issue or sale of all bid documents and shall obtain a signed receipt or other confirmation of receipt of the documents from a bidder to whom the documents are sold or issued.

(5) Bid documents may be sold at a rate approved by the contracts committee in order to recover costs but the price shall be calculated to cover only those costs related to printing, copying and distribution and shall not include any element of profit.

(6) Where bid documents are sold, a procuring and

disposing entity shall issue signed receipts for payment to bidders.

(7) A bid shall be rejected during the preliminary examination of bids if it is received from a bidder who is not listed as having bought or obtained the bid documents directly from the procuring and disposing entity or is not included on the shortlist approved by the contracts committee.

67. (1) The bid documents shall state that a bidder may seek clarification of the bid documents and shall state the final date, after which clarification may not be sought.

(2) The final date for clarification shall be determined with a view to allow adequate time for all bidders to receive and study the bid documents.

(3) Where a request for clarification is received, the procuring and disposing entity shall promptly provide a clarification in writing and the clarification response shall be copied to all bidders who obtained the bid documents directly from the procuring and disposing entity, and shall include a description of the inquiry, but without identifying the source.

(4) At any time prior to the deadline for submission of bids, the procuring and disposing entity may, either at its own initiative or in response to a request for clarification from a bidder, amend the bid documents by issuing an addendum.

(5) To give a bidder reasonable time in which to take an addendum into account in preparing a bid, the procuring and disposing entity shall, where less than one third of the bidding period remains, extend the deadline for the submission of bids by a reasonable period.

(6) Where more than one third of the bidding period remains, the procuring and disposing entity may also, at its discretion, extend the period for submission of bids.

Pre-bid
meetings

(7) The addendum, including any extension to the bidding period, shall be issued in writing and the same information shall be provided to all bidders.

(8) All addenda to bid documents require approval of the contracts committee before being issued to bidders and shall be numbered sequentially.

(9) All clarifications and amendments to the bid documents shall be binding on bidders.

68. (1) A procuring and disposing entity may hold pre-bid meetings to allow potential bidders to seek clarification or access to project sites where applicable.

(2) Arrangements for a pre-bid meeting shall be included in the bid documents and where they are not included in the bid documents, information on a pre-bid meeting shall be sent to all bidders who purchased or were issued the bid documents.

Format and
submission
of bids.

(3) Where attendance at a pre-bid meeting is compulsory for bidders, notice to that effect shall be included in the bid documents and any bid notice.

(4) A potential bidder shall be given sufficient notice of a pre-bid meeting to offer a reasonable opportunity for him or her to attend and the notice period shall be extended under international methods of procurement for the purpose.

(5) A pre-bid meeting shall allow sufficient time before the expiry of the bid period to enable a bidder to take any additional information into account in preparing the bid.

(6) Minutes shall be recorded for all pre-bid meetings and copies of the minutes shall be provided to all bidders who purchased or were issued the bid documents.

(7) A pre-bid meeting shall be managed by the procurement and disposal unit with a member of the contracts committee present, to witness the meeting.

69. (1) The bid documents shall contain instructions to bidders on—

- (a) the format and documentation required in bids;
- (b) the procedure for signing and authorising bids;
and
- (c) the number of copies of bids to be submitted which shall be one original bid marked “ORIGINAL” and a specified number of copies, each marked “COPY”.

(2) Bid documents shall contain instructions on the method of bid submission, which shall either be—

- (a) the one stage-single envelope method, in which a bid is submitted in one sealed envelope, which is opened on the specified date and time in a single bid opening;
- (b) the one stage-two envelope method, in which a bid is submitted in an outer sealed envelope, containing two separately sealed and labelled technical and financial bids, which are opened on different dates in separate bid openings;
- (c) the two stage-two envelope method, in which—
 - (i) during the first stage, a bid is submitted in an outer sealed envelope, containing two separately sealed and labelled technical and financial bids, of which only the technical bid is initially opened and

evaluated; and

- (ii) during the second stage, a revised technical bid and a supplementary financial bid are submitted, which are opened and evaluated together with the original financial bid; or

(d) two stage method, in which—

- (i) during the first stage, a technical bid only is submitted, opened and evaluated; and
- (ii) during the second stage, a revised technical bid and a financial bid are submitted, opened and evaluated together.

(2) Where the two stage methods in subregulation (1)(c) or (1)(d) are used, a bidder shall be invited to submit bids during the second stage, unless he or she has been declared non compliant or non responsive.

(3) The bid submission method shall be selected in accordance with the rules for each evaluation methodology and using the following as guidance—

- (a) the one stage-single envelope method shall be used where all stages of the evaluation are to be conducted together and a combined technical and financial evaluation report produced;
- (b) the one stage-two envelope method may be used where the detailed technical and commercial evaluation is to be conducted without reference to financial information;
- (c) the two stage-two envelope method may be used where alternative technical bids are possible

Receipt of
bids and bid
closing.

and the procuring and disposing entity needs to evaluate the initial technical bids in order to determine a single technical standard with which all bidders are invited to conform by submitting revised technical bids and supplementary financial bids; and

- (d) the two stage method may be used for large and complex contracts, where technically unequal bids are likely and more than one equally acceptable technical solution is available to the procuring and disposing entity, which needs to ensure that all technical bids conform to the same technical standard before a financial bid is prepared.

(4) The bid documents shall state that the bid shall be submitted in a plain outer envelope, securely sealed in such a manner that opening and resealing cannot be achieved undetected and shall contain instructions on the details of labelling and references to be detailed on each envelope

(5) The bid documents shall contain instructions that a bidder may, at any time before the last date for submission of bids.

- (a) withdraw his or her bid;
- (b) submit a replacement bid; or
- (c) modify his or her bid by withdrawal of the original bid and submission of a replacement bid.

70. (1) The method for receipt of bids and closing of bids shall be by—

- (a) receipt of bids in person and issue of a receipt by staff of the procurement and disposal unit; or
- (b) use of a bid box.

(2) Where a bid is delivered by registered mail or

courier, a procuring and disposing entity shall not be held liable for risk of loss or delay in delivery.

(3) Submission of electronic bids is not permitted unless specifically authorised by the Authority.

(4) A procurement and disposal unit shall ensure that an officer is available at the location for submission, for a reasonable period of time before the last date for bidding, to receive bids and issue receipts.

(5) The procurement and disposal unit shall maintain a record of all bids received and shall issue a signed receipt for each bid received, stating the date and time received.

Opening of
bids.

(6) Bidding shall be closed at the precise time on the last date of closing the bid.

(7) A bid that arrives at the location of submission after the latest time and date for submission of bids shall not be accepted.

(8) A bid received after the latest time and date for submission of bids shall be declared late, labelled as such, and returned unopened to the bidder and any late bid which is not labelled with the bidder's name shall be left unopened and destroyed.

(9) The bid closing process shall be managed by the procurement and disposal unit and shall be witnessed by a representative of the contracts committee; all of whom shall sign the attendance register to confirm that bidding was closed at the precise time on the latest date of submission of bids.

(10) Immediately after the bid closing process, the bids received shall be moved to the location of the bid opening and where the bid opening is not immediately after the bid closing, the bids received shall be moved to a secure location.

71. (1) Opening of bids by open and selective bidding

shall take place in a public session.

(2) The bid opening shall be managed by the procurement and disposal unit and shall be witnessed by the chairperson of the contracts committee or his or her designated representative or members.

(3) The bid box in which bids are kept shall be unlocked at the appointed time and venue stipulated in the bid documents in the presence of the members of the contracts committee, and the bidders or their representatives who wish to attend.

(4) The bidders' names, total amount of each bid, the written notifications of bid modifications and withdrawals where applicable, and such other details as the contracts committee may consider appropriate shall be announced.

(5) In the case of a separate bid price envelope, the announcement shall include the fact that no price envelope has been opened and the envelopes marked with the words "Bid Price" in accordance with the rules for separate bid price, shall be opened only after the technical evaluation.

(6) The procurement and disposal unit shall record the number of unopened envelopes in the bid box.

(7) The bid opening records shall include—

- (a) name of bid;
- (b) bid price;
- (c) bid guarantee, source and amount;
- (d) alternative bids if any;
- (e) information on discounts offered by bids; and
- (f) any other relevant information.

(8) Every bid shall be stamped and signed by the chairperson of bid opening and the secretary.

(9) All bids opened shall be stamped on key pages with the stamp of the procuring and disposing entity and signed or initialled by the chairperson of the opening.

Evaluation
procedures.

(10) The chairperson of the opening shall determine the key pages to be stamped and initialled, but these shall always include the typed pages of the bid that are unique to the bid, including the bid form or bid submission sheet and all pages containing financial information.

(11) The bid opening shall be recorded and any person who attends or participates in a bid opening shall sign a register to indicate his or her attendance.

(12) After all bids have been opened, read out and recorded, the record of the opening shall be signed by the chairperson and countersigned by the secretary; copies of the record shall be made available to a representative of the bidder upon request, and on payment of a prescribed fee.

(13) The record of the bid opening shall be posted on the procuring and disposing entity's notice board and shall be displayed within two working days of opening and displayed for ten working days.

(14) The opened bids shall be taken immediately to a secure location where they shall be kept until the evaluation begins.

72. (1) An evaluation shall be conducted by an evaluation committee, which shall report to the contracts committee through the procurement and disposal unit.

(2) The membership of the evaluation committee shall be recommended by the procurement and disposal unit,

and approved by the contracts committee.

(3) A member of a procurement and disposal unit or a user department may be a member of an evaluation committee, where he or she has appropriate skills or experience.

(4) A member of a contracts committee shall not be a member of an evaluation committee.

(5) A member of the evaluation committee may come from outside the procuring and disposing entity, where the required skills or experience are not available within the procuring and disposing entity, or where there is a conflict of interest.

(6) The chairperson of the evaluation committee shall supervise and coordinate team members during the evaluation process, but shall not direct members in decisions relating to the evaluation or canvass them on any issue for a specific outcome.

Compliance
and respon-
siveness of
bids.

(7) Minutes of all meetings shall be signed by all members of the evaluation committee to confirm that the minutes are an accurate and complete record of each meeting.

(8) The minutes shall form an annex to the evaluation report and shall be kept as part of the procurement record.

(9) A decision of the evaluation committee shall be by unanimous consent, except where individual scores or marks are required in accordance with the evaluation methodology.

(10) Notwithstanding subregulation (9), where the evaluation committee is unable to reach a unanimous decision, the findings and recommendations of the majority shall be stated in the evaluation report.

(11) The evaluation report shall also state any disagreements, including the reasons, the discussions held on the issue and the names of those holding alternative views.

(12) The evaluation report shall be signed by all members of the evaluation committee.

Clarifications with bidders.

73. (1) A procuring and disposing entity's determination of a bid's compliance and responsiveness shall be based on the contents of the bid.

(2) A substantially compliant and responsive bid shall be one that conforms to all the instructions, requirements, terms and conditions of the bid documents without material deviation, or omission.

(3) If a bid is not substantially compliant and responsive to the bid documents, it shall be rejected by the procuring and disposing entity and may not subsequently be made compliant or responsive by the bidder by correction of the material deviation, or omission.

(4) Where a bid is substantially compliant and responsive, the procuring and disposing entity may waive, clarify or correct any non-conformity or omission in the bid that does not constitute a material deviation.

(5) Where a bid is to be evaluated on a pass or fail basis, any bid which is determined to be substantially compliant and responsive in accordance with subregulation (2) shall be determined to have passed.

74. (1) The evaluation committee may request the clarification of information or the submission of documentation from a bidder, which relate to—

Material
and non-
material
deviation.

(a) non conformity or omission, which is not material; or

(b) the correction of arithmetical errors.

(2) A clarification shall not seek and the bidder shall not be permitted to—

(a) alter or amend the bid price except to correct errors;

(b) change the substance of the terms and conditions of the bid ; or

(c) substantially alter anything which forms a crucial or deciding factor in the evaluation of the bid.

(3) A request for clarification, including the correction of arithmetic errors, shall be addressed to a bidder in writing by the procuring and disposing entity

(4) A request for clarification shall be signed and sent to a bidder by the chairperson of the evaluation committee and all requests for clarifications shall be copied to all bidders for information purposes only and noted in the evaluation report.

(5) A bidder shall be instructed to respond to clarifications in writing within a specified time.

(6) The head of the procurement and disposal unit shall ensure that all responses are promptly forwarded to the chairperson of the evaluation committee.

(7) Where a bidder fails to respond to a request for clarification his or her bid may be rejected.

(8) For the avoidance of doubt requests for clarification shall not be permitted to become negotiations which shall only be carried out by the negotiation team after the determination of the best evaluated bid, but before an award decision is made.

75. (1) A material deviation or omission is one that—

- (a) affects in any substantial way the scope, quality, or performance of the works, services or supplies specified in the bid documents;
- (b) would limit in any substantial way, inconsistent with the bid documents, the procuring and disposing entity's rights or the bidder's obligations under any resulting contract; or
- (c) if corrected would unfairly affect the competitive position of other bidders presenting substantially responsive and compliant bids.

(2) The bid shall be rejected if there is a material deviation.

(3) A non-material deviation or omission is one that-

- (a) affects the scope, quality, or performance of the works, services or supplies specified in the bid documents in only a minor way, which is acceptable to the procuring and disposing entity;
- (b) would limit the procuring and disposing entity's rights or the bidder's obligations under any resulting contract in only a minor way, which is acceptable to the procuring and disposing entity; and
- (c) would not unfairly affect the competitive position of other bidders presenting substantially responsive and compliant bids if corrected.

(4) A non-material deviation may be waived, clarified by the bidder or corrected by the procuring and disposing entity.

(5) The classification of a deviation, reservation or

omission as material or non-material shall be determined by the objectives and requirements of the individual procurement requirement, as stated in the bid documents.

(6) In classifying a deviation or omission as material or non-material, the procuring and disposing entity shall consider whether the impact on key factors, such as cost, risk, time and quality are major or minor and the following guidance shall apply—

(a) material deviation, or omission shall include—

- (i) unacceptable time schedules, where it is stated in the bid documents that time is of the essence;
- (ii) unacceptable alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; and
- (iii) unacceptable counter-proposals with respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty; and

(b) a non-material deviation, reservation or omission shall include—

- (i) minor differences in time schedules, where time is not of the essence;
- (ii) the omission of minor items;
- (iii) arithmetical errors;
- (iv) alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies, which are substantially

Stages of
evaluation.

Preliminary
evaluation
of bids.

responsive to the statement of requirements and acceptable to the procuring and disposing entity; and

- (v) minor amendments to contract terms and conditions, which are acceptable to the procuring and disposing entity.

(7) The classification of a deviation, reservation or omission as material or non-material shall be consistently applied to all bids.

76. An evaluation shall be conducted in three sequential stages—

- (a) a preliminary examination to determine the eligibility of a bidder and the administrative compliance of bids received;
- (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
- (c) a financial comparison to compare costs of the eligible, compliant and responsive bids received and to determine the best evaluated bid.

77. (1) A preliminary examination shall be conducted to determine—

- (a) whether a bidder is eligible; and
- (b) the administrative compliance of a bid to the basic instructions and requirements of the bid documents that may include but are not limited to—

Detailed
evaluation
of bids.

- (i) submission of a bid security, if required, in

- the correct form and amount;
- (ii) submission of the correct number of copies of the bid;
- (iii) submission of the bid in the required format;
- (iv) signature and authorisation of bidders in accordance with the instructions in the bid documents;
- (v) signature of curriculum vitae, if required;
- (vi) correct bid validity; and
- (vii) submission of any additional documentation or samples required.

(2) Eligibility shall be determined in accordance with these Regulations.

(3) Eligibility and administrative compliance shall be determined on a pass or fail basis and a bid which is not eligible or substantially compliant shall be rejected.

(4) Only bids that pass the preliminary examination shall be considered further.

78. (1) A detailed evaluation shall be conducted to assess—

- (a) the commercial responsiveness of a bid to the terms and conditions of the bid documents; and
- (b) the technical responsiveness of a bid to the statement of requirements or the relative quality of bids received.

(2) The detailed evaluation shall only be conducted

on a bid that is determined to be eligible and compliant during the preliminary examination.

(3) The detailed evaluation shall compare the details of the bid received with the terms, conditions and criteria stated in the bid documents.

Evaluation
method-
ologies.

(4) The detailed evaluation shall not be based on any terms, conditions or criteria that was not included in the bid documents.

(5) The detailed evaluation shall be in accordance with the methodology selected and the bid documents and may use—

(a) an assessment of whether the bid conforms to all the terms and conditions of the bid documents, including the statement of requirements, without material deviation or reservation;

(b) a pass or fail system against a minimum technical standard detailed in the statement of requirements to determine whether a bid is substantially responsive to the minimum standard required;

(c) a merit point system, with a variable number of points awarded to each bid for set criteria out of a maximum number of points stated in the statement of requirements to obtain a total score indicating the relative quality of each bid; or

(d) any combination of paragraphs (a), (b) and (c).

(6) A bid which is not substantially responsive to the minimum standard or does not reach any minimum score required shall be rejected and not evaluated further.

79. (1) The evaluation committee shall use one of the following evaluation methodologies in accordance with guidelines issued under these Regulations—

- (a) Quality and Cost Based Selection, (QCBS);
- (b) Quality Based Selection, (QBS);
- (c) Fixed Budget Selection, (FBS);
- (d) Least Cost Selection, (LCS); or
- (e) Technical Compliance Selection, (TCS).

(2) A procuring and disposing entity shall choose the evaluation methodology that best suits the procurement requirement.

(3) Notwithstanding subregulation (2), evaluation under direct procurement shall always use Technical Compliance Selection.

Financial
comparison
of bids.

(4) A procuring and disposing entity shall seek the consent of the Authority to use any other evaluation methodology.

(5) For the purposes of this regulation—

- (a) Quality and Cost Based Selection is the evaluation methodology that takes into account both the quality and the cost of bids in a process under which technical bids are evaluated without access to financial bids;
- (b) Quality Based Selection is the evaluation method that uses quality as the primary factor in a process under which a technical bid is evaluated without access to a financial bid and

a financial comparison is undertaken only for the best technical bid;

- (c) Fixed Budget Selection is the evaluation methodology that recommends the bidder with the best technical bid, which is within the budget;
- (d) Least Cost Selection is the evaluation methodology that recommends the lowest priced bid, which meets all the requirements of the procuring and disposing entity, both commercial and technical;
- (e) Technical Compliance Selection is the evaluation methodology that recommends the lowest priced bid, which is substantially responsive to the commercial and technical requirements of the procuring and disposing entity.

80. (1) A financial comparison shall be conducted to examine and compare financial bids and determine the best evaluated bid.

(2) The financial comparison shall only be conducted on a bid that is—

- (a) eligible and administratively compliant; and
 - (b) substantially, commercially and technically responsive or meets the required minimum technical standard or score.
- (3) The financial comparison shall—
- (a) determine the bid price;
 - (b) correct any arithmetical errors in the bid;
 - (c) apply any non-conditional discounts offered in a bid;

- (d) determine whether the financial bids are complete, costing any missing items and adding them to the original bid price.
- (e) make adjustments for any non-material nonconformities or omissions;
- (f) convert all bids to a single evaluation currency for purposes of comparison if required;
- (g) apply any margin of preference in accordance with the procedure specified in the bid documents;
- (h) determine the total evaluated price of each bid;
- (i) award a financial score or rank bids, in accordance with the evaluation methodology selected; and
- (j) determine the best evaluated bid in accordance with the methodology and criteria in the bid documents.

(4) Where a conditional discount has been offered, it shall be incorporated in a further financial comparison prior to determining the best evaluated bid.

(5) A financial bid shall be determined to be complete if the price has been included for all items required and included in the corresponding technical bid and unless otherwise stated in the bid documents, any missing items shall be costed using the highest price from the other bids, and added to the original bid price.

(6) The bid documents shall state the evaluation currency and the date and source of the exchange rates to be used for conversion to a single currency.

(7) Unless otherwise indicated in the bid documents, an alternative bid shall not be considered.

81. (1) An evaluation report shall be prepared for each evaluation and submitted to the contracts committee for approval.

(2) The evaluation report shall be signed by all members of the evaluation committee.

(3) Where a bid is submitted using the one stage-one envelope bid submission method, a combined evaluation report shall be prepared and submitted to the contracts committee after completion of the evaluation.

(4) Where a bid is submitted using the one stage-two envelope, two stage-two envelope or two stage bid submission method— Post qualification.

(a) a technical evaluation report shall be prepared and submitted to the contracts committee after completion of the detailed evaluation and shall be approved prior to inviting or opening a financial bid as applicable; and

(b) a financial evaluation report shall be prepared and submitted to the contracts committee after completion of the financial comparison.

(5) An evaluation report shall contain reasons for the rejection of any bid and details of any non-material deviations accepted and the way in which they have been quantified and taken into account in the financial comparison.

(6) A technical evaluation report shall contain recommendations on which a bidder should proceed to the financial comparison.

(7) A combined and financial evaluation report shall contain recommendations on—

(a) the best evaluated bidder and the evaluated price;

(b) whether the recommended bidder should be

subject to post-qualification;

(c) whether negotiations should be held with the recommended bidder; and

(d) the price of the proposed contract, subject to any changes following negotiations.

82. (1) Where appropriate, a post-qualification may be undertaken to determine whether the best evaluated bidder has the capability and resources to effectively carry out the contract.

(2) The criteria for post-qualification shall be set out in the bid documents and may include—

(a) experience on similar contracts in Uganda, regionally or internationally;

(b) performance on similar contracts in the country, region or internationally;

(c) capability with respect to equipment, and manufacturing or construction facilities;

(d) qualifications and experience of personnel;

(e) financial capability to perform the proposed contract;

(f) facilities or representation at or near the location for performance of the contract;

(g) available capacity to undertake the assignment;

(h) litigation record; or

(i) any other relevant criteria.

(3) A procuring and disposing entity may seek independent references from a bidder and the results of reference checks may be used in determining award of contract.

(4) The criteria for post-qualification shall be limited to that which is necessary for performance of the intended contract and shall not be unduly restrictive.

Procedure
for
negotiations.

(5) Post-qualification shall be undertaken for the best evaluated bidder only and shall be recorded.

(6) Where the best evaluated bidder does not meet the post-qualification criteria the bid shall be rejected and a post-qualification shall be undertaken for the next best evaluated bidder.

(7) Approval shall be obtained from the contracts committee prior to rejecting any bid or undertaking an additional post-qualification on any other bidder.

(8) Where a bidder has been pre-qualified, a full post-qualification is not required, but the pre-qualification information submitted shall be verified and an award may be denied to the best evaluated bidder if he or she is judged to no longer meet the pre-qualification requirements and criteria.

(9) In particular, the procuring and disposing entity shall consider—

- (a) any material change in circumstances since submission of the pre-qualification information; and
- (b) any information which has become available since the pre-qualification submission, which, in the procuring and disposing entity's judgment,

materially affects the capacity of the bidder to perform the contract.

83. (1) The membership of a negotiation team shall be recommended by the procurement and disposal unit and the membership shall be subject to approval by the contracts committee.

(2) Negotiations may be undertaken according to any method of procurement, in accordance with these Regulations.

(3) Where a competitive procurement method is used, negotiations may relate to—

- (a) a minor alteration to the technical details of the statement of requirements;
- (b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the bid documents;
- (c) a minor amendment to the special conditions of contract;
- (d) finalising the payment arrangements;
- (e) mobilisation arrangements;
- (f) agreeing final delivery or works schedules to accommodate any changes required by the procuring and disposing entity;
- (g) the proposed methodology or staffing;
- (h) inputs required from the procuring and disposing entity; or
- (i) clarifying details that were not apparent or could not be finalised at the time of bidding.

(4) Negotiations under competitive procurement methods shall not be conducted—

- (a) to substantially change the technical quality or details of the requirement, including the tasks or responsibilities of the bidder;
- (b) to materially alter the terms and conditions of contract stated in the bid documents;
- (c) primarily for the purposes of reducing prices; or
- (d) to substantially alter anything which formed a crucial or deciding factor in the evaluation of the bid.

(5) Notwithstanding subregulations (2) and (3), where a competitive procurement method was used, but only a single bid was received, negotiations may relate to any aspects of the bid in accordance with these Regulations.

(6) Where direct procurement is used, or the evaluation methodology is Quality Based Selection, negotiations may relate to—

- (a) alterations to the technical details of the statement of requirements;
- (b) reduction of scope or quantities for budgetary reasons, where the reduction is in excess of any provided for in the bid documents;
- (c) amendments to the special conditions of contract;
- (d) finalising the payment terms and arrangements;
- (e) mobilisation arrangements;
- (f) agreeing final delivery or works schedules;
- (g) the proposed methodology or staffing;
- (h) inputs required from the procuring and disposing entity;

(i) clarifying details that were not apparent or could not be finalised at the time of bidding; or

(j) the total bid price and its constituent costs to obtain value for money.

(7) Negotiations with a bidder are not permitted until after the contracts committee has approved the evaluation committee's recommendation—

(a) of the best evaluated bidder and the need to hold negotiations in the case of competitive methods of procurement; or

(b) that the single or sole bidder should be considered for contract award, subject to negotiations in the case of direct procurement.

(8) Negotiations shall only be held with the best evaluated bidder.

Award of contract decision by contracts committee.

(9) The negotiation team shall submit a recommendation to the contracts committee to—

(a) either proceed with contract award to the recommended bidder, incorporating the agreements reached during negotiations, revise the negotiation objectives and hold further negotiations; or

(b) terminate the negotiations and reject the bidder.

(10) Where a negotiation team recommends rejection of the bidder, it may also, where appropriate, recommend inviting the next ranked bidder for negotiations in the case of competitive methods of procurement or a new bidder to submit a bid in the case of direct procurement.

Public notice of best evaluated bidder.

(11) The contracts committee may—

- (a) approve the recommendations;
- (b) request further negotiations on specific points;
- (c) reject the recommendations with reasons; or
- (d) cancel the negotiations in their entirety.

(12) The results of any approved negotiation shall be specified in any letter of bid acceptance and incorporated into the contract document.

(13) Where negotiations are commenced with the next ranked bidder or a new bid is invited, the procuring and disposing entity shall not reopen earlier negotiations; and the original bidder shall be informed of the reasons for termination of the negotiations.

84. (1) A procurement and disposal unit shall submit a recommendation for award of a contract to the contracts committee after completion of the evaluation process and any post-qualification and negotiation process.

(2) The contracts committee shall consider the recommendation in the same way as any other submission to the contracts committee.

(3) Approval of a recommendation by a contracts committee shall be an award of contract decision.

(4) For the purpose of these Regulations, an award of contract decision by the contracts committee shall not amount to a contract binding a procuring and disposing entity to a bidder.

85. (1) A procuring and disposing entity shall, within five days of the decision of the contracts committee to award a contract, display a notice of the best evaluated bidder.

(2) A notice of the best evaluated bidder shall not

Procedure
for contract
award.

amount to a contract.

(3) A notice of best evaluated bidder shall be displayed on a procuring and disposing entity's notice board and may be posted on the Authority's website.

(4) A notice of best evaluated bidder shall be published for a minimum of—

(a) ten working days prior to contract award in the case of open or restricted bidding; and

(b) ten working days prior to contract award, in the case of quotations and proposals procurement or direct procurement.

(5) A notice of best evaluated bidder shall, at the time it is displayed in accordance with subregulation (6), be sent to all bidders who participated in the procurement.

(6) Where a decision to award a contract is changed after the publication of a notice of best evaluated bidder, a new notice of best evaluated bidder shall be displayed, in accordance with this regulation, prior to contract award or placement.

(7) This regulation shall not apply to micro procurement and procurement in emergency circumstances, irrespective of the procurement method used.

86. (1) The bid documents shall state the procedure for award of contract, which shall be—

Commitment
of funds.

(a) by issue of a letter of bid acceptance; or

(b) by placement of a written contract document.

(2) A contract document, purchase order, letter of bid

acceptance or other communication in any form conveying acceptance of a bid that binds a procuring and disposing entity to a contract with the bidder, shall not be issued prior to—

- (a) an award of a contract decision by the contracts committee;
- (b) the display of a notice of best evaluated bidder;
- (c) the elapse of the period of the notice of best evaluated bidder ;
- (d) confirmation by an accounting officer that the procurement is not subject to any administrative review;
- (e) commitment of the full amount of the funding for the period of the proposed contract; and
- (f) approval by all relevant agencies, including, the Attorney General.

(3) A contract award shall, except for an award under micro procurement, be displayed within two working days of the contract award, on a procuring and disposing entity's notice board and may be posted it on the Authority's website.

(4) The accounting officer shall communicate the award decision.

(5) After a placement of the contract with the successful bidder, the unsuccessful bidders shall be notified of the award by the procuring and disposing entity and their bids shall be rejected by a procuring and disposing entity.

87. (1) A procuring and disposing entity shall not enter into a contract until the accounting officer or an officer with delegated authority confirms in writing that the required funds have been committed for the proposed contract, except where—

- (a) payment to a provider is to be effected in a

subsequent financial year;

(b) for framework contracts, funds are committed at the time of issue of each specific call off order; or

(c) the Secretary to the Treasury has issued written instructions confirming that the required funding will be made available in accordance with a specified schedule of payment.

(2) Where payment to a provider covers more than one year, an accounting officer shall make financial provision for the payment, in the budgets submitted to the Secretary to the Treasury, for the duration of the contract.

(3) In respect of framework contracts, the accounting officer shall ensure that—

(a) the minimum payment guaranteed to the bidder is committed prior to the award of contract;

(b) sufficient funds are budgeted for in a financial year to cover the full cumulative costs of all call off orders anticipated for the year; and

(c) the funds required for each call off order are committed prior to its release.

(4) Where the Secretary to the Treasury confirms that the required funds will be made available, the accounting officer shall make the necessary adjustments to the current and future budgets and comply with any other instructions issued by the Secretary to the Treasury.

(5) An accounting officer shall ensure that the total acquisition cost of a procurement is committed prior to contract placement.

(6) The total acquisition cost shall include—

- (a) the total contract price;
- (b) contingencies, such as anticipated contract variations or permitted exchange rate fluctuations; and
- (c) other incidental costs, not included in the contract price, but for which a procuring and disposing entity shall be liable, such as local clearance, inland delivery and import taxes or duties.

(7) A procuring and disposing entity shall, for a contract for supplies using FOB delivery terms, ensure that additional costs are included in the total acquisition cost committed prior to contract placement, where the procuring and disposing entity is liable for payment of the costs.

(8) The additional costs referred to in subregulation (7) shall include—

- (a) freight costs;
- (b) local clearance and delivery costs;
- (c) insurance costs;
- (d) taxes, duties and levies due on importation;
- (e) inspection costs; or
- (f) any other costs,

in the total acquisition cost prior to contract placement.

Contract
effect-
iveness.

88. (1) A contract form shall be in accordance with the form in the bid documents, which shall be the appropriate standard document issued by the Authority, and modified during drafting.

(2) A contract document shall—

- (a) clearly identify the obligations of each party;
- (b) correlate all payments by a procuring and disposing entity with the corresponding input, obligation or deliverables by a provider, in a specific identifiable and measurable manner;
- (c) minimise risk for a procuring and disposing entity;
- (d) maximise value for money for the procuring and disposing entity;
- (e) be fair and equitable to the parties;
- (f) provide effective supervision arrangements, where required;
- (g) provide adequate monitoring and cost control measures, where required; and
- (h) include adequate and clear delivery, acceptance and handover or commissioning arrangements, where required.

Types of
contracts.

(3) A contract signatory shall initial all pages of a contract.

(4) At least three originals of the contract shall be produced and a procuring and disposing entity and a provider shall each get an original signed by both parties.

89. (1) Contract effectiveness shall be as specified in the contract but may depend upon the fulfillment of one or more conditions which may include, but are not limited to receipt by—

- (a) a procuring and disposing entity of a performance security;
- (b) a procuring and disposing entity of an advance payment guarantee;
- (c) a provider of an advance payment; or

(d) a provider of an acceptable letter of credit.

(2) A procuring and disposing entity shall promptly fulfill all its obligations relating to contract effectiveness.

(3) Where a bidder—

(a) fails or refuses to sign a contract without due cause;

(b) fails to provide the required performance security within the specified time; or

(c) fails to fulfill any other condition of contract effectiveness,

the procuring and disposing entity shall proceed to award a contract to the next best evaluated bidder from among the remaining bidders.

PART VIII—CONTRACT MANAGEMENT

90. (1) A procuring and disposing entity shall use any of the following types of contracts, in accordance with these Regulations—

(a) lump sum;

(b) time-based;

(c) Admeasurement;

(d) framework;

(e) percentage;

(f) cost reimbursable;

(g) target price;

(h) retainer;

(i) contingency or success fee;

(j) a combination of any of these types of contracts;
and

(k) petty contract.

Lump sum
contract.

(2) A contracts committee shall select the contract type which is most appropriate to the procurement requirements, most advantageous and which offers an equitable contract to the provider.

(3) The type of contract to be used shall be specified in the bid documents.

(4) The choice of contract type shall take into account—

- (a) the nature of the procurement requirements;
- (b) the need for effective competition;
- (c) the need to minimise risk for a procuring and disposing entity;
- (d) the need to maximise value for money for a procuring and disposing entity;
- (e) the likelihood of any delays or unforeseen circumstances requiring contract extensions, or variations of change of orders; and
- (f) the need for effective contract management and cost control.

91. (1) A lump sum contract shall be used where the content, duration and outputs of the procurement are well defined.

(2) A lump sum contract may include interim or stage payments

(3) Payment for lump sum contract shall be linked to clearly specified outputs or deliverables.

92. (1) A time-based contract shall be used where the

scope and duration of the procurement requirements is difficult to define.

(2) Payment for a time-based contract shall be based on agreed hourly, daily, weekly, or monthly fees for either nominated personnel or a certain type or grade of personnel and reimbursable items using either actual expenses or agreed unit prices.

(3) Payment rates for personnel may include salary, social costs, overhead, fee or profit and, special allowances.

Admeasure-
ment
contract.

(4) Reimbursable items may include—

(a) subsistence, such as per diem or housing;

(b) transport, which may be international or local;

(c) monies for mobilisation and demobilisation;

(d) services and equipment such as vehicles, office equipment, furniture and supplies;

(e) office rent;

(f) insurance;

(g) printing of documents;

(h) surveys;

(i) training, if it is a major component of the assignment; and

(j) any other appropriate items.

(5) A time-based contract shall include a maximum amount of total payments to be made which may include a contingency allowance for unforeseen work and duration.

(6) A time-based contract may include interim or

stage payments

(7) A contract supervisor shall closely monitor the progress of a time-based contract and that the payments claimed by the provider are appropriate and in accordance with the contract terms.

Framework
contract.

93. (1) An admeasurement contract means a re-measurement, unit rate or bill of quantities contract and shall be used for works—

(a) which are not well defined;

(b) which are likely to change in quantity or specification; or

(c) where difficult or unforeseen site conditions, such as hidden foundation problems, are likely.

(2) Works shall be split into various items and the quantity of each item needed to complete the assignment shall be estimated and indicated in a bid documents.

(3) A bidder shall price each work item by indicating a unit rate for each item in the bill of quantities.

(4) The initial total contract price shall be calculated by multiplying the unit rate by the estimated quantity to give a total for each item, and then calculating the sum of the line item totals.

(5) The actual work done shall be measured during the performance of the contract and shall be finally reconciled upon completion of the contract.

(6) Payment shall only be made for the final contract price, which shall be the total of the actual quantity of work performed.

(7) An admeasurement contract may include fixed

prices or price adjustment

(8) An admeasurement contract may include interim or stage payments

Percentage
based
contract.

94. (1) A framework contract is a schedule of rates or indefinite delivery contract and shall be used—

(a) where a requirement is needed repeatedly at an agreed price over a period of time, but where the quantity and timing of the requirement cannot be defined in advance; or

(b) to reduce procurement costs or lead times for a requirement which is needed repeatedly or continuously over a period of time by having them available on a placement of purchase order basis.

(2) A bidder shall indicate the unit rate for each item.

(3) A procuring and disposing entity shall indicate the estimated quantity or value where this is possible or necessary to obtain competitive bids, but shall not make a commitment to purchase the full quantity or value.

(4) Notwithstanding sub regulation (3), a procuring and disposing entity may make a commitment to purchase a minimum quantity or value or to purchase all similar requirements from a successful bidder, where this is necessary or preferable to obtain competitive prices.

Cost
reimbursable
contract.

(5) A framework contract shall state the arrangements for obtaining specific requirements during the period of the contract, using placement of purchase orders.

(6) Payment shall be made on the basis of the works, services or supplies actually delivered or performed.

(7) A framework contract may include fixed prices or

price adjustment in accordance with these regulations.

95. (1) A percentage-based contract shall be used where it is appropriate to relate the fee paid directly to the estimated or actual cost of the subject of the contract.

Target price
contract.

(2) A percentage-based contract shall clearly define the total cost from which the percentage is to be calculated.

(3) A bidder shall be required to indicate his or her fee rate as a percentage of the total cost of the requirement.

(4) A percentage contract may include—

(a) a fixed target cost;

(b) minimum or maximum fees;

(c) sliding scales of fees, related to the value of the subject of the contract; or

Retainer
contract.

(d) incentive fees, related to any savings made through economic design, discounts obtained, cost reductions or similar fees.

96. (1) A cost reimbursable contract shall be used—

(a) for emergency works, where there is insufficient time to fully calculate the costs involved; or

(b) for high-risk works, where it is more economical for the procuring and disposing entity to bear the risk of price variations than to pay a provider to accept the risk or where a provider will not accept the risk.

Contingency
or success
fee contract.

(2) A procuring and disposing entity shall pay a provider—

(a) for the actual cost of the works, as evidenced by

receipts and other appropriate documentation;
and

(b) a fee or profit to be agreed upon and as specified
in the contract.

97. (1) A target price contract may be used instead of a cost reimbursable contract where a target price can be agreed and cost savings may be achieved by offering an incentive payment to the provider for any cost savings below the target price.

(2) A procuring and disposing entity shall pay a provider for the actual cost of the works, as evidenced by receipts and other appropriate documentation and a fee, profit or agreed percentage of any cost savings below the target price.

Other
contracting
arrangement.

98. (1) A retainer contract is used to retain a provider to provide services over a prescribed period of time, without defining the level and actual amount of services required.

(2) Payment for a retainer contract may include a flat fee—

(a) which represents the total payment due, irrespective of the level and amount of services provided during the prescribed period; or

(b) as a retainer for the prescribed period plus a pre-agreed unit rate for services provided.

99. (1) A contingency or success fee contract is used to link a provider's fee to an achieved objective to provide an incentive to the successful completion of a particular task, event or action.

(2) Payment for a contingency or success fee, may be

- (a) pre-agreed amount linked to the successful completion of a target or event;
- (b) percentage of a predetermined amount or proceeds; or
- (c) a basic flat rate, which is not linked to the successful completion of a particular task, event or action.

(3) A contingency or success fee contract shall describe the nature of the success to which a success fee shall be applicable and the timescale in which the task, event or action shall be achieved.

100. (1) Where a procuring and disposing entity wishes to use another type of contract or contracting arrangement, including, acquisition by rental, lease, hire purchase, license, tenancy or franchise, it shall seek guidance from the Authority or other competent authorities on the applicable procurement procedures and documents.

Performance
security.

(2) Where a project is to be financed or partially financed under a Build Own Operate (BOO), Build Own Transfer (BOT), Build Own Operate Transfer (BOOT), Public Private Partnership (PPP) or similar type of private sector arrangement, a procuring and disposing entity shall seek guidance from the Authority or other competent authorities on the applicable procurement procedures and documents.

(3) The applicable procurement procedures shall be in accordance with the basic procurement principles of public procurement in the Act and these Regulations.

(4) The Authority may, issue guidelines for private sector contracting arrangements.

101. (1) A petty contract is a minor contract for works,

services or transportation excluding supply of goods or works, carried out by casual workers or organised groups of such workers; but shall include contracts such as trench-digging, road works, tree-planting, drain-clearing, ferrying, and other similar contracts but cleaning of wards and general maintenance of hospitals shall be considered as major works requiring proper bid procedures.

(2) A contract which includes the supply of goods or materials shall require a local purchase order (LPO).

(3) The head of department shall be responsible for approving the details of petty contracts of works and the details shall be recorded on petty contract vouchers.

Vigilance
necessary
over
contract
payment.

(4) Each head of department shall maintain a register of petty contracts indicating the full details of petty contracts awarded and payments made and each payment shall be supported by a petty contract voucher, signed by the technical officer supervising the work, and countersigned by the head of department.

(5) The amount involved for paying a petty contractor at any one time shall not exceed the amount specified in the guidelines under the micro procurement method.

102. (1) A performance security may be requested to protect against non performance of a contract.

(2) Bid documents shall state the requirement for a performance security.

(3) A performance security shall be in a form and from an institution that is wholly acceptable to the Bank of Uganda and valid for a period prescribed in the bid documents.

Performance
control.

(4) Where a bidder is required to provide a performance security, a bid security from that bidder shall not be released until a satisfactory performance security is received by a procuring and disposing entity.

(5) A performance security shall not be released by the

accounting officer until all the obligations of the provider which are subject to the performance security have been fulfilled.

(6) A performance security may cover warranty obligations if stated in the bid documents or negotiated at contract preparation.

(7) A proposed release of a performance security shall be communicated to the provider and returned in accordance with the provider's instructions.

The role of
a
supervisor.

103. (1) Every head of department shall ensure that officers involved with the administration of payments to contractors closely follow the provisions of these Regulations, and exercise due vigilance at all times, and that no irregular payments are made to contractors.

(2) Where the accounting officer is satisfied that a contracts committee or the evaluation committee or both did not follow proper procedures and as a result caused loss to the procuring and disposing entity, the accounting officer shall take necessary action against the contracts committee or committee members including recovery of losses suffered by the procuring and disposing entity

(3) A standing committee responsible for finance shall on quarterly basis review all the minutes and reports of the contracts committee and the awards made on quarterly basis to ensure that care has been taken to safeguard the interest of the procuring and disposing entity

104. The user departments shall be responsible for performance control of the providers to ensure that—

- (a) supplies, works and services are actually delivered in accordance with the technical specifications laid down in the contract;
- (b) general and special conditions of time and place

of delivery, payments, accountability, reporting, and others are being strictly followed in accordance with the Local Governments Act and any regulations;

(c) immediate and appropriate action is taken in the case of breach of contract.

105. (1) A supervisor shall be employed by the procuring and disposing entity as its agent responsible for monitoring the progress and execution of the contract and shall generally act on behalf of the procuring and disposing entity.

(2) The supervisor may be the relevant head of division or a technical officer appointed by the head of department, depending on the size and nature of the contract.

(3) The accounting officer may constitute a steering committee in the case of a large-scale, cross-sectoral contract involving contractors, suppliers and consultants.

(4) Depending on the size and nature of the contract and other special conditions, the supervisor may be employed under a separate service contract, especially on large-scale works contracts funded by donor agencies.

(5) The supervisor shall not be a party to the contract, and shall not have power to relieve the contractor of any of his or her obligations except as expressly provided for in the contract; and the supervisor shall be required to act impartially between the contracting authority and the contractor, and shall apply the contract in a fair and a neutral manner.

Performance certificate.

(6) The supervisor shall be responsible among others, for—

(a) the day-to-day technical supervision of the contract;

(b) keeping a works register of the progress of the

Contract
certificates.

works; and

(c) inspecting and testing components and materials before incorporation in the works.

(7) The supervisor may refuse the contractor's request for extensions of the period of performance of the contract, order variations to the works and decide on suspension of the works if that power has been delegated to the supervisor by the contracting authority.

Preliminary
technical
acceptance.

(8) The supervisor shall be required to consult with his or her superiors, before making decisions on specific matters having financial implications, such as the extension of the period of performance, variations and claims for additional payment, or decisions that may affect objectives or standards set by the procuring and disposing entity.

(9) All instructions and orders issued by the supervisor or his or her representative to the contractor shall be in writing in the form of an administrative order.

Provisional
acceptance.

(8) The role and responsibilities of the supervisor and his or her representative shall be specified in the contract or in a separate document attached to the contract document.

106. (1) In deciding the payments to the contractor or the consultant, the supervisor shall assess the work which the contractor or consultant has done, and the measurement shall depend on the type of contract.

(2) For lump-sum contracts, payments shall be worked out on the basis of the percentage of the project executed as per payment schedule in the contract.

(3) For unit-price contracts applying to works contracts, the quantities of work actually done shall be priced at the rates mentioned in the contract and payment shall be based on the measurement of work actually carried out and the value of plant and materials on site.

107. (1) Where final contract payments are made the

procuring and disposing entity shall issue a certificate of contract performance and proof of quality of performance.

(2) Where contract payments are made by instalments, a certificate shall be prepared for each instalment, showing the sum being certified, and the cumulative total payments and any deductions made; and the certificate shall be signed by the supervisor and counter-signed by the head of department or his or her senior delegate.

108. Where the contractor considers that certain items are ready for preliminary technical acceptance, the contractor shall request the supervisor to carry out the necessary inspections and tests and if the supervisor finds them satisfactory, he or she will issue a certificate stating that the items meet the requirements for preliminary technical acceptance laid down in the contract.

Approval of
works
contract.

109. (1) Partial provisional acceptance refers to the acceptance on a provisional basis of parts or sections of the works, which have been substantially completed and can be used as independent units.

(2) The contractor shall be required to initiate the process of provisional acceptance of the works and after receipt of the contractor's application, the supervisor shall, within thirty days, either issue the certificate of provisional acceptance, with a copy to the contracts committee and the accounting officer, or reject the application.

(3) If the supervisor fails to issue the certificate of provisional acceptance or to reject the contractor's application within the thirty days, the supervisor shall be deemed to have issued the certificate on the last day of that period.

(4) Upon provisional acceptance of the works, the

contractor shall dismantle and remove from the site all the remaining equipment, temporary structures, litter or obstructions and materials which are no longer required and restore the site to the condition specified in the contract.

(5) The obligation of the contractor to leave the site in proper condition is of utmost importance as it carries both cost and environmental consequences, for that matter, particular attention shall be paid not only to the completed works and its vicinity, but also to any quarries, borrow pits, buildings, water resources, and other relevant matter or thing which were put at the disposal of the contractor by the contracting authority.

110. (1) A final acceptance certificate shall be issued within thirty days after the expiration of the latest maintenance period or as soon as the works have been completed and defects or damage have been rectified if that completion or rectification did not take place before the end of the latest maintenance period.

(2) Any responsibility of the contractor beyond this period must be stated in the contract.

(3) A copy of the final acceptance certificate shall be sent to the contracts committee and the accounting officer.

(4) Once the contractor has received the final acceptance certificate, the contractor shall return to the supervisor all contract documents and the retention sum or retention guarantee shall be released to the contractor within ninety days after final acceptance, and the contractor shall submit to the supervisor a draft final statement of account within ninety days after the issue of the final acceptance certificate.

(5) The performance guarantee shall be released after the signed final statement of account has been issued.

111. (1) The supplier shall be required to provide supplies

which conform to the technical specifications laid down in the contract and the supervisor or other relevant technical officer acting on behalf of the council shall ensure through inspection and testing that the quality and quantity of supplies is in accordance with the specifications.

Approval of
service
contract.

(2) The supplier may, within fifteen days from the date on which the supplier expects the supplies will be complete, give notice to the supervisor applying for the certificate and the contracting authority shall respond within thirty days after receipt of the notice.

(3) A contract supervisor shall respond to the supplier's application either by issuing a certificate or rejecting the application and in the case of rejection, reasons shall be stated to give the supplier the opportunity to make good the deficiency and apply for a certificate again or appeal to the accounting officer.

(4) The contract may provide that once a provisional certificate has been given, a warranty period is provided in the contract.

(5) Where a contract provides for a warranty period, the contracting authority shall issue a final acceptance certificate at the end of that period, if the supervisor is satisfied that the supplier completed his or her obligations which shall be thirty days after the latest warranty period.

Contract
pricing
terms and
conditions.

(6) If the contract does not provide for a warranty period, no provisional acceptance shall take place and only a final acceptance certificate shall be issued.

(7) Once the final acceptance certificate has been issued, the retention sum or guarantee shall be released to the supplier within ninety days after final acceptance, and the supplier shall submit to the contracting authority a draft final statement of account within sixty days after the issue of the final acceptance certificate and the performance guarantee, if

any, shall be released only after the signed final statement of account has been issued.

112. (1) The consultant shall submit reports on the progress and completion of the services and such reports shall be essential for approval by the contracting authority of the consultants' services and shall be made a condition for payments.

(2) The specific description of deliverables, the numbers of reports; frequency and time limits for submitting the reports shall be specified in the contract.

(3) If the accounting officer does not approve the deliverables, the reason for the rejection shall be stated, including a stipulation of a period for making the necessary amendments.

(4) Interim payments shall be made at regular intervals, depending on the nature and duration of the contract and the final payment shall be made after the approval of the final report and issue of a final statement by the contracting authority.

113. (1) A contracts committee shall place a contract based on fixed and firm prices for a procurement requirement that is to be completed within specific payment terms and conditions.

Contract
payment
terms.

(2) Notwithstanding sub-regulation (1), a procuring and disposing entity may place a contract with price adjustment provisions for a procurement requirement

(3) A price adjustment provision may be included in a contract where it is more economical for a procuring and disposing entity to accept the inflation risk than to pay an additional cost for the supplier to accept the risk.

(4) Where a price adjustment provision is included, the method for calculating adjustments, and any restrictions or conditions on adjustments, shall be clearly stated in the contract.

(5) A price adjustment shall be calculated using a predefined formula, which shall separate the total price into components, such as labour, equipment, materials, and fuel, adjusted by price indices specified for each component.

(6) Where the payment currency is different from the source of the input and corresponding index, a correction factor shall also be applied in the formula, to avoid incorrect adjustment.

Contract
payment
structure.

(7) The formula, price indices, correction factors and base date for application shall be clearly stated in the bid documents and in the contract.

(8) The formula and price indices shall be appropriate to the type of procurement and source of the inputs and shall use industry standards wherever possible.

(9) Where no industry standard or other appropriate formula is available, a contracts committee shall seek guidance from the Authority or other competent authorities.

(10) In this regulation “base date” means thirty days before the deadline for submission of bids.

114. (1) Contracts shall specify the payment terms that shall apply to a contract and they shall include—

- (a) payment method;
- (b) payment structure;
- (c) payment documents;
- (d) payment period; and
- (e) payment currency.

(2) The method of payment shall be comprehensively defined in a contract and a council shall state in the bid documents and the resulting contract, the structure of the payment to be made.

115. (1) A payment structure and amount of payment for each procurement requirement shall be determined by best practices.

(2) A payment structure may include—

(a) advance payments;

(b) stage payments, which shall be linked to specific deliverables or milestones and which may be stated in percentage terms of the defined amount or in specific amounts;

(c) regular interim payments, which shall be based on general progress or the work performed and may relate to a specified time period or a measurement of work performed; or

(d) a retained payment, which shall be linked to a specific contract event, such as installation or warranty.

(3) Except where best practices or market forces dictate, a procuring and disposing entity shall not enter into a contract which requires an advance payment

(4) Where an advance payment is consistent with best practices, an advance payment security shall be required and the requirement for a payment security shall be stated in the contract documents

(5) An advance payment shall be recovered from subsequent payments made to a provider, which shall be subject to a percentage deduction equal to the percentage paid as advance payment.

Payment
security.

(6) An advance payment may be made for—

- (a) mobilisation or start up costs for the provision of works or services; or
- (b) the provision of supplies, such as items that have to be specially or custom manufactured.

(7) Where best practices dictate, a procuring and disposing entity may enter into a contract in which an interim or stage payment is permitted.

(8) Where an interim or stage payment is permitted, it shall comply with the following conditions—

- (a) the payment shall be linked to specific and verifiable deliverables, contract event, time period, or work, which should be stated in the contract;
- (b) individual payments shall not exceed the cost or value of the deliverable, period or work to which it is linked.

(9) Where a procuring and disposing entity has determined that a retained payment is appropriate, the contract shall state—

- (a) the percentage or amount of the total contract value to be retained;
- (b) the period or the event at which the retention is to be released; and
- (c) the documents that shall prove or certify the period or event in paragraph (b).

116. (1) A payment shall not be made to a provider under a contract for works, services or supplies, without receipt of

the deliverables specified in the contract.

(2) Notwithstanding sub-regulation (1), payment may be made to a provider prior to receipt of deliverables where an appropriate payment security is obtained.

(3) Payment may require the provision of a payment security if, during the delivery of the works, services or supplies, risk or title remains with the provider.

(4) A payment security shall—

(a) be in a format provided by the Authority which shall be included in the bid documents;

(b) be in a form and from an institution that is wholly acceptable to the Bank of Uganda in accordance with the guidelines;

(c) be valid for a prescribed period beyond the expected final transaction date of a contract or expected release date; and

(d) where appropriate, allow for the progressive reduction of the secured sum, where a successive payment is released against the secured sum.

(5) The period in sub regulation (4)(c) shall be determined taking into account the circumstances of a procurement requirement and the likelihood of extensions or delays to the final completion date.

(6) The validity period for a payment security for procurement for works shall be for three to six months after the final expected transaction date.

(7) The validity period for a payment security for procurement of services or supplies shall be for one to three

months after the final expected transaction date.

(8) A payment security shall be released promptly by a procuring and disposing entity upon expiry of the term of the security or upon reduction of the secured sum to zero, whichever is later.

(9) The proposed release of a payment security shall be communicated to a provider and returned in accordance with the provider's instructions.

117. (1) A procuring and disposing entity shall clearly state in the contract documents, the documents against which each payment shall be made.

(2) A payment document may include a document certifying or proving—

(a) the delivery or receipt of goods, works or services in accordance with the terms of the contract;

(b) the content of the consignments delivered;

(c) the insurance coverage of the delivered items;

(d) the successful inspection of the delivered items;

(e) the origin or eligibility of the delivered items;

(f) payment of costs specified in a contract, such as duties, levies or taxes that may be due and payable by a provider on the delivered items;

Rejecting
payment
request.

(g) the acceptance of installation or commissioning of the delivered items by a user;

(h) the receipt or acceptance of reports, manuals,

- guides, or other documents;
- (i) the actual time period worked;
- (j) the actual works, supplies or services completed;
- (k) the payment of sums due to sub-contractors; or
- (l) the actual sums paid for reimbursable costs, such as air tickets.

(3) A payment request from a provider shall require an original invoice from the provider certifying the payment due.

(4) Payment for any sum of money due under a contract may only be made in the name of a provider stated in a contract through recognised banking channels and practices.

(5) Payment shall not be made to any person other than a provider, unless the provider requests and confirms in writing the details of the recipient of a payment.

(6) The period for payment shall be within thirty days from certification of invoices, except where this is varied in the special conditions of contract.

(7) Where a payment request is accurate and in accordance with the terms of a contract, a procuring and disposing entity shall certify it for payment and make payment in accordance with the terms and conditions of the contract.

118. (1) Where a payment request contains errors or discrepancies or is supported by incorrect or incomplete documentation or is not in accordance with the terms of a contract the payment request shall not be certified but it shall be returned to a provider, specifying the reasons for the rejection.

(2) A provider whose payment request is rejected shall be entitled to present a new or amended payment request,

which shall be treated as the original payment request.

(3) Where a procuring and disposing entity queries any part of a payment invoice from a provider, that query shall not delay payment of the unchallenged portion of the invoice to the provider.

119. (1) After a contract has been placed, contract management, except the capacity to amend or terminate, shall pass from the accounting officer to a user department.

(2) A user department shall nominate an existing member of staff with appropriate skills and experience, or who is supervised by a member of staff with appropriate skills and experience, as a contract supervisor and inform the accounting officer in writing copied to the internal audit department, secretary contracts committee and any other relevant stakeholders informing them of the designated contract supervisor, who shall take full responsibility.

(3) Upon receipt of a copy of the contract, a contract supervisor shall prepare a contract implementation plan, and forward a copy to the head of the user department, secretary contracts committee, internal audit department and accounting officer for monitoring purposes.

(4) Where a user department has any reservations or difficulties with the terms or conditions of the contract, they shall be discussed and resolved with the accounting officer and relevant personnel.

(5) A user department shall report to the accounting officer—

- (a) any departure from the terms and conditions of a contract; and
- (b) any alterations to the conditions of a contract, either before or during the course of implementation, that in effect could have impacted on the evaluation and rankings of the

bid and the choice of the provider.

(6) A user department may nominate a member of staff of another user department as contract supervisor, where appropriate.

(7) A contract of high value or which is complex or forms part of a larger project, may be assigned to a contract management team, which shall have the same responsibilities as a contract supervisor.

(8) A contract may be managed by a body or person external to a procuring and disposing entity, but the user department supervises the external contract supervisor.

(9) A contract supervisor shall—

(a) manage the obligations and duties of the procuring and disposing entity specified in the contract; and

(b) ensure that the provider performs the contract in accordance with the terms and conditions specified in the contract and a procuring and disposing entity's requirements.

(10) The functions of the contract supervisor are—

(a) to ensure that—

(i) a provider meets all performance or delivery obligations in accordance with the terms and conditions of a contract;

(ii) a provider submits all required documentation in accordance with the terms and conditions of a contract;

(iii) a procuring and disposing entity meets all payment and other obligations in accordance with the terms and

Contract
variation or
change
order.

- conditions of a contract;
 - (iv) there is adequate cost, quality and time control where appropriate;
 - (v) there is compliance with the provisions of the Act, these Regulations, the guidelines and best practices;
 - (vi) all contract obligations are complete prior to closure of the contract file; and
 - (vii) all contract management records are kept and archived as required;
- (b) to issue any required variations or change orders, in accordance with the terms and conditions of a contract;
- (c) to provide full details of a required contract amendment to the procurement and disposal unit and to obtain a contracts committee approval prior to issue of any amendment;
- (d) to manage handover or acceptance procedures;
- (e) to provide full details of any proposed termination of a contract to a procurement and disposal unit and to obtain the approval of the contracts committee prior to termination; and
- (f) to submit reports on the progress or completion of a contract as required by a procurement and disposal unit or an accounting officer.

120. (1) A contract variation or change order is a change to the price, completion date or statement of requirements of a contract, which is provided for in the contract to facilitate adaptations to unanticipated events or changes in requirements.

(2) A contract variation or change order may be

issued with the approval of the contracts committee.

(3) Notwithstanding sub regulation (2), any additional funding required for a variation or change order shall first be committed.

(4) A contract may be varied in accordance with a compensation event or the issue of a variation, change order or similar document, as provided in the contract.

(5) A variation or change order shall be in accordance with the terms and conditions of a contract and shall be authorised by a competent officer.

(6) A contract, which provides for a variation or change order shall include a limit on a variation or change order which shall not be exceeded without a contract amendment.

(7) A competent officer, for purposes of this regulation, shall be defined in the contract

(8) An amendment to a contract refers to a change in the terms and conditions of an awarded contract.

(9) Where a contract is amended in order to change the original terms and conditions, the amendment to the contract shall be prepared by the procurement and disposal unit.

(10) A contract amendment shall not be issued to a provider prior to—

- (a) obtaining approval from a contracts committee;
- (b) commitment of the full amount of funding of the amended contract price over the required period of the revised contract; and
- (c) obtaining approval from other concerned bodies including the Attorney General, after obtaining

the approval of a contracts committee.

Contracts
register.

(11) A contract amendment for additional quantities of the same items shall use the same or lower unit prices as the original contract.

(12) A individual contract amendment shall not increase the total contract price by more than fifteen percent of the original contract price without the prior approval of the Authority.

Procedure
for disposal.

(13) Where a contract is amended more than once, the cumulative value of all contract amendments shall not increase the total contract price by more than 25 percent of the original contract price without the prior approval of the Authority.

(14) Where the contract supervisor believes that a contract should be terminated, the contract supervisor shall submit a recommendation for termination to the accounting officer with a copy of the contract to a contracts committee.

(15) A recommendation for termination of a contract shall state—

- (a) the name of a provider and the procurement reference number;
- (b) reasons for the termination;
- (c) the actions taken to avoid termination, where applicable;
- (d) the contractual grounds for the termination;
- (e) the costs, if any, resulting from the termination;
and
- (f) any other relevant information.

(16) A contract shall not be terminated prior to

obtaining the approval of a contracts committee.

121. The procurement and disposal unit shall keep records of all contracts placed by a procuring and disposing entity.

PART IX—DISPOSAL OF COUNCIL ASSETS

122. (1) Disposal of council assets, including assets identified by a board of survey, shall be carried out in accordance with the Act, these Regulations and the guidelines.

(2) The accounting officer shall appoint a board of survey to verify the assets of the council to be boarded off.

(3) A council shall maintain a record of its disposal proceedings and contract management for a period of seven years from the date of a decision to terminate a disposal activity or the date of completion of a disposal activity, whichever is first.

(4) Where a contract is on going or is challenged, the records shall be kept for one additional year after the completion of the contract or the settlement of the dispute, whichever is earlier.

(5) Records of disposal of a council asset shall contain the following documents, where appropriate—

- (a) a request to initiate disposal proceedings, including a report of a board of survey;
- (b) a copy of an invitation notice, if any;
- (c) copies of bid documents, their amendments or clarifications and any additional information such as an auctioneer's catalogue or general descriptive literature;
- (d) a report of inspection of the assets by a potential

- provider and a record of the bid openings;
- (e) a copy of all bidders evaluated, clarifications requested and responses received;
 - (f) the evaluation report, if any;
 - (g) minutes of meetings on the disposal, including negotiation proceedings;
 - (h) a copy of a letter of bid acceptance to a successful bidder, if any;
 - (i) the contract, if any;
 - (j) all documents related to contracts management, including records of receipts of payment and handing over certificates;
 - (k) a copy of the update to the procuring and disposing entity's asset register;
 - (l) all correspondence between a procuring and disposing entity and a provider, an auctioneer or a third party disposal agent; and
 - (m) a copy of all submissions to the contracts committee and all decisions related to the disposal, including, the choice of disposal method, approval of bid request documents, approval of an evaluation report, approval of negotiations, contract award decision, approval of contract documents and any decision to suspend or cancel disposal proceedings.

(6) The accounting officer shall ensure that the assets of a council are reviewed on an annual basis, to identify those which are obsolete and should be subject to disposal.

(7) Assets to be disposed of shall be grouped in contracts or lots in a manner which attracts maximum possible

competition.

(8) Where an asset is to be disposed of through a public auction, a council shall maximise the number of assets to be disposed of at a time in order to reduce the administration and transaction costs.

(9) A procuring and disposing entity and another procuring and disposing entity may pool assets for purposes of common disposal.

(10) A user department responsible for the management of materials shall initiate the disposal process for assets under its management following the recommendation of a board of survey.

(11) A procuring and disposing entity shall obtain a valuation of an asset prior to the commencement of any disposal proceedings.

(12) The valuations shall be confidential and the identity and recommendations of each valuer shall not be revealed to the other.

(13) Notwithstanding subregulation (11), no valuation of an asset shall be required where the cost of the valuation is likely to be in excess of the money expected to be realised through the disposal process.

(14) A disposal requirement shall include a clear indication of the assets to be disposed of and the approval to commence disposal proceedings for the specified assets.

(15) Approval to commence disposal proceedings shall be done by the contracts committee on the written recommendation of the procurement and disposal unit.

(16) Bid documents shall include—

- (a) a description of the asset to be disposed of;
- (b) a statement that the asset is sold on an “as is, where is” basis or an alternative basis for sale;
- (c) the location of the asset and arrangements for a potential provider to inspect the asset;
- (d) the requirement for a bid security;
- (e) the deadline, location and method for submission of a bid;
- (f) the arrangements for a public bid opening;
- (g) qualification requirements to be met by a bidder;
- (h) the method for evaluating bids and awarding a contract;
- (i) conditions of sale;
- (j) the payment procedure and handing over arrangements;
- (k) a statement confirming that the risk and cost of dismantling and removing an asset shall be the responsibility of a successful bidder, or any other arrangements; and
- (l) details of any reservations scheme in operation.

(17) Notwithstanding subregulation (16), a procuring and disposing entity shall give a full and accurate description of an asset to be disposed of.

(18) The description of an asset shall, where appropriate, address the risk and cost of dismantling and removing the asset upon completion of the disposal proceedings.

(19) A warranty shall not be offered on an asset to be disposed of, except where the increase in price received for the

assets is likely to be greater than any costs associated with providing the warranty.

(20) Bidders shall be solicited through—

- (a) a public invitation notice or notification of auction;
- (b) bid documents;
- (c) a non-public invitation notice;
- (d) discussions with another procuring and disposing entity;
- (e) inclusion in the bid documents for a procurement requirement, as a trade-in;
- (f) discussions with a third party responsible for conversion, reclassification or destruction; or
- (g) a combination of the methods in paragraphs (a), (b), (c), (d), (e) and (f).

(21) Advertising and bidding periods shall be based on—

- (a) the need to allow sufficient time for a potential bidder to inspect an asset prior to bidding;
- (b) the time needed to obtain written bid documents;
- (c) the level of detail required in a written bid; and
- (d) the time required for preparation and submission of a written bid.

(22) A procuring and disposing entity shall offer a reasonable opportunity to potential bidders, to inspect an asset before the date or deadline for bidding.

(23) Arrangements for the inspection of the assets

shall be included in the invitation notice or bid documents, where appropriate.

123. (1) A procuring and disposing entity shall select one of the following disposal methods in accordance with these Regulations—

Public
auction.

- (a) public auction;
- (b) public bidding;
- (c) sale to public officers;
- (d) direct negotiations;
- (e) trade-in;
- (f) transfer to another procuring and disposing entity;
- (g) conversion or classification of assets into another form;
- (h) destruction of assets; or
- (i) donation.

(2) A procuring and disposing entity shall take into account the following factors in selecting a disposal method—

- (a) the potential market value of the asset;
- (b) the volume of the asset, whether one-off or bulk;
- (c) the location of the asset;
- (d) restrictions on export or end-users;
- (e) national security and public interest issues;
- (f) health and safety issues;
- (g) legal or human rights issues;
- (h) environmental considerations;
- (i) the trade-in value of the asset; and

(j) the possibility of transferring the asset to another procuring and disposing entity.

(3) To promote probity, fairness and competition, a procuring and disposing entity shall not dispose of a council asset outside of a public process where an open and competitive process may be successful.

124. (1) A bid for a public auction shall be solicited through the publication and display of a notification of public auction.

(2) The period between the publication of the notification of public auction and the date of the auction shall be at least ten working days to allow sufficient time for potential bidders to inspect the asset.

(3) The formal bid documents shall not be issued for a public auction and any information, including an auctioneer's catalogue, shall be used for information purposes only.

(4) Bidding shall be oral and the procedure for bidding shall be specified by the auctioneer in accordance with auction practice.

(5) There shall be no minimum bidding period.

(6) A bid shall be presented orally and a bid shall be evaluated on the basis of price only.

(7) Negotiations shall not be permitted.

(8) A contract shall be awarded to the bidder offering the highest price as determined by the auctioneer and the successful bid shall be declared at the auction.

(9) A contract shall be awarded orally to the successful bidder by the auctioneer and the successful bid shall be announced at the auction.

(10) A successful bidder shall pay at least fifty

percent of the contract price immediately after award of contract, and the balance shall be paid within five working days of award of contract.

(11) Where a bidder fails to make payment, as specified, the contract shall be terminated and the award given to the next best bidder

(12) A contracts committee shall appoint a registered and licensed auctioneer to conduct the disposal process on its behalf when undertaking a disposal by public auction.

(13) An auctioneer shall be appointed using the appropriate procurement method for services.

(14) The procurement of auctioneer services shall take into account—

- (a) the auctioneer's commission rates;
- (b) the location of an auctioneer and cost of transportation of the asset to be disposed of;
- (c) an auctioneer's facilities;
- (d) an auctioneer's ability to achieve optimum returns;
- (e) past performance and integrity of an auctioneer;
- (f) viability of the auctioneer's businesses; and
- (g) the provision of a performance security in the format and form required by a procuring and disposing entity.

Public
bidding.

(15) The appointment of an auctioneer shall be confirmed by a written contract, which shall include—

- (a) the payment terms and commission rate and any other fees payable to an auctioneer;

- (b) the method and timing for payment of proceeds to a procuring and disposing entity;
- (c) responsibility for and payment of transport costs, and costs for any assets returned unsold;
- (d) the period within which an auction shall be held;
- (e) the information and conditions of sale to be included in the notification of public auction, an auctioneer's catalogue or any other similar document;
- (f) the documentation required by a procuring and disposing entity for each individual sale, such as a copy of receipts for payment and handing over certificates; and
- (g) the details of any performance security to be lodged with a procuring and disposing entity upon commencement of the contract.

(16) A procuring and disposing entity shall be issued with a receipt by the auctioneer for any asset delivered to or collected by an auctioneer.

(17) A public auction may be used where—

- (a) there are no conditions of end-user or export restrictions attached to the sale; or
- (b) there is a large number of assets to be disposed of in one location and where an on site auction is arranged to avoid transport costs.

125. (1) Public bidding may be used—

- (a) for high-value or unusual assets;

- (b) for assets located in remote areas;
- (c) for assets that are geographically dispersed;
- (d) for assets with end-user or export restrictions attached to their sale;
- (e) where conditions need to be attached to the sale of the asset; or
- (f) where post-bid negotiations may be required.

(2) A bid shall be solicited by the publication and display of a public invitation notice, indicating that an interested bidder may obtain the bid documents from a procuring and disposing entity.

(3) An advertisement for public bidding shall be for at least four working days.

(4) The bid documents shall be drafted in accordance with the same requirement under procurement.

(5) The minimum bidding period shall be ten working days.

(6) A procuring and disposing entity shall request for a written sealed bid from a bidder.

(7) Evaluation based on a price methodology or any other criteria shall be the preferred evaluation methodology for public bidding.

(8) Post-bid negotiations may be undertaken.

(9) Contract award shall be by a decision of a contracts committee, in response to a recommendation from an evaluation committee through the accounting officer.

(10) Contract placement shall be by issue of a

contract to a successful bidder.

(11) A notice of award of contract shall be displayed on a procuring and disposing entity's public notice board.

126. (1) Disposal may be by sale to a public officer—

- (a) where there is no likely benefit or financial advantage to a procuring and disposing entity, in using any other disposal method;
- (b) where the assets for disposal are a small number of low value items as determined in a guideline and are unlikely to attract public interest;
- (c) where the personal use of disposal assets would directly benefit the performance of a public officer in the execution of his or her duties within a procuring and disposing entity; or
- (d) in remote locations, where any other method of disposal would be difficult.

(2) A public officer shall not be permitted to participate in any disposal process as a bidder, except under the sale to public officers' method.

(3) A public officer involved in initiating the disposal process, valuations or managing the disposal process shall not participate as a bidder.

(4) Assets shall not be grouped in lots, but sold as separate items, except where—

- (a) a group of items is of a very low value;
- (b) a group of items form a natural set; or
- (c) the items would have no value or a lower value if sold separately.

Direct
negotiation.

(5) A bid shall be solicited by the publication of a non-public invitation notice, indicating that a public officer interested in bidding may obtain the bid documents from a procurement and disposal unit or accounting officer.

(6) A non-public invitation notice shall be displayed on the public notice board for at least five working days.

(7) The bidding period for sale to public officers shall be ten working days.

(8) A procuring and disposing entity shall request for written sealed bids from a public officer.

(9) Evaluation for sale to a public officer shall be based on price only.

(10) A post-bid negotiation shall not be permitted.

(11) Contract award shall be by a decision of a contracts committee in response to a recommendation from the evaluation committee through the accounting officer.

(12) Contract placement shall be by issue of a contract to the successful bidder.

(13) The internal audit department of the procuring and disposing entity shall maintain a register of all sales to public officers, which shall include for each contract at least—

(a) the name of the public officer;

(b) the date of the disposal contract;

(c) the type of asset sold; and

(d) any other relevant information.

Trade-in.

127. (1) Direct negotiations may be used where—

- (a) national security, public interest, legal or human rights issues or environmental considerations are served by selling to a particular company, group or individual;
- (b) a potential buyer is a tenant, occupier or user of an asset at the time the decision to dispose of the asset is made, and it is reasonable to give that person first option to buy the asset at a market rate; or
- (c) an asset is located on a potential buyer's premises on a hire or free-use basis and it is reasonable to give that person first option to buy the asset at a market rate.

(2) A contracts committee shall approve the use of direct negotiations disposal method prior to the commencement of disposal proceedings.

(3) A valuation shall be obtained where an asset is to be disposed of through direct negotiations.

(4) Bids shall be solicited through the issue of written bid documents,

(5) A procuring and disposing entity shall require a bidder to submit a written sealed bid.

(6) Evaluation based on price only shall be the preferred evaluation methodology for direct negotiations.

(7) Evaluation based on price and other factors may be used and post-bid negotiations may be undertaken

(8) Contract award shall be by a decision of the contracts committee, in response to a recommendation from an evaluation committee through the accounting officer.

(9) Contract placement shall be by issue of a contract.

(10) A notice of award of contract shall be displayed on the public notice board.

128. (1) Trade-in may be used where the trade-in of assets to offset the purchase price of new items provides a convenient, economic and efficient way of upgrading equipment.

(2) Notwithstanding sub regulation (1), trade-in shall not be used where it prevents the operation of open and fair competition or where it reduces the value for money in a disposal process.

(3) Trade-in shall not be used where factors other than price have to be taken into account in the disposal process.

(4) A valuation shall always be obtained where an asset is to be disposed of using trade-in.

(5) Under trade-in, the disposal process shall be an integral part of the procurement process and shall follow the procurement rules, practices and process in accordance with these Regulations.

(6) The estimated trade-in value shall not be deducted from the estimated value of the procurement in selecting the appropriate disposal method.

(7) Approval shall be obtained from a contracts committee to include a trade-in requirement as a procurement requirement prior to the commencement of the procurement proceedings.

(8) The bid documents and a bid notice shall clearly state that the procurement involves a trade-in arrangement.

(9) Advertisement of the trade-in, issue of bid documents, the bidding period and receipt and opening of bids shall be in accordance with the relevant procurement rules.

(10) Evaluation shall follow the appropriate methodology for a procurement requirement.

(11) The trade-in value offered for an asset shall be

Transfer to
another
procuring
and
disposing
entity.

included in the financial comparison only in the manner stated in the bid documents.

(12) The way in which trade-in offers have been evaluated shall be clearly stated in the evaluation report.

(13) Negotiations may be permitted in accordance with the relevant rules on procurement.

Conversion
into another
asset.

(14) Award of contract shall be in accordance with the relevant rules on procurement.

(15) Responsibility for management of a procurement contract and a disposal element shall be clearly defined and where different public officers are responsible for each element, they shall work together as and when appropriate.

129. (1) Transfer to any other procuring and disposing entity may be used where the other procuring and disposing entity shall make further use of the asset and the cost of the asset shall be agreed between the two procuring and disposing entities.

(2) Where disposal is by transfer to another procuring and disposing entity, the arrangements for the transfer shall be discussed and agreed between the procuring and disposing entity.

(3) The agreement in sub regulation (2) shall include—

(a) the cost to be paid by the recipient procuring and disposing entity, and that cost may be omitted if it is uneconomic to charge for the asset;

(b) any subsidiary or linked assets to be included in or excluded from a transfer;

(c) the date for the transfer;

(d) responsibility for transporting an asset;

(e) the hand-over procedure and any documentation to be transferred;

Destruction.

(f) the mechanism and date for payment of any cost;
and

(g) responsibility for any legal obligations linked to
an asset.

(4) The arrangements for the transfer shall be confirmed in writing and shall be approved and signed by the accounting officers of the procuring and disposing entities.

(5) A recipient procuring and disposing entity shall issue an authorised receipt for the asset.

130. (1) Conversion or classification of an asset into any other form may be used—

(a) on grounds of national security or public interest, legal or human rights issues or environment considerations; or

(b) where the asset has no residual value in its current form, but where some sale value can be obtained through conversion or classification into any other form.

(2) Where conversion or classification into another form is used, a procuring and disposing entity shall identify a competent authority or an appropriate bidder to undertake the conversion or classification.

(3) Approval shall be obtained from the contracts committee, prior to the commencement of the disposal proceedings

(4) Documentary evidence of the conversion or classification shall be obtained from a competent authority or bidder and shall be kept as part of the record of disposal proceedings. Donation.

131. (1) Destruction of an asset shall be the least favoured

method of disposal, but may be used—

- (a) on grounds of national security or public interest, health and safety, legal or human rights issues or environment considerations; or
- (b) where the asset has no residual value and it cannot be transferred to any other procuring and disposing entity or converted or classified into another form with any value.

(2) Where destruction of assets is used, a procuring and disposing entity shall either undertake the destruction itself or identify a competent authority or an appropriate bidder to undertake the destruction.

(3) Approval shall be obtained from the contracts committee, prior to the destruction being undertaken

(4) The method of destruction shall be appropriate to—

- (a) the asset being disposed of; and
- (b) the circumstances giving rise to the destruction, including national security or public interest, health and safety and legal or human rights issues or environment considerations.

(5) A signed certificate of destruction shall be obtained from a procuring and disposing entity's officer in-charge, competent authority or bidder and shall be kept as part of the record of disposal proceedings.

(6) Where a procuring and disposing entity needs to dispose of perishable items using the destruction of assets method on a regular basis, the contracts committee may give a running approval to conduct all such disposals without further submissions to it.

Evaluation
of bids for
disposal.

132. (1) A person may apply to the accounting officer requesting for donation of an asset and the accounting officer shall reply to the person acknowledging the application and advising the person to wait for decisions of the contracts committee.

(2) The application shall be in writing giving details covering—

(a) name of the applicant;

(b) details of the asset;

(c) to whom it should be donated;

(d) declaration that the donation is not for the personal benefits of the applicant;

(e) benefits from the donation to the council; and

(f) benefits to the recipients of the donation.

(3) The accounting officer shall present the application to the procurement and disposal unit for onward submission to the contracts committee.

(4) The contracts committee shall make a decision on the application and the recommendation shall be forwarded to the accounting officer.

(5) The accounting officer shall communicate the decision to the applicant and any other concerned party.

(6) The accounting officer shall arrange for the handover in the presence of the Internal Auditor or his or her authorized representative and the public, after fourteen days of displaying a public notice.

133. (1) Evaluation of a bid shall be based on price only, or based on price and other factors.

(2) Evaluation of bids based on price only shall be the

preferred evaluation methodology.

(3) Other factors may be taken into consideration in the evaluation of bids, where—

- (a) there are end-user restrictions;
- (b) there are export restrictions; or

(c) there is a need to attach conditions to a sale.

(4) The other factors referred to in sub regulation (3) include—

- (a) nationality, under a reservation scheme;
- (b) environmental impact;
- (c) risks or conditions associated with health and safety, legal or human rights issues, national security or public interest;
- (d) the need to maintain an asset within Uganda or within a given region;
- (e) the need to maintain an asset in working order or to maintain accessibility for the public; or
- (f) any other performance conditions and means of monitoring compliance with such conditions.

(5) Where the highest-priced bid has been submitted by more than one bidder, a procuring and disposing entity shall invite the bidders who submitted identically priced bids to submit a revised bid.

(6) A bidder, other than those who submitted the identical highest priced bid, shall not be permitted to submit a revised bid or participate in the re-bidding procedure in any way.

(7) A revised bid shall only contain a revised price and a bidder shall not be permitted to change the terms and conditions, technical details, documentation or any other

aspects of their original bid, in any way.

(8) A revised bid shall be written and sealed and submitted in the same way as the original bid.

(9) A bidder shall be given a reasonable period of time prior to the deadline for submission of their revised bid.

(10) Where evaluation is based on price only and it is reasonable to conduct and conclude the evaluation immediately in the presence of a bidder at a public bid opening, a procuring and disposing entity may, if the bidder agrees, conduct the re-bidding procedure immediately.

(11) Where the re-bidding procedure is conducted immediately, a bidder shall be given access to a private location in which to discuss and prepare the revised bid and the bidder shall be provided with all reasonable assistance, such as writing and sealing materials, calculators and access to a telephone.

(12) The bid opening procedure for the revised bid shall be the same as that for the original bid.

Negotiations.

(13) Evaluation shall be conducted in the same manner as the original valuation, except that the price contained in the revised bid shall replace the original price.

(14) Where identical highest priced bids are received during a re-bidding process, further re-bidding shall be held in accordance with this regulation.

(15) Where it is subsequently discovered that an error was made in the original evaluation, including, an arithmetical error or application of an exchange rate, and that as a result bidders had not submitted identical highest priced bidders, the re-bidding procedure shall be declared null and void and the revised bids shall not be considered.

(16) Where re-bidding fails, the whole process shall

be cancelled and re-bid.

(17) Where the evaluation is based on price only, a contract shall be awarded to the bidder with the highest price.

(18) Where written bids are received, the valuation committee shall—

- (a) correct any arithmetical errors;
- (b) convert the bids to a common currency; and
- (c) compare the bid price with the value of an asset or reserve price, where appropriate.

(19) Contract award shall be recommended to the best evaluated price, and the bidder who meets the eligibility requirements and passes the evaluation criteria, subject to any reservations in regard to the valuation or reserve price.

(20) Where a bid is oral under the public auction method, no evaluation committee or evaluation report shall be required but minutes of the proceedings shall be required.

(21) Notwithstanding sub regulation (20), the name of the successful bidder and the contract price shall be reported to a contracts committee

134. (1) Under public bidding, negotiations may relate to the conditions of sale, where evaluation is based on factors other than price, and shall not relate to the price of the bid.

(2) Under direct negotiations, negotiations may relate to the conditions of sale, where evaluation is based on factors other than price or the price of the bid.

(3) Negotiations shall be held after a contracts committee has approved the evaluation committee's recommendation of the best evaluated bidder and the need to hold negotiations in the case of a public bidder, or that the

single bidder should be considered for contract award, subject to negotiations in the case of direct negotiations.

(4) Negotiations shall only be held with the best evaluated bidder.

(5) An evaluation committee shall prepare a negotiations plan.

(6) A negotiations plan shall specify the issues to be negotiated and the objectives to be achieved and where possible shall quantify the objectives and set maximum and minimum negotiating parameters for a negotiation team.

(7) The negotiations plan and the membership of the negotiation team, shall be subject to the approval of the contracts committee prior to any negotiations taking place.

(8) A negotiation team shall not commit a council to any proposed arrangements or agreements, but shall seek the approval of the contracts committee prior to confirming any agreement reached.

(9) A negotiation team shall produce minutes of the meeting with a bidder and shall obtain a bidder's written agreement that the minutes are a true and accurate record of the negotiations held.

(10) A negotiation team shall report to the contracts committee the results of the negotiations and state whether the objectives of the negotiations plan have been achieved and shall submit minutes of the meeting.

(11) A negotiation team shall submit a recommendation to a contracts committee to either proceed with contract award to the recommended bidder, incorporating the agreements reached during negotiations, revise the negotiation objectives and hold further negotiations or terminate the negotiations and reject a bidder.

(12) Where a negotiation team recommends rejection of the bidder, it may also, where appropriate, recommend the invitation of the next ranked bidder for negotiations in the case of public bidding or a new bidder to submit a bid in the case of direct negotiations.

(13) A contracts committee may—

- (a) approve the recommendations;
- (b) request further negotiations on a specific point;
- (c) reject the recommendations with reasons; or
- (d) cancel the negotiations, in their entirety.

(14) The results of approved negotiations shall be incorporated into the contract.

(15) Where negotiations are commenced with the next ranked bidder or where a new bid is invited, the procuring and disposing entity shall not reopen earlier negotiations and an original bidder shall be informed of the reasons for termination of the negotiations.

(16) Where the best evaluated bid is less than the reserve price, a contracts committee in consultation with the accounting officer may—

- (a) obtain a further valuation from an independent source;
- (b) negotiate the price with a bidder, under direct negotiations only;
- (c) arrange for new bids to be submitted;
- (d) use an alternative method of disposal, which is likely to obtain a higher price; or

(*e*) sell the asset at the reduced price.

(17) In deciding on the appropriate action, a contracts committee and an accounting officer shall take into consideration the difference between the best evaluated bid and the valuation or reserve price, the likely costs of the possible action and the possibility of collusion between bidders.

135. (1) Award of a contract shall be by either a declaration of the successful bidder at the time of bidding in the case of public auction or a decision of a contracts committee for any other method of disposal.

(2) Where contract award is by a decision of a contracts committee, contract placement shall be by the issue of a contract to the successful bidder.

(3) The contract shall be as specified in the bid documents

(4) Communication by letter, fax, telex, email or any other form that would bind a procuring and disposing entity to a contract with a buyer, shall not be permitted prior to approval of the award of contract by a contracts committee.

(5) The contract shall contain—

(*a*) the price to be paid by the successful bidder;

(*b*) any subsidiary or linked assets to be included in or excluded from the sale;

(*c*) the date for delivery or collection of the asset;

(*d*) responsibility for transporting the asset;

(*e*) the hand-over procedure and any documentation to be transferred;

(*f*) the mechanism and date for payment of the

contract price; and

(g) the person responsible for any legal obligations linked to the asset.

(6) A contract award, with the exception of that under public auction, shall be displayed within one working day of the contract award, on the procuring and disposing entity's notice board.

(7) A contract supervisor shall—

(a) obtain payment from a successful bidder;

(b) issue a receipt for a payment;

(c) credit a payment to the appropriate account;

(d) hand over an asset and all the appropriate documents to a successful bidder;

(e) obtain a receipt for the asset from a provider;

(f) complete and record all hand-over requirements;

(g) manage any outstanding legal obligation of a procuring and disposing entity;

(h) update a procuring and disposing entity's asset register;

(i) ensure that the Act, these Regulations and the guidelines are complied with; and

(j) submit an appropriate report to the contracts committee or any other body.

(8) A third party disposal agent or auctioneer may be contracted to undertake any of the functions listed in sub regulation (7).

(9) A contract with a third party disposal agent or auctioneer shall clearly state the functions to be undertaken by a third party disposal agent or auctioneer.

Grounds for
admini-
strative
review.

(10) Where a third party disposal agent or auctioneer is responsible for obtaining payment from a buyer, a contract with a third party shall clearly state that the proceeds of the disposal shall be transferred to a procuring and disposing entity within a period of five working days from the date of receipt of the funds.

Time
limitation
on
administrative review

(11) Where a third party disposal agent or auctioneer is contracted to undertake any of the functions in sub regulation (7), a contract supervisor shall—

Submission
of
application
for
administrative review

(a) cross check all documents including receipts for assets delivered to a third party disposal agent or auctioneer, record of assets sold, record of payments made by a successful bidder and hand-over documents and follow up and resolve any discrepancies in the documents;

(b) ensure that the proceeds are received in the correct amount within five working days after the date of receipt by a third party disposal agent or auctioneer and are credited to the appropriate account; and

(c) ensure that payment for the services of a third party disposal agent or auctioneer is made on time or that the payment is deducted from the proceeds received.

(12) Where a bidder fails to make payment in accordance with the terms and conditions of a contract, the contract may be terminated and formed with the next best bidder, where that bidder is known.

Administrative review
by
accounting
officer

PART X—ADMINISTRATIVE REVIEW PROCESS

136. (1) A bidder may seek administrative review for any omission or breach of the Act, these Regulations, the

guidelines, the provisions of bid documents or best practices, by a procuring and disposing entity.

(2) Where a procurement requirement is subject to administrative review by a procuring and disposing entity or Authority a contract document, purchase order, letter of bid acceptance or other communication in any form conveying acceptance of a bid, that binds a procuring and disposing entity, shall not be issued prior to completion of the administrative review process.

137. A bidder shall submit an application for administrative review within ten working days after the date of display of the award on a public notice.

138. (1) Any application for administrative review shall be submitted in writing to an accounting officer.

(2) The application for administrative review shall include—

(a) details of the procurement or disposal requirement to which the complaint relates;

(b) details of the rule or provision which has been breached or omitted;

(c) an explanation of how the rule or provision has been breached or omitted, including the dates and name of the responsible public officer, where known;

(d) documentary or other evidence supporting the complaint where available; and

(e) any other information relevant to the complaint.

(3) The application for administrative review shall be accompanied by payment of a prescribed fee in accordance with guidelines issued by the Authority.

Administrative review
by the
Authority.

139. (1) Upon receipt of an application for administrative review, an accounting officer shall immediately suspend the procurement or disposal proceedings where a continuation of the proceedings might result in an incorrect contract award decision or a worsening of any damage already done.

(2) The accounting officer shall immediately after receipt of the application referred to in subregulation (1), constitute a committee of three persons with the requisite technical expertise on the subject of the complaint, to review and advise on the complaints.

(3) The committee shall institute an investigation to consider—

- (a) the information and evidence contained in the application;
- (b) the information in the records kept by secretary contracts committee;
- (c) information provided by staff of council
- (d) information provided by other bidders; and
- (e) any other relevant information.

(4) The committee shall submit its recommendation to the accounting officer.

(5) Based on the report, the accounting officer shall advise the complainant in writing within fifteen working days after receipt of the application and the recommendation shall indicate—

- (a) whether there is merit in the complaint;
- (b) the reasons for the recommendation; and

(c) any corrective measures to be taken.

(6) The accounting officer shall submit a copy of the report to the Authority. .

140. (1) A bidder may submit an application for administrative review to the Authority where the accounting officer does not issue a report within fifteen working days or the bidder is not satisfied with the decision of the accounting officer on the complaint.

(2) An application to the Authority for administrative review shall be submitted within ten working days after the date of the decision by an accounting officer or the date by which an accounting officer should have issued a decision.

(3) The application to the Authority for administrative review shall include—

(a) a copy of the original application to an accounting officer and the supporting documents;

(b) a copy of relevant correspondence to and from an accounting officer;

(c) a statement by the bidder that an accounting officer failed to issue a decision and the relevant dates, where applicable; and

(d) an explanation of why the bidder is not satisfied with the decision of the accounting officer, where applicable.

(4) Upon receipt of an application, the Authority shall immediately—

(a) give notice of the application to an accounting

Application
of other
regulations.

officer;

(b) instruct the accounting officer to suspend any further action on the procurement or disposal requirement, where the Authority considers a suspension necessary;

(c) notify all bidders of the application and invite them to submit any relevant information prior to a given deadline; and

(d) institute an investigation.

(5) In investigating the application for administrative review, the Authority shall consider the following, where appropriate—

(a) the information and evidence contained in the application;

(b) the information in the records kept by a secretary contracts committee;

(c) information provided by staff of a procuring and disposing entity

(d) information provided by the other bidders; and

(e) any other relevant information.

(6) The Authority shall issue its decision in writing within twenty-one working days after receipt of the application.

(7) The decision of the Authority shall indicate—

(a) whether the application was upheld or rejected;

(b) the reasons for its decision; and

(c) any corrective measures to be taken.

PART XI—MISCELLANEOUS

141. A procuring and disposing entity shall apply the provisions of other relevant regulations relating to local governments in their functions and operations concerning procurement and disposal of public assets as long as they are not in conflict with these Regulations.

SCHEDULES.

FIRST SCHEDULE

Part A

Regulation 15(8)

LETTER OF APPOINTMENT FOR CONTRACTS COMMITTEE CHAIRPERSON/MEMBER

[Name of Contracts Committee Chairperson/Member]

[Position of Contracts Committee Chairperson/Member]

Date:

Dear [Name]

I confirm your appointment as the Chairperson/Member of the contracts committee for [Name of procuring and disposing unit].

The terms of reference for this appointment shall be in accordance with the Local Governments (Procurement and Disposal of Public Assets) Regulations, 2006.

In order to perform these functions you are requested to complete the following—

- (a) sign and return the enclosed copy of this letter confirming your acceptance of the duties and obligations described within;
- (b) sign and return a copy of the Code of Ethical Conduct for Public Officers;

- (c) ensure the collection of the Public Procurement and Disposal of Public Assets Act, the Local Governments Act and the Local Governments (Public Procurement and Disposal of Assets) Regulations, the guidelines and other documentation that may be considered necessary from the accounting officer.

The term of this appointment shall be three years.

The effective date of this appointment is [date].

Ethical
principles

Your appointment shall be based on performance and subject to the conditions detailed in the Local Governments Act and the Local Governments (Public Procurement and Disposal of Assets) Regulations.

Yours faithfully

[Name]

Accounting officer

[Name of Procuring and Disposing Entity]

I confirm acceptance of the duties and obligations described above:

..... *Date:*
[Signature]

Note:

Copies of the letter of appointment shall be forwarded to—

1. The Secretary to the Treasury;
2. The Permanent Secretary, Ministry responsible for local government; and
3. The Executive Director, Public Procurement and Disposal of Assets Authority.

Conflict of
interest

Confid-
entially and
accuracy of
information

Competitions.

Business gifts.

Hospitality.

Res-trictiveness.

Part B

Regulations 15(8), 23(3), 27(9)

CODE OF ETHICAL CONDUCT FOR PUBLIC OFFICERS

1. (1) Employees shall not use their authority of office for personal gain and shall seek to uphold and enhance the reputation of a Local Government by—

- (a) maintaining an impeccable standard of integrity in all business relationships both inside and outside the council in which they are employed.
- (b) fostering the highest possible standards of competence;
- (c) optimising the use of resources for which they are responsible to provide the maximum benefit of Uganda; and
- (d) complying both with the letter and the spirit of—
 - (i) the laws of Uganda and regulatory guidance;
 - (ii) accepted business practices in commercial markets; and
 - (iii) contractual conditions

2. Employees shall reveal any personal interest that may impinge or might reasonably be deemed by others to impinge on a member's business dealings.

3. (1) Employees shall respect the confidentiality of information received in the course of business dealings and shall never use such information for personal gain.

(2) Information given by Members of contracts committee in the course of the business dealings shall be true and fair and not designed to mislead.

4. Employees shall avoid any business arrangement that might prevent the effective operation of fair competition

5. Employees shall not accept business gifts from current or potential Council suppliers unless such gifts are of very small intrinsic value such as a calendar or pen.

6. Employees shall refrain from any business hospitality that might be viewed by others as having an influence in making a council business decision as a result of accepting that hospitality

7. A member of the Authority, a secretary of the contracts committee or expert contracted to deliver specific services shall not use to his or her personal or organisational advantage, information acquired by him or her by virtue of his or her association with the Authority or a procuring and disposing entity for a period of one year after vacating office or ceasing to render the specific services.

I hereby declare that I have read the Code of Ethical Conduct for Public Officers and that I will execute my responsibilities with regard to procurement and disposal in accordance with this code.

Signature..... Name.....

Position..... Date.....

MAJ GEN. K. OTAFIIRE,
Minister of Local Government.

