



REPUBLIC OF UGANDA

*MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS*

**MANUAL ON THE LEGISLATIVE PROCESS  
IN UGANDA**

Prepared by

**The First Parliamentary Counsel**

*March 2014*

The legislative process takes the following steps when legislation is being proposed by a Ministry or Government Department in Uganda –

1. The Ministry concerned approaches Cabinet through a **Cabinet Memorandum** with a proposal for Cabinet to approve the principles for the drafting of the Bill. Cabinet approval in principle is required before drafting of the subject legislation. This is provided for under paragraph 2 of Section (Q-b) of the Uganda Public Service Standing Orders, 2010.
2. Paragraph 2(b) of Section (Q-b) however permits a Bill to be drafted by the First Parliamentary Counsel if the Attorney General or Solicitor General authorises the drafting of the Bill without reference to Cabinet. According to the paragraph, this authority should be granted only in **special circumstances**. The request for the authority should be made through the responsible Minister.
3. Cabinet then considers the proposals as contained in the **Cabinet Memorandum** of the Ministry concerned and approves the principles on the basis of which a Bill is to be drafted.
4. When Cabinet approves the principles for the drafting of a Bill, it authorises the responsible Minister to issue drafting instructions to the First Parliamentary Counsel/Attorney General to draft the necessary legislation.
5. The Ministry concerned would then request the First Parliamentary Counsel through the Attorney General to draft the legislation on the basis of the approved principles as contained in a **Cabinet Minute**.
6. Where the instructions are not clear, the First Parliamentary Counsel will ask the Ministry concerned for further instructions and where necessary request that Ministry to identify an officer in the Ministry to liaise with the office of First Parliamentary Counsel in the drafting of the Bill.
7. In drafting the legislation, the office of the First Parliamentary Counsel will interact with the Ministry concerned to arrive at an agreed draft.
8. The Ministry concerned may again consult stakeholders as to the contents of the Bill.

9. The Ministry concerned will have to submit the Bill to Cabinet for approval together with a Cabinet Memorandum and any comments of the stakeholders. Paragraph 7 of Section (Q-b) of the Uganda Public Service Standing Orders, 2010 provides that no Bill **without exception** should be published unless it has been submitted to Cabinet for approval.
10. In the course of drafting the Bill the drafts person is required to bear in mind the need to keep informed the Law Officers namely, the Attorney General and the Solicitor General. This is regulated by paragraph 6 of Section (Q-b).

#### **Submission of Bill to Cabinet**

11. When the Bill is being submitted to Cabinet for approval, the Cabinet memorandum of the Ministry will have to be accompanied by-
  - (a) **a certificate of compliance** issued by the Office of the First Parliamentary Counsel to the effect that the Bill has been drafted by the Office of the First Parliamentary Counsel in accordance with the principles approved in the Cabinet decision issued for the drafting of the Bill or that the Bill has been drafted on the basis of a waiver of prior Cabinet approval in principle by the Attorney General or the Solicitor General under para. 2(b) of Section (Q-b) of the Uganda Public Service Standing Orders.
  - (b) **a certificate of financial implications** issued by the Ministry of Finance in accordance with section 10 of the Budget Act, 2001 and rule 107 of the Rules of Procedure of Parliament, 2012 (the Rules), stating in respect of the Bill in question the financial implications if any, on revenue and expenditure over the period of not less than two years after its coming into force. Rule 107(2) of the Rules requires the certificate of financial implications to be signed by the Minister responsible for finance.
12. Cabinet may approve or reject the Bill or may approve the Bill subject to amendments.
13. The Office of the First Parliamentary Counsel will then incorporate any amendments approved by Cabinet in the Bill and seek the signature of the Minister concerned to an **explanatory memorandum** attached to the Bill.
14. Rule 106(2) of the Rules requires that all Bills shall be accompanied by an explanatory memorandum setting out the policy and principles of the Bill, the defects in the existing law if any, the remedies proposed to deal with those defects and the necessity for introduction of the Bill. According to rule 106(3), the

explanatory memorandum shall be signed by the **Minister** or by a **member introducing the Bill** (in the case of a Private Member's Bill).

15. The First Parliamentary Counsel will authorise the Government Printer, the Uganda Printing and Publishing Corporation (UPPC) to print and publish the Bill in the Uganda Gazette.
16. The Ministry concerned must issue a Local Purchase Order (LPO) to be issued in favour of the Government Printer (UPPC) to cover the costs of printing and publishing the Bill. This is based on an estimate of costs issued by the Government Printer.
17. Rule 106(1) of the Rules of Procedure of Parliament provides that all Bills shall be published in the Gazette.
18. After publication in the Gazette, the Ministry concerned will have to supply about 450 copies of the Bill to the Clerk to Parliament for use by parliamentarians.
19. The Ministry concerned will also have to supply to Parliament the certificate of financial implications to be tabled in Parliament for the First Reading of the Bill.

#### **Introduction of the Bill in Parliament**

20. The Bill then goes through the processes of Parliament necessary for passing a Bill. Rule 114 of the Rules provides that every Bill shall be read three times prior to its being passed. The processes are prescribed by the Rules from Parts XVIII - XXI as follows-
  - (a) **First Reading:** which is a formality, marks the formal introduction of the Bill in Parliament and the Bill is then committed to the relevant Sessional Committee of Parliament for consideration. At this stage, the committee will normally invite the relevant Minister to introduce the Bill and may invite other stakeholders to state their views on the provisions of the Bill and the committee may even sometimes hold hearings for the purpose.
  - (b) **Submission of Report by the Sessional Committee.** The committee must submit a report on the Bill to the plenary of Parliament and at the same time, Parliament will consider the Bill at Second Reading which is a debate on the **principles** and **policies** of the Bill and **not on its details**.

According to rule 119(5) of the Rules (subject to the Rules) the Second Reading of the Bill shall not be taken earlier than the **fourteenth day** after

publication of the Bill in the Gazette, unless the subrule is formally suspended for the purpose.

- (c) **Committee of the Whole House Stage:** This is the stage of the Bill at which Parliament deals with the provisions of the Bill, clause by clause and all proposed amendments to the Bill. The Committee Stage is regulated by Part XX of the Rules (rules 120 - 124) of the Rules.
- (d) At Committee Stage, the Speaker sits in the well of the House as chairperson of the Committee of the Whole House considering amendments to the Bill. (See rule 122(1)).
- (e) According to rule 123(4) of the Rules of Procedure of Parliament the Committee of the whole House shall consider proposed amendments by the Committee to which the Bill was referred and may consider proposed amendments, **on notice**, where the amendments were presented but rejected by the relevant Committee or where, for **reasonable cause**, the amendments were not presented before the relevant Committee.
- (f) **Report of Committee after Committee Stage:** This is where the Committee of the Whole House reports to the plenary on the Bill which has been committed and amendments are considered. (See rule 125).
- (g) **Re-committal:** This is a stage which comes at the end of the Committee Stage where it is felt that there are still certain amendments which have to be considered or reconsidered. (See Part XXI rule 127).
- (h) **Third Reading and passing of the Bill:** At this stage the Bill is not debated and it is passed as a formality upon a motion “that the Bill be now read Third Time and do pass” (rule 126 of the Rules).

21. **Withdrawal of Bills**

“The member in charge of a Bill may, at any time, give notice that he or she wishes to withdraw a Bill subject to the approval of the House” (rule 129(1)). The procedure for reintroducing the Bill is provided for under rule 129(2).

22. **Delays with Bills**

In order to prevent delays by Committees of Parliament to which Bills are sent for consideration, rule 130 of the Rules provides as follows;

## ***“DELAYS WITH BILLS***

- (1) Subject to the Constitution, no Bill introduced in the House shall be with the Committee for consideration for more than forty-five days.*
- (2) If a Committee finds itself unable to complete consideration of any Bill referred to it in sub-rule (1), the Committee may seek extra time from Parliament.*
- (3) Where extra time is not granted or upon expiry of the extra time granted under sub-rule (2), the House shall proceed to deal with the Bill without further delay.”*

### **23. Publication of Acts**

Sections 8 - 13 of the Acts of Parliament Act, Cap.2 regulate the preparation of presentation copies, assent by the President, presentation of a Bill for assent under Article 90(1), numbering of Acts, original copies of Acts assented to by the President or becoming law without the assent of the President and publication of Acts in the Gazette.

### **24. Making a commencement instrument before Act comes into force**

It has to be pointed out that according to section 14 (3) of the Acts of Parliament Act, Cap.2, where an Act confers power on a Minister to make a statutory instrument to bring an Act into force, the power to make the instrument may be exercised even though the Act has not come into force.

### **25. Private Member’s Bill under Article 94(4) of the Constitution**

The foregoing information relates to Bills initiated by the Executive. However, the Constitution also provides for the initiation of Bills by private members of Parliament.

26. Thus article 94 (4) of the Constitution provides that the rules of procedure of Parliament shall include the following provisions-

*“(b) a member of Parliament has the right to move a private member’s Bill;*

*(c) the member moving the private member’s Bill shall be afforded reasonable assistance by the department of Government whose area of operation is affected by the Bill; and*

(d) *the office of the Attorney General shall afford the member moving the Private Member's Bill professional assistance in the drafting of the Bill.*"

27. Following the provisions of the Constitution, rule 110 provides for the Private Member's Bill and rule 111 of the Rules provides for the following procedure in respect of a Private Member's Bill-

*"111.(1) A Private Member's Bill shall be introduced first by way of motion to which shall be attached the proposed draft of the Bill.*

*(2) If the motion is carried, the printing and publication of the Bill in the Gazette shall be the responsibility of the Clerk.*

*(3) Following the publication of the Bill in the Gazette, the progress of the Bill shall be the same as that followed in respect of a Government Bill."*

28. **Certain provisions not applicable to Private Member's Bill**

Needless to say, a Private Member's Bill not being a Government Bill will not require Cabinet approval. It however requires a certificate of financial implications from the Ministry of Finance, Planning and Economic Development, just as does a Government Bill.

It also will not require a certificate of compliance issued by the Office of the First Parliamentary Counsel. Otherwise the procedure for processing a Private Member's Bill is the same as that of a Government Bill.

29. **Bills introduced by Committees under rule 147**

A Committee of the House may initiate any Bill within its area of competence and shall be introduced by the Chairperson of the Committee in the same manner as a private member's Bill. (See rules 112 and 147 (b)).

30. **Certain provisions of the Acts of Parliament Act Cap. 2 relevant to processing of legislation**

The following provisions of the Acts of Parliament Act, Cap 2 are relevant and to be observed in connection with the processing of legislation in Uganda.

**Section 3- Title**

Every Act shall bear at the head a short title immediately followed by a long title describing the leading provisions of the Act.

**Section 4- Words of enactment**

- (1) Every Act shall be prefaced by the words of enactment specified in the First Schedule to this Act.
- (2) The words of enactment shall be taken to extend to all sections and to any schedules and other provisions contained in the Act.

**The words of enactment referred to above are the following “ENACTED by Parliament as follows;”**

**Section 15- Citation**

The citation of the short title to an Act shall be sufficient to identify the Act.

**Comment**

Because of this provision there is no longer the need to include a short title clause after a short title is incorporated in accordance with section 15 of the Acts of Parliament Act.

**Section 17- Amendment and repeal in same session**

An Act passed in any session of Parliament may be amended or repealed in the same session.