

## **THE JUDICIARY ADMINISTRATION BILL**

### **MEMORANDUM**

The object of this bill is to operationalise provisions of the constitution relating to the judiciary, administration of justice, improve efficiency and effectiveness of the courts, strengthen the independence of courts and streamline the administration of Courts.

### **THE JUDICIARY ADMINISTRATION BILL**

A bill for an Act to provide for the efficient and effective administration of the judiciary, to establish structures of administration, to provide for employment and disciplinary control of employees, the funds of the courts, training, and inspection, rationalization of its judicial independence and for other matters connected thereto.

**DATE OF ASSENT.....**

**BE IT ENACTED** by the President and Parliament as follows:

## PART I-PRELIMINARY PROVISIONS

### 1. SHORT TITLE

The Act may be cited as The Judiciary Administration Act 2012

### 2. COMMENCEMENT

This Act shall come into force on the date of Publication in the Government Gazette after assent by the President of the Republic of Uganda

### 3. INTERPRETATION

In this Act, unless the context otherwise requires;

- a) "Chief Registrar" means the Chief Registrar of Courts of Judicature as provided for in article 145(1) of the Constitution.
- b) "Chairperson" means the Chairperson of the Judiciary Administrative Council.
- c) "Council" means the Judiciary Administration Council.
- d) "Commission" means the Judicial Service Commission as provided for in Article 146 of the Constitution.
- e) "Judicial Officer" means Chief Justice, Deputy Chief Justice, Principal Judge, Justice of the Supreme Court, Justice of the Court of Appeal, Judge of the High Court, Chief Registrar, Registrar of a Court, Magistrate or such other person holding any office connected with court as may be prescribed by law.
- f) "Judicial Service" means the judicial service established by section 8 of this Act.
- g) "Judiciary staff" means all Judicial Officers and Administrative and other Staff appointed by the Judicial Service Commission to perform judicial, administrative and other functions of the Judiciary.

- h) "Registrar" includes Chief Registrar and Registrars as provided for in Article 145(1) of the Constitution.
- i) "Secretary to the Judiciary" means the Officer appointed in accordance with article 174 of the Constitution
- j) "Minister" means Minister of Justice and Constitutional Affairs

#### **4. OBJECTS OF THE ACT**

The objects of the Act are to:

- a) Operationalise provisions of the Constitution relating to the administration of the Judiciary;
- b) Improve the efficiency and effectiveness of Courts;
- c) Strengthen the independence of Courts as provided for under the Constitution.
- d) Streamline the administration of courts.

### **PART II-ADMINISTRATION OF THE JUDICIARY**

#### **5. ADMINISTRATION OF THE JUDICIARY BY THE CHIEF JUSTICE**

- 1) The Chief Justice is the head of the Judiciary and responsible for the overall administration and supervision of all Courts in Uganda;
- 2) In the performance of the functions of the office, the Chief Justice shall be assisted by the Deputy Chief Justice and the Principal Judge.
- 3) The Chief Justice may issue directives to the Courts necessary for the proper and efficient administration of justice;
- 4) The Chief Justice may designate any area to be a magisterial area;
- 5) Subject to the constitution, the Chief Justice in Consultation with Judicial Service Commission, may create, reclassify, change and abolish offices within the judicial service to ensure the efficient functioning of the Judiciary.

- 6) The Chief Justice may in the exercise of administrative authority and supervision,
- (i) Issue orders and directions to the courts necessary for the proper and efficient administration of Justice.
  - (ii) Assign work of a higher status or Jurisdiction to any judicial officer other than Judges for a specified period of time. Such assigned Officer shall enjoy the full benefits of the higher office.
  - (iii) Establish performance and evaluation systems for the Judiciary, and,
  - (iv) Take any other action appropriate to the exercise of the powers specified in this section and any other laws.

## **6. ESTABLISHMENT OF A JUDICIARY ADMINISTRATION COUNCIL**

- (a) The Chief Justice shall establish a Judiciary Administration Council consisting of
- (i) The Chief Justice
  - (ii) The Deputy Chief Justice
  - (iii) The Principal Judge
  - (iv) A Justice of the Supreme Court
  - (v) A Justice of the Court of Appeal
  - (vi) A Judge of the High Court
  - (vii) Minister of Justice and Constitutional Affairs
  - (viii) The Chief Registrar
  - (ix) The Secretary to Judiciary
  - (x) A Representative of Magistrates
  - (xi) A Representative of Justice Law and Order Sector Institutions
  - (xii) A Representative of Parliament
  - (xiii) A Representative of Judicial Service Commission
  - (xiv) The President Uganda Law Society
  - (xv) Two Representatives of the Public
  - (xvi) Permanent Secretary/ Secretary to Treasury.

- (b) The functions of the Council shall be to advise the Chief Justice on:
- (i) Policies for planning and development of the Judiciary;
  - (ii) Budgetary estimates of the Judiciary;
  - (iii) Recommendations for promotion to Judicial Service Commission, awards and discipline;
  - (iv) Rules and procedures for ensuring that expenditures of moneys secured or approved for the Judiciary are proper and transparent;
  - (v) Ethics and integrity issues;
  - (vi) Ways and means for securing adequate financing of the Judiciary;
  - (vii) Matters relating to personnel, staff development and welfare;
  - (viii) Terms and conditions of service of Judiciary staff;
  - (ix) Strategic and development plans of the Judiciary;
  - (x) Implementation of recommendations from Judiciary committees;
  - (xi) Establishment of Registries and Divisions of the courts, departments and any other offices for the efficient and effective administration of the Judiciary;
  - (xii) Policies for continuous monitoring and evaluation of the Judiciary, jurisdiction, performance, practices, methods of administration and operation of the courts; and
  - (xiii) Improvement of administration of justice.
  - (xiv) Any other matter relating to the above and the effective operations of the Judiciary.
- (c) The Chief Justice shall be the Chairperson and shall preside at the meetings of the council and, in his or her absence, the Deputy Chief Justice.
- (d) The Chief Justice or the Council shall have power to invite any person or representative of any organization or department of government to attend the meetings of the council and consult with it in the performance of its duties.
- (e) The decisions of the council shall be by consensus.

- (f) The council shall meet at least twice in a year but may meet as many times as the need arises or as the Chief Justice considers desirable.
- (g) The council shall regulate its own rules of procedure including determining quorum for its meetings.
- (h) The Chief Registrar shall be the secretary of the council.
- (i) The secretary of the council shall keep the minutes and records of the council.

## **7. ESTABLISHMENT OF COMMITTEES**

- (1) There shall be the following committees of the Judiciary:
  - a) Planning and Development Committee, which shall be responsible for initiation, coordination and implementation of Judicial policies, strategic plans, programmes and projects including research, budgeting, allocation and utilization of resources.
  - b) Judiciary Resources Committee, which shall discuss the approved budgets and allocates resources, ensures proper maintenance of the movable and immovable assets and monitor investment plans.
  - c) Human Capital Development Committee shall inter alia advise the council on the terms and conditions of service, training and development of judiciary staff, corporate and public relations issues and outreach programmes in the Judiciary.
  - d) Information, Communication Technology and Documentation Committee, which shall be in charge of library information services, internal Law Reporting and information technology in the Judiciary.
  - e) Judicial Ethics and Integrity Committee, which shall carry out monitoring and inspection of courts and ensure adherence to the Judicial Code of Conduct, handle disciplinary issues and complaints, monitoring and evaluation of the work plans of the Judiciary for quality assurance purposes.
  
- (2) The Chief Justice shall in consultation with the Council determine the composition, functions, procedures and reconstitution of committees established under subsection (1) of this section.

- (3) The Chief Justice shall, in consultation with the Deputy Chief Justice and Principal Judge constitute, either on a permanent or temporary basis, such other committees as deemed necessary.
- (4) Any such Committees may, subject to any directions of the Chief Justice, regulate its own procedure, and its members shall hold office on such terms as Chief Justice may determine.

### **PART III-JUDICIARY SERVICE**

8. (1) There shall, for the purpose of administration of the Judiciary a service to be known as the Judiciary service.
  - (2) The service shall consist of Judicial Officers and judiciary staff
  - (3) All personnel working in the Judiciary shall be bound by the code of conduct applicable to the Judicial Service and any other codes of conduct governing professional service delivery.
  - (4) All Judiciary Staff shall be appointed by Judicial Service Commission.
  - (5) Subject to subsection (4) of this section all officers who require Presidential Appointment under the Constitution, recommendation shall be by Judicial Service Commission to the President.

### **9. CHIEF REGISTRAR**

- (1) There shall be a Chief Registrar as provided for under Article 145(1) of the Constitution.
- (2) The Chief Registrar shall be assisted by the Deputy Chief Registrar and Registrars.
- (3) A person shall not be qualified for appointment as the Chief Registrar and Deputy Chief Registrar unless such a person
  - a) is eligible for the appointment as a Judge of the High Court
  - b) has served for at least ten years as a professional qualified Judicial Officer
  - c) has attained relevant qualifications in management of public office.

d) has competence in the performance of administrative duties for not less than three years.

(4) The functions of the Chief Registrar include the following:

- i. Exercising powers vested in the office of the Chief Registrar by virtue of any law or regulation and give effect to Policies and the Directions of the Chief Justice, Deputy Chief Justice and Principal Judge.
- ii. Performing judicial functions vested in the office of the Chief Registrar by law or assigned by the Chief Justice.
- iii. Effectively oversee judicial operations of all courts in the country including administration and management of all Registries.
- iv. Monitoring and enhancing the quality of services and official procedures.
- v. Communicating with the government and the public on matters relating to judiciary or any other matters which government maybe concerned with.
- vi. With the Secretary to the Judiciary ensuring the implementation of the Judiciary Strategic Plans and core activities.
- vii. Maintaining and developing co-operation with Stakeholders.
- viii. Assisting the Chief Justice, Deputy Chief Justice and the Principal Judge in the facilitation and supervision of Courts of Judicature.
- ix. Providing a link between the Judiciary and Judicial Service Commission on appointments, promotion and disciplinary matters regarding Registrars and Magistrates.
- x. Maintaining a relationship between the Judiciary, Executive and Legislature.
- xi. Facilitating the appointment of judicial officers in boards and committees.
- xii. Any other functions and duties as may be assigned by the Chief Justice, Deputy Chief Justice and Principal Judge.

(5) In carrying out the functions under this Act, the Chief Registrar will liaise and give support and provide linkages with the Justices, Judges and Secretary to Judiciary.



(6) The Chief Registrar shall report to the Chief Justice.

## **10. REGISTRARS**

1. Registrars shall be responsible for the following Court Registries:

- a) Supreme Court
- b) Court of Appeal/Constitutional Court
- c) High Court
- d) Inspectorate
- e) Planning, Research and Development
- f) Research and Training
- g) Human Capital Development and Training
- h) Any other registries established by Chief Justice

3. Deputy Registrars and Assistant Registrars shall assist Registrars in the daily management of Registries and shall perform any other task assigned by the Chief Justice.

4. Registrars, Deputy Registrars and Assistant Registrar shall have original jurisdiction in all matters both, criminal and civil except those over which only the High Court Judges have exclusive jurisdiction.

5. Registrars shall exercise jurisdiction as authorized by other written laws.

6. Registrars may be called upon by virtue of earlier judicial appointments, to exercise such jurisdiction as may be determined by the Chief Justice in consultation with the Council

## **11. THE INSPECTORATE**

1. There shall be established an Inspectorate for Courts of Judicature with functions that include but not limited to the following:

- a) Monitor and evaluate performance of courts in terms of outputs, compliance with standards in the code of conduct, customer care, effective registry management, and compliance with procedural requirements.
- b) Develop guidelines for effective performance of Courts

- c) Make recommendations with respect of (a) to Judicial Service Commission or any other relevant authority for action.
  - d) Any other functions assigned by the Chief Justice
- 2. The Inspectorate shall be headed by Judge assisted by Registrars and other Judiciary staff.
- 3. The Head of the Inspectorate shall work on a full time basis.

## **12. JUDICIAL TRAINING INSTITUTE**

- 1) There shall be a Judicial Training Institute to provide specialized and continuous education to all Judiciary staff.
- 2) The Judicial Training Institute shall be an executing agency, whose duties shall include providing training and research for the judiciary staff and any other individual or institutions whether private or public.
- 3) The Chief Justice shall by statutory instrument provide for the structure, composition and any other matters related to the Judicial Studies Institute.

## **13. SECRETARY TO THE JUDICIARY**

- 1) There shall be a Secretary to the Judiciary who
  - a) Shall be the accounting officer appointed by the President in accordance with article 174 of the Constitution.
  - b) The Secretary to the Judiciary shall be at the rank of a Permanent Secretary
- 2) The Secretary to the Judiciary shall be responsible for;
  - a) Organization of the Judiciary
  - b) Finance and Administration in the Judiciary
  - c) Tendering advice to the Chief Justice in respect of the business of the Judiciary
  - d) Implementing policies of the Government of Uganda and the Judiciary's Strategic Investment Plan.
  - e) Expenditure of Public funds by or in connection with the Judiciary.
  - f) Facilitating the smooth running of Judiciary functions as provided for under Part 8 of the Constitution.

- g) Perform any other function and duty as assigned by the Chief Justice, Deputy Chief Justice and Principal Judge.
- 3) In performance of the above responsibilities the Secretary to Judiciary shall be answerable to the Chief Justice.

#### **14. SERVICE IN OTHER INSTITUTIONS**

- 1) If an officer in the Judicial Service is appointed under another Act, other than this Act or is assigned or seconded to another institution outside the Judicial Service or secures leave of absence, the Chief Justice may, on application, grant the officer leave of absence without pay and other benefits for a period of absence not exceeding four years.
- 2) The period of absence under subsection (1) shall be counted as part of the officer's period of service.
- 3) Subject to any other law, the Chief Justice may request the Commission to appoint another person to serve in the capacity of the officer who has been granted leave of absence on such terms as the Commission may determine.

#### **15. RESIGNATION, RETIREMENT AND RETRENCHMENT**

- 1) The Judicial Service Commission in consultation with the Chief Justice shall determine the appropriate benefits for judiciary staff in the event of retirement, resignation, death or restructuring.
- 2) The retirement age of the judiciary staff shall be as provided for in the Constitution and other legislations currently in force.

### **PART IV FUNDING OF THE JUDICIARY**

#### **16. FINANCES OF THE JUDICIARY**

- 1) In their dealings with the Judiciary, all organs and agencies of the State shall recognize, adhere to, and respect the following fundamental principles of the

Judiciary's financial autonomy and independence established in clause (3), (5),(6) and (7) of Article 128 of the Constitution, namely:-

- a) All organs and agencies of the State shall accord the courts such assistance as may be required to ensure the effectiveness of the courts;
  - b) The administrative expenses of the Judiciary including all salaries, allowances, gratuities and pensions payable to or in respect of persons serving in the Judiciary shall be charged on the Consolidated Fund;
  - c) The Judiciary shall be self accounting and may deal directly with the Ministry responsible for finance in relation to its finances;
  - d) The salary, allowances, privileges and retirement benefits and other conditions of service of a judicial officer or another person exercising judicial power, shall not be varied to his or her disadvantage.
- 2) For the purpose of clause (1) and (2) of article 158, the offices of judicial officers are hereby prescribed to be offices with respect to which salaries and allowance of the holders shall not be altered to their disadvantage.

#### **17. FINANCIAL ESTIMATES**

- 1) In conformity with clause (2) of article 155 of the Constitution in each financial year, the Chief Justice shall submit the president, estimates of administrative and development expenditures, estimates of revenue for that year of the recurrent and development expenditure estimate of the revenue of the Judiciary for the following year.
- 2) The President shall cause the estimates prepared under subsection (1) of this section to be laid before parliament without revision, but with any recommendations that the Government may have on them.

#### **18. APPROPRIATION OF JUDICIARY FUNDS**

- 1) The minister responsible for finance shall, in respect of each financial year, release the Judiciary such moneys as are required after the enactment of the Appropriations Act for that financial year.
- 2) Without derogating from the generality of subsection (1) of this section, all salaries and allowances payable to or in respect of judiciary shall be released directly to the judiciary by the Ministry responsible for finance.

#### **19. FUNDS OF THE JUDICIARY**

- (1) The funds of the Judiciary shall include-
  - a) Funds appropriated by parliament for the purposes of the Judiciary
  - b) Grants
  - c) Donations
  - d) Any other funds for the sole benefit of the Judiciary
- (2) The Judiciary shall be entitled to 2% of the total Gross Domestic Product

#### **20. EXPENSES OF THE JUDICIARY**

All moneys approved by parliament to defray the expenses that may be incurred in the discharge of the functions of the Judiciary or in carrying out the purposes of this Act shall be a direct charge on the Consolidated Fund.

#### **21. BANK ACCOUNTS**

The Judiciary shall open and maintain such bank accounts as are necessary for the exercise of its functions, and shall pay into them:-

- a) All moneys received from the Government for purposes of this Act
- b) All moneys appropriated by law for carrying out the constitutional mandate of the Judiciary.
- c) All other moneys received by the Judiciary in the exercise of its functions; and
- d) All other moneys lawfully received for the Judiciary from any source.

#### **22. FINANCIAL YEAR OF THE JUDICIARY**

The financial year of the Judiciary shall be the same as provided for by the Finance and Accountability Act.

### **23. BOOKS OF ACCOUNT**

The Judiciary shall keep proper books of accounts and records, and the accounts shall be audited by the Auditor General.

## **PART IV MISCELLANEOUS ANNUAL REPORT**

### **24. ANNUAL REPORT OF THE JUDICIARY**

- 1) The Chief Justice shall as soon as practicable, publish an annual performance report concerning all activities of the Judiciary during the financial year.
- 2) The report shall include information on the state of judiciary in the country.
- 3) The Chief Justice shall cause to be distributed, copies of the Annual Report to the President of the Republic of Uganda, the Speaker of Parliament of Uganda any other stakeholder.

### **25. REGULATIONS**

The Chief Justice shall make regulations by statutory instrument generally for the giving effect to the provisions of this Act and for its due administration.

## **PART V – TRANSITIONAL PROVISIONS**

### **26. TRANSFER OF ASSETS AND LIABILITIES**

All property and assets vested in the Judiciary before the commencement of this Act shall, on the commencement of this Act, remain vested in the Judiciary subject to all interests, liabilities, obligations and trusts affecting the property.

### **27. APPLICATION OF THE PENSIONS ACT AND SALARIES ALLOWAMCES (SPECIFIED OFFICERS) ACT**

The Pensions Act and Salaries Allowances (specified Officers) Act shall continue to apply to judges and other judicial officers as the case may be until the Judicial Service Commission in consultation with the Chief Justice determines their terms and conditions of service.

## **28. EMPLOYEES OF THE JUDICIARY**

(1) On the Commencement of this Act-

(a) All persons who, immediately before the date of commencement of this Act were employed in the Judiciary shall continue to be employed in the Judiciary;

(b) the terms and conditions, including the salary, on which a person referred to in subsection (1) was employed immediately before the commencement of this Act, shall be no less favorable than those that applied to that person's office immediately before the commencement of this Act; and

(c) There is no break or interruption in the employment of such persons because of the Enactment of this Act.

(2) Subject to subsection (1) (b), the terms and conditions of any employment referred to in subsection (1) may be varied after the commencement of this Act.

(3) A person who, immediately before the commencement of this Act, was employed on permanent and pensionable establishment in connection with the operation or administration of any court or courts, shall be deemed, on the commencement of this Act, to be a member of Judiciary staff unless

(a) the person so employed, by notice in writing to the commission, states his intention not to be a member of such staff within six months after the commencement of this Act or;

(b) the commission, by notice in writing to the person so employed, determines that he or she shall not be a member of such staff

(4) A person who

(a) gives notice or is given notice under subsection (3)

(or) at the expiry of six months after the commencement of this Act, has not been appointed as a member of Judiciary staff shall be redeployed in the civil service or may, in the public interest, be retired there from, with entitlement to be paid all his or her terminal benefits.

(5) Nothing in this section-

(a) affects any power of the commission under any law to create, or to employ any person in, a temporary position; or

(b) precludes the making of arrangements from the secondment or further secondment of any officer to any position.

## **29. TERMS AND CONDITIONS OF SERVICE**

The Judicial Service Commission in consultation with the Chief Justice shall determine the terms and conditions of service of the judiciary staff.

**Honourable Kahinda Otafiire**

**MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS**

Dated this...day of .....2012.