

BILLS SUPPLEMENT

to The Uganda Gazette No. 34, Volume CXII, dated 24th July, 2019

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

Bill No. 17 *Presidential Elections (Amendment) Bill* **2019**

THE PRESIDENTIAL ELECTIONS (AMENDMENT) BILL, 2019

MEMORANDUM

The purpose of this Bill is to amend the Presidential Elections Act, 2005 to prescribe the period for holding presidential elections; to prescribe the time for campaigns; to provide for the participation of independent candidates in elections; to provide for restrictions on candidates' sources of funding to finance elections; to provide for the electronic transmission of results and to align the Presidential Elections Act, 2005 with the Constitution as amended by the Constitution (Amendment) Act, 2018.

MAJ. GEN (RTD) KAHINDA OTAFIIRE,
Minister of Justice and Constitutional Affairs.

THE PRESIDENTIAL ELECTIONS (AMENDMENT) BILL, 2019

ARRANGEMENT OF CLAUSES

Clause

1. Amendment of Act No.16 of 2005.
2. Amendment of section 4 of principal Act.
3. Insertion of section 9A in principal Act.
4. Amendment of section 10 of principal Act.
5. Amendment of section 21 of principal Act.
6. Amendment of section 22 of principal Act.
7. Amendment of section 24 of principal Act.
8. Amendment of section 28 of principal Act.
9. Amendment of section 31 of principal Act.
10. Substitution of section 39 of principal Act.
11. Amendment of section 56 of principal Act.
12. Amendment of section 59 of principal Act.
13. Amendment of section 64 of principal Act.
14. Amendment of Fourth Schedule to principal Act.

A Bill for an Act

ENTITLED

**THE PRESIDENTIAL ELECTIONS (AMENDMENT) BILL,
2019**

An Act to amend the Presidential Elections Act, 2005 to prescribe the period for holding presidential elections; to prescribe the time for campaigns; to provide for the participation of independent candidates in elections; to provide for restrictions on candidates' sources of funding to finance elections; to provide for the electronic transmission of results and to align the Presidential Elections Act, 2005 with the Constitution as amended by the Constitution (Amendment) Act, 2018.

BE IT ENACTED by Parliament as follows—

1. Amendment of Act No.16 of 2005.

The Presidential Elections Act, 2005, in this Act referred to as the principal Act, is amended in section 2 by substituting for the words “ninety days” the words “one hundred and twenty-two days”.

2. Amendment of section 4 of principal Act.

Section 4 of the principal Act is amended by repealing subsection (1) (b).

3. Insertion of section 9A in principal Act.

The principal Act is amended by inserting immediately after section 9 the following—

“9A. Eligibility to stand as independent candidate.

(1) A person is eligible to stand for election as an independent if that person is not a member of a registered political party or organisation—

- (a) having ceased to be a member of a political party or organisation twelve months before nomination day; or
- (b) having never been registered as a member of a political party or organisation.

(2) An independent candidate shall be taken to have ceased to be a member of a political party or organisation under subsection (1) (a), if that person has complied with the constitution, rules and regulations of the political party or organisation to which he or she belonged, that relate to cessation of membership of that political party or organisation and was discharged by the political party or organisation.”

4. Amendment of section 10 of principal Act.

Section 10 of the principal Act is amended in subsection (6), by inserting immediately after paragraph (c) the following paragraph—

“(d) a certified copy of the Certificate of Education of Advanced Level standard or its equivalent.”

5. Amendment of section 21 of principal Act.

Section 21 of the principal Act is amended by inserting immediately after subsection (1) the following—

- “(1a) Notwithstanding subsection (1), a candidate shall hold campaigns between seven o’clock in the forenoon and six o’clock in the afternoon.
- (1b) A person who contravenes subsection (1a) commits an offence and is liable, on conviction, to a fine not exceeding forty-eight currency points or imprisonment not exceeding two years or both.”

6. Amendment of section 22 of principal Act.

Section 22 of the principal Act is amended—

- (a) by inserting immediately after subsection (1a) the following—
 - “(1b) A candidate shall declare to the commission, within fourteen days after nomination day, the source of funds for financing his or her election.”;
- (b) by substituting for subsection (4) the following—
 - “(4) A candidate or candidate’s agent shall not—
 - (a) obtain, solicit or receive any financial or other assistance from any foreign Government, institution, body or person which or who has demonstrated an intention to overthrow the lawfully established Government of Uganda, or to endanger the security of Uganda;
 - (b) obtain, solicit or receive any financial or other assistance from an organisation which has been declared a terrorist organisation under the Anti-Terrorism Act, 2002;

(c) employ for the purposes of his or her campaign, any financial or other assistance from any Government, institution, body or person described in paragraph (a) or from an organisation referred to in paragraph (b).”

(c) by inserting immediately after subsection (9) the following—

“(10) Without prejudice to any other penalty imposed by the court under this Act, any money or other assistance obtained by a candidate contrary to this section shall be forfeited to the State by order of the court convicting a person under subsection (3).”

7. Amendment of section 24 of principal Act.

Section 24 of the principal Act is amended by inserting immediately after subsection (1) the following—

“(1a) A State owned media house that contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points.

(1b) An officer responsible for a State owned media house who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding twenty-four currency points or imprisonment not exceeding one year or both.”

8. Amendment of section 28 of principal Act.

Section 28 of the principal Act is amended by substituting for the words “Within forty-eight hours before polling day,” the words, “At any time before polling time,”.

9. Amendment of section 31 of principal Act.

Section 31 of the principal Act is amended—

- (a) in subsection (5)(d), by substituting for the words “dipped into indelible ink” the words “marked with indelible ink”;
- (b) in subsection (7)(c), by substituting for the words “dip the tip of any hand into indelible ink” the words “mark the tip of any hand with indelible ink”;
- (c) in subsection (8), by substituting for the words “full view of all present” the words “full view of at least five voters who are registered to vote at the polling station”.

10. Substitution of section 39 of principal Act.

The principal Act is amended by substituting for section 39 the following—

“39. Special procedure for voting of persons in restricted areas.

(1) The commission may make special provision for voting for specified persons in restricted areas and operation areas.

(2) The commission shall publish in the *Gazette*, a list of restricted areas and operation areas referred to in subsection (1).

(3) An area provided for voting for members of the Uganda Peoples’ Defence Forces shall be outside of any barracks and the commission shall not create any special or separate polling stations exclusively for the army or any other security personnel

(4) For the purposes of this section—

- (a) “operation area” includes an area where soldiers and other security personnel are deployed on special duty during an election period and may include a restricted area; and

- (b) “restricted area” includes an area experiencing an epidemic, disaster or insecurity.”

11. Amendment of section 56 of principal Act.

Section 56 of the principal Act is amended by substituting for subsection (2) the following—

“(2) Upon completing the return, every returning officer shall—

- (a) transmit to the commission the following documents electronically—
 - (i) the return form;
 - (ii) the tally sheets; and
 - (iii) the declaration of results forms from which the official addition of the votes was made; and
- (b) deliver to the commission the documents referred to in paragraph (a).”

12. Amendment of section 59 of principal Act.

Section 59 of the principal Act is amended—

- (a) in subsection (2) by substituting for the words “ten days” the words “fifteen days”;
- (b) in subsection (3) by substituting for the words “thirty days”, the words “forty-five days”;
- (c) in subsection (10) by substituting for the words “twenty days”, the words “sixty days”.

13. Amendment of section 64 of principal Act.

Section 64 of the principal Act is amended in subsection (9) by repealing the words “or donations given by the President in the ordinary course of his or her duties”, appearing immediately after the word “elections”.

14. Amendment of Fourth Schedule to principal Act.

The Fourth Schedule to the principal Act is amended-

- (a) by repealing paragraph 2;
- (b) by substituting for paragraph (4) the following—

“(4) I attach a certificate issued by the Uganda National Examinations Board/National Council for Higher Education* to certify that I have completed a minimum formal education of Advanced Level Standard/a minimum formal education equivalent to Advance Level Standard* as required by articles 80(1)(c) and 102(c) of the Constitution and section 4 of the Presidential Elections Act, 2005.”

* *(Delete whichever is inapplicable)*

Cross Reference

The Anti-Terrorism Act, 2002, Act No.14 of 2002.

