



INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF UGANDA

COMMENTS ON THE NATIONAL CURRICULUM DEVELOPMENT CENTRE (AMENDMENT) BILL, 2020 AUGUST 2020

Comments by ICPAU

	ISSUE	OBSERVATION	COMMENT
1.	<p>Clause 3 Amendment of Section 7 of the principal Act</p>	<p>Ex-officio Membership of the Governing Council of the Centre</p> <p>The bill seeks to broaden the ex-officio membership of the governing council of the centre. Whereas we note that the Bill attempted to include some professional bodies representation; professional engineers and lawyers to be specific, there was no attempt made to consider a representative from the Accountancy profession.</p> <p>We believe that the accounting profession is well-positioned to contribute to sustained curriculum development. The Institute of Certified Public Accountants of Uganda is a key stakeholder in curriculum development matters given the fact that it manages</p>	<p>We recommend that a new subclause be inserted immediately after subclause (xv) to read as follows: Section 7(1)(a)(xvi) “the representative of the Institute of Certified Public Accountants of Uganda.”</p> <p><u>Justification</u> To provide for the accountancy profession representation on the Council</p>

		<p>the training of professional accountants. In addition, we believe having a representative from the accountancy profession will be value adding in relation to the role such representation would play on the Council’s Committees provided for under clause 16 particularly the Finance and General Purpose Committee (16)(1)(a) and the Audit and Risk Assurance Committee (16)(1)(c). Good quality financial management and reporting is essential as it provides a requisite platform that underpins economic development, service delivery and acceptably high level of accountability.</p>	
		OTHER RECOMMENDATIONS	
3.	Section 9 of principal Act	<p>Disqualification for membership of the council.</p> <p>The current section seems not to ably address all matters that may relate to disqualification of membership to Council. Also where the section provides for disqualification for membership under section 8(1) and disqualification under section 8(2), it tends to draw some confusion since in the latter, it is specifically stated that the Minister may remove the member yet in the former no such clarity is given.</p> <p>Also the disqualification based on ‘insolvent or bankrupt person’ is confusing since in principle Council members are appointed as individuals. Even when companies within which they may be serving become insolvent, due to the principle of a distinct corporate persona in company law one may not extend the insolvency to the company Board members. Relatedly, the provision under section 9(2)(b) “...has become bankrupt <u>or made arrangements with his or her creditors</u> is equally confusing since this may open up gates for litigation, remember one has to be adjudged or declared bankrupt</p>	<p>We thus recommend that section 9 be amended by substituting with the following:</p> <p>Section 9 “A member of Council may at any time, be removed from office by the Minister if he or she is satisfied that the member-</p> <ul style="list-style-type: none"> (a) is a paid employee of the centre; (b) is <u>adjudged or declared for bankruptcy and has not been discharged;</u> (c) is not resident in Uganda; (d) has been convicted of an offence involving fraud or dishonesty or <u>any moral turpitude;</u> (e) is incapacitated by physical or mental illness or (f) <u>has failed to attend six consecutive scheduled meetings of the Council, without reasonable excuse.”</u>

		for them to be considered so.	<p><u>Justification</u> To ensure clarity on what may disqualify a member from Council but also to ensure clarity on who may disqualify such a member from Council.</p>
4.	Section 10 of the principal Act	<p>Chairperson of the council</p> <p>Whereas the current law provides for the appointment of any ex officio member of the council to be chairperson of the council under section 10(2) the term of office of the Chairperson is restricted to a period of not more than three years. We find this as a redundant provision if compared with the provision in the subsequent section 11(a) since a chairperson of Council is equally an appointed member like the rest.</p>	<p>We recommend the section 10(2) be dropped and instead be retained in the subsequent section 11 with the modifications suggested therein as can be seen below.</p>
5.	Section 11 of the principal Act	<p>Term of office of appointed members</p> <p>We observe that the Act under section 11(a) restricts members of Council to serve for a term of three years with no possibility of renewal. Whereas this may be an ideal situation, it may not be a sufficient condition if the Centre is to reap much from the expertise of the Council members that comes with slightly extended periods of service. Shorter terms of office are also usually associated with reasonable costs arising from the learning curve required to understand the Centre’s operations.</p> <p>The provisions under 11(c) are rather too onerous without a specific limit on reappointment.</p>	<p>We thus propose to delete section 11(c) and amend section 11(a) by adding immediately after the word ‘years’ the following words ‘and is eligible for reappointment for a further term of three years only.’ For the section to read as follows:</p> <p>Section 11(a) “An appointed member of the council shall hold office for a period of three years <u>and is eligible for reappointment for a further term of three years only.</u>”</p> <p><u>Justification</u> This ensures exploiting expertise gained by Council members over time, but it would also close the gap on Council members’ succession/continuity since</p>

			it may be unlikely that all members may be dropped after a three-year period.
6.	Section 11 (d) of the principal Act	<p>This section is to the effect that where an appointed member of the council is for any reason unable to exercise the powers or perform the duties of his or her office, the Minister may appoint another person to be a temporary member of the council during the absence or incapacity of that member. The implication of this subsection is to introduce some uncertainty in implementing section 9. We believe that for any replacements on council, section 9 should be the guiding section. Other introducing temporary members on council would be introducing part time council members who may not be reliable. Where a member is unable to perform their duties say due to illness or absenteeism or any other reason as guided under section 9, then the Minister should be advised on the same and action as guided by the section.</p>	<p>We propose that section 11(d) is deleted</p> <p><u>Justification</u></p> <p>To provide for clarity by avoiding conflict with other sections of the same law.</p>
9.	Section 20 of the principal Act	<p>Meetings of the Board.</p> <p>Section 20(e) requires a mandatory quorum of five members including the chairperson, yet earlier subsections seem to give a more realistic picture that there are moments when the chairperson may not be in position to attend the Board meetings. Under such circumstances, the chairperson is permitted to delegate or in case he/she fails to the members present chose among themselves.</p> <p>In light of the above, the words ‘including the chairperson’ under section 20(e) therefore seem redundant or confusing. In principle, there can not be a meeting without a chairperson, and since a chairperson is a member of the Board, he/she should form quorum.</p>	<p>We propose to amend section 20(e) by dropping the words ‘including the chairperson’ for the section to read as follows:</p> <p>Section 20(e) “At all meetings of the board, five members shall constitute a quorum.”</p> <p><u>Justification</u></p> <p>For clarity</p>

10.	Section 24 of the principal Act	<p>We note that the appointment of the Director and other staff of the Centre is done under this section. We thus wish that the duty of secretary of the Council, the Board and all the Council subcommittees to be entrusted with the Director.</p>	<p>We thus propose to insert immediately after section 24(a) a subsection 24(b) and rename the rest accordingly for the new insertion to read as follows: Section 24(b) “The Director shall be responsible for recording the minutes of all the meetings of the Council, the Board and other Council subcommittees and shall keep custody of all the documents of the Centre and the Council.”</p> <p><u>Justification</u> Mandating the Director to take charge of the records of Council and all its subcommittee meetings.</p>
11.	Section 29 of the Principal Act	<p>Accounts To ensure uniformity the Public Finance Management Act, 2015 (Section 51(2)) requires accounting officers to prepare financial records using a format prescribed by the Accountant-General</p>	<p>We thus propose to delete the words ‘its standing orders’ and substitute them with ‘the Public Finance Management Act, 2015’ for the section to read as follows: Section 29(a) “The council shall keep books of account of all income and expenditure and proper records in relation thereto in accordance with <u>the Public Finance Management Act, 2015.</u>”</p> <p><u>Justification</u> To align the reporting to that required of public entities</p>

12.	Section 30 of the Principal Act	<p>Audit of books of account.</p> <p>This section requires the books of the Council to be audited within four months after the end of each financial year. However, the Public Finance Management Act, 2015 (Section 51(2)) requires an Accounting Officer of a vote within two months after the end of each financial year, to prepare and submit to the Auditor-General, and the Accountant-General, the accounts and information as set out in paragraph 2 of Schedule 5 to the Act.</p>	<p>We thus propose to substitute the word ‘four’ with ‘three’ for the section to read as follows:</p> <p>Section 30 “The books of account of the centre shall be audited within three months after the end of each financial year by the Auditor General or an auditor appointed by him or her who shall be entitled to have access to all books of account, vouchers and other financial records of the centre and require such information and explanation thereon as he or she thinks fit.”</p> <p><u>Justification</u></p> <p>To ensure harmony with the PFM Act</p>
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