



INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF UGANDA

COMMENTS ON THE UGANDA NATIONAL EXAMINATIONS BILL, 2020 AUGUST 2020

Comments by ICPAU

	ISSUE	OBSERVATION	COMMENT
1.	<p>Clause 6 Board of Directors</p>	<p>Board Composition The Bill enlists the Board composition to include individuals appointed by the President but also representatives appointed by the Minister. Whereas we find that all individuals intended to represent respective offices have an outright representation on the Board (see clause 6(2)(b),(c),(d),(e),(i) and (j)), clause 6 (3) and (5) seek to empower and guide the Minister on appointment of these representatives.</p> <p>We therefore believe that clarity be ensured, for members of the Board representing other offices not to be appointed by the Minister, but also clarity to be ensured on the fact that the chairperson though a member of the Board, is not appointed by the Ministers as clause 6(3) seems to provide.</p>	<p>We recommend that clause 6 be substituted with the following; Section 6 (2) Board of Directors The board shall consist of—</p> <ul style="list-style-type: none"> (a) a chairperson appointed by the President (b) a representative of the Directorate for Basic and Secondary Education who shall be at the rank of Commissioner or above (c) a representative of the Directorate for Education Standards who shall be at the rank of Commissioner or above (d) a representative of the Directorate of National Curriculum Development Centre who shall be at the rank of Commissioner or above

			<p>(e) a representative of the Attorney General who shall be at the rank of Commissioner or above</p> <p>(f) a representative of the Public Service Commission, who shall be at the rank of Commissioner or above</p> <p>(g) a representative of the Education Service Commission who shall be at the rank of Commissioner or above</p> <p>(h) a head teacher of a secondary school, nominated by the Secondary School Head teachers' Association;</p> <p>(i) a Principal of a primary teachers training institution nominated by the Principals' Association</p> <p>(j) a head teacher of a primary school, nominated by the Primary School Head Teachers' Association;</p> <p>(k) a Vice chancellor of a public or private university, elected by the Vice Chancellors' forum;</p> <p>(l)</p> <p>(m).....</p> <p>(n)</p> <p>(3) At least one third of the members of the Board shall be women</p> <p>(4) The members of the Board <u>other than the Chairperson and representatives appointed under subsections (2) (b) - (g)</u> shall be appointed by the Minister.</p> <p>(5) The Minister shall, in appointing the members of the Board under subsection (2), invite nominations from the respective institutions or organisations from which the appointments are to be made.</p>
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2.	Clause 7 Disqualification from appointment to the Board	<p>The bill seeks to provide for disqualification from appointment to the Board based on the fact that one has been declared insolvent. We do note that this is somehow confusing since in principle Board 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 such insolvency to the company Board members.</p>	<p>We recommend that sub-clause 7(d) be re-drafted to read as follows: Section 7(1)(d) “is <u>adjudged or declared for bankruptcy and has not been discharged.</u>”</p> <p><u>Justification</u></p> <p>To provide for clarity</p>
3.	Clause 10 Removal from office	<p>The bill under the alternative option for removal from office provided for under clause 22(g) is to the effect that a person may be removed from office for absence from Uganda for more than twelve months. We however, note that with the emergency and advances in technologies, coupled with dynamic environments dictated by vagaries of nature, relevancy of physical meetings is likely to decline in preference for online engagements. As such even legislations should capture that foresight and opt for contact or attendance of meetings other than a mere physical presence.</p>	<p>We thus propose to delete the words ‘or for absence from Uganda for more than twelve months’ for the clause to read as follows: Section 10(g) “for absence, without prior notice to the Chairperson for more than three consecutive scheduled meetings of the Board, without reasonable excuse.”</p> <p><u>Justification</u></p> <p>To recognize attendance whether by physical presence or virtual engagement.</p>
4.	Clause 22 Audit	<p>Whereas the original Act provided for both accounts and audit, the Bill seeks to only cater for audit. We</p>	<p>We propose that the amendment under section 22 be substituted with the following:</p>

		<p>wish to have clear provisions enshrined in the law in relation to accounts and audit with clear timelines of accomplishment.</p> <p>The proposed amendment under Section 22 on audit also seems to require audits to be conducted in accordance with the National Audit Act, 2008. In principle, the Auditor General conducts his/her audits following a specified framework hence any attempt to provide guidance on this within the law may curtail that progressivity.</p>	<p>“Section 22 Accounts and Audit</p> <p>(1) The Board shall keep proper accounts of its income and expenditure and records in relation to them.</p> <p>(2) The Board shall, within three months after the end of each financial year, cause to be prepared and submitted to the Auditor General for auditing by the Auditor General or an auditor appointed by the Auditor General, a statement of account of the Board for that financial year.</p> <p>(3) The Auditor General or an auditor appointed by him or her is entitled to inspect all books, papers and other records of the Board relating to all matters dealt with in any statement of account required to be prepared under subsection (2).</p> <p>(4) The Auditor General shall, within two months after receiving the accounts of the Board under subsection (2), cause them to be audited and shall deliver to the Board and the Minister a copy of the audited accounts together with his or her report on the audit.</p> <p>(5) The Minister shall, as soon as possible after receiving the report of the Auditor General under subsection (4), cause the report to be laid before Parliament.”</p> <p><u>Justification</u></p> <p>To provide for a clear process relating to accounts and audits.</p>
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