
LOCAL GOVERNMENT (AMENDMENT) BILL, 2010

MEMORANDUM

This Bill seeks to amend the Local Government Act (the "Act") in order to improve the efficiency and effectiveness of the Local Authorities. The Bill has 8 clauses.

Clause 2 of the Bill proposes to change the name of a Local Government area from "Assembly" to "Council".

Clause 3 of the Bill proposes to amend section 5 of the Act to include Members of Parliament as voting members of Councils.

Clause 4 proposes to amend section 6 of the Act to remove the function of policy making from the responsibilities of the Councils.

Clause 5 proposes to amend section 7 of the Act to exclude Members of Parliament and other *ex officio* members of the Council from appointment as Chairman or Vice chairman of the Council and further proposes to reduce the term of office of the Chairman and Vice chairman from five (5) years to one (1) year, renewable once.

Clause 6 proposes to amend section 11 of the Act to provide that a Chief Executive Officer shall be appointed by the Minister.

Clause 7 proposes to amend section 26 of the Act to provide that the determination of salaries of Council employees shall be approved by the Minister.

Clause 8 replaces the First Schedule to merge Town Councils with their respective District Councils to reduce expenditure on administration of Councils.

LOCAL GOVERNMENT (AMENDMENT) BILL, 2010

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of Cap. 22:01
3. Amendment of s. 5 of the principal Act
4. Amendment of s. 6 of the principal Act
5. Amendment of s. 7 of the principal Act
6. Amendment of s. 11 of the principal Act
7. Amendment of s. 26 of the principal Act
8. Replacement of the First Schedule to the principal Act
Schedule

A BILL

entitled

An Act to amend the Local Government Act

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Local Government Short title
(Amendment) Act, 2010.
2. The Local Government Act (hereinafter referred to as the Amendment
“principal Act”) is amended— of Cap. 22:01
 - (a) in relation to the sections of the principal Act set out in Part I of the Schedule, by deleting therefrom the words “the Assembly” and substituting therefor the words “the Council”;
 - (b) in relation to the sections of the principal Act set out in Part II of the Schedule, by deleting therefrom the words “an Assembly” and substituting therefor the words “a Council”;

(c) in relation to the sections of the principal Act set out in Part III of the Schedule, by deleting therefrom the word "Assemblies" and substituting therefor the word "Councils";

(d) in relation to the sections of the principal Act set out in Part IV of the Schedule, by deleting therefrom the word "Assembly's" and substituting therefor the word "Council's"; and

(e) in relation to the sections of the principal Act set out in Part V of the Schedule, by deleting therefrom the word "Assembly" and substituting therefor the word "Council".

Amendment of
s. 5 of the
principal Act

3. Section 5 of the principal Act is amended by deleting subsection (1) and substituting it with the following—

"(1) For every local government area, there shall be a Council consisting of—

(a) one member elected from each ward within the local government area;

(b) Members of Parliament from the constituencies that fall within the local government area, as voting members, *ex officio*;

(c) Traditional Authorities from the local government area, as non-voting members *ex officio*; and

(d) five persons, as non-voting members, to be appointed by the elected members to cater for the interests of such special interest groups as the Council may determine".

Amendment of
s. 6 of the
principal Act

4. Section 6 of the principal Act is amended—

(a) in subsection (1) (a), by deleting, immediately after the word "make", the words "policy and";

(b) in subsection (1) (c), by inserting, immediately after the word "plan", the words "within its jurisdiction".

Amendment of
s. 7 of the
principal Act

5. Section 7 of the principal Act is amended—

(a) in subsection (1), by inserting, immediately after the word "number", the words "other than members *ex officio*,";

(b) in subsection (2), by deleting the words "and shall serve for a period of five (5) years unless sooner replaced";

(c) by renumbering subsection (4) as subsection (5); and

(d) by inserting, immediately after subsection (3), the following new subsection as subsection (4)—

“(4) The Chairman and Vice Chairman shall each serve in their respective capacities for a period of one (1) year, unless sooner replaced, and shall be eligible to be re-elected for one additional term; but so, however, that in the case of a City Council or a Municipal Council, the Chairman and Vice Chairman shall serve for a period of five (5) years unless sooner replaced.”

6. Section 11 of the principal Act is amended—

Amendment
of s. 11 of the
principal Act

(a) by inserting, immediately after subsection (1), the following new subsection as subsection (2)—

“(2) The Chief Executive Officer shall be appointed by the Minister”;

(b) by deleting subsection (2) and substituting therefor the following new subsection as subsection (3)—

“(3) The District Commissioner and any person holding any post at Director grade in the Council shall be appointed by the Local Government Service Commission.”; and

(c) by renumbering subsections (3) and (4) as subsections (4) and (5).

7. Section 26 of the principal Act is amended, by inserting, immediately after the word “shall”, the words “subject to approval by the Minister,”.

Amendment
of s. 26 of the
principal Act

8. The First Schedule to the principal Act is revoked and replaced with the following new schedule as the First Schedule—

Replacement
of the First
Schedule
to the
principal Act

“FIRST SCHEDULE

(s. 4)

LOCAL GOVERNMENT AREAS

Local Government Area

Council

Blantyre City

Blantyre City Council

Lilongwe City

Lilongwe City Council

Mzuzu City

Mzuzu City Council

Zomba City

Zomba City Council

Kasungu Municipality

Kasungu Municipal Council

Luchenza Municipality

Luchenza Municipal Council

Balaka District

Balaka District Council

Blantyre District

Blantyre District Council

Chikwawa District

Chikwawa District Council

Chiradzulu District

Chiradzulu District Council

<i>Local Government Area</i>	<i>Council</i>
Chitipa District	Chitipa District Council
Dedza District	Dedza District Council
Dowa District	Dowa District Council
Karonga District	Karonga District Council
Kasungu District	Kasungu District Council
Likoma District	Likoma District Council
Lilongwe District	Lilongwe District Council
Machinga District	Machinga District Council
Mangochi District	Mangochi District Council
Mchinji District	Mchinji District Council
Mulanje District	Mulanje District Council
Mwanza District	Mwanza District Council
Mzimba District	Mzimba District Council
Neno District	Neno District Council
Nkhata Bay District	Nkhata Bay District Council
Nkhota Kota District	Nkhota Kota District Council
Nsanje District	Nsanje District Council
Ntcheu District	Ntcheu District Council
Ntchisi District	Ntchisi District Council
Phalombe District	Phalombe District Council
Rumphi District	Rumphi District Council
Salima District	Salima District Council
Thyolo District	Thyolo District Council
Zomba District	Zomba District Council.”.

SCHEDULE

(s. 2)

PART I

Sections 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 64, 65, 66, 70, 75, 79, 80, 81, 82, 83, 85, 86, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 106, 108, 109, 110 and 111, and the heading to Part VIII and the Second Schedule.

PART II

Sections 5, 11, 21 and 24 and the Second Schedule.

PART III

Sections 15, 16, 17, 18, 36 and 39 and the Second Schedule.

PART IV

Sections 34 and 94 and the Second Schedule.

PART V

Sections 2, 21 and 111 and the Second Schedule.

OBJECTS AND REASONS

The object of this Bill is to amend the Local Government Act in order to improve the effectiveness of the Local Assemblies.

JUSTICE DR. JANE ANSAH, SC
Attorney General