

BILLS SUPPLEMENT

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Bill No. 13

Constitution (Amendment) Bill

2017

THE CONSTITUTION (AMENDMENT) BILL, 2017.

MEMORANDUM

1. Object of the Bill

The object of this Bill is to amend article 26 of the Constitution in accordance with articles 259 and 262 of the Constitution.

The purpose of the Bill is to resolve the current problem of delayed implementation of Government infrastructure and investment projects due to disputes arising out of the compulsory land acquisition process.

The problem of delayed Government projects has caused significant financial loss to the Government amounting to millions of dollars in penalties paid to road contractors for redundant machinery at construction or project sites as the courts attempt to resolve the disputes, most of which relate to quantum of compensation.

2. Provisions of the Bill

The Bill seeks—

- (a) to enable Government, or a local government to deposit with court, compensation awarded by the Government for any property declared for compulsory acquisition;

- (b) to empower the Government or local government to take possession of the declared property upon depositing the compensation awarded for the property with court, pending determination by the court of the disputed compensation awarded to the property owner or person having an interest in or right over the property;
- (c) to empower the property owner or person having an interest in or right over the property to access the deposited compensation awarded at any time during the dispute resolution process; and
- (d) to empower Parliament to prescribe, by law, the time within which disputes arising out of compensation shall be resolved.

3. Procedure for amendment of article 26 of the Constitution

The procedure for amending article 26 of the Constitution is by Parliament through a bill for an Act of Parliament supported at the second and third readings by the votes of not less than two-thirds of all members of Parliament as provided for by article 262 of the Constitution.

MAJ. GEN. (RTD) KAHINDA OTAFIRE,
Minister of Justice And Constitutional Affairs.



A Bill for an Act

ENTITLED

THE CONSTITUTION (AMENDMENT) ACT, 2017

An Act to amend article 26 of the Constitution in accordance with articles 259 and 262 of the Constitution; to enable Government or a local government to deposit with court, compensation awarded by the Government for property declared for compulsory acquisition; to empower Government or a local government to take possession of the property upon depositing the compensation awarded for the property with court, pending determination by the court of the disputed compensation amount; to give the owner of property or person having any interest in or right over the property the right to access the deposited compensation awarded at any time during the dispute resolution process and to empower Parliament to prescribe the time within which disputes arising from the process of compulsory land acquisition shall be determined.

BE IT ENACTED by Parliament as follows:

1. Amendment of article 26 of the Constitution.

Article 26 of the Constitution is amended by inserting immediately after clause (2) the following—

“(3) Where the owner of property or any person having any interest in or right over property objects to the compensation awarded under a law made under clause (2)(b), the Government or local government shall deposit with court for the property owner or any person having any interest in or right over the property, the compensation awarded for the property, and the Government or local government shall take possession of the property pending determination by the court of any dispute relating to the compensation.

(4) The owner of property or person having any interest in or right over the property shall have a right to access the compensation deposited with the court referred to in clause (3), at any time during the determination of the dispute.

(5) Parliament shall, by law, prescribe the time within which any dispute referred to in clause (3) shall be determined.”

