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CHAPTER 345

THE TAX APPEALS TRIBUNALS ACT.

Commencement: 1 August, 1998.

An Act to establish tax appeals tribunals pursuant to article 152(3) of the Constitution.

PART 1 – INTERPRETATION

1. Interpretation.

(1) In this Act, unless the context otherwise requires –

- (a) “applicant” means a person who has made an application to a tribunal for –
 - (i) Review of a taxation decision; (ii) an extension of time under section 16(2); or
 - (iii) reinstatement of an application under section 25(4);
- (b) “chairperson” means the chairperson of a tribunal appointed under section 3;
- (c) “currency point” means the value of a currency point specified in the Schedule of this Act;
- (d) “decision maker” is the person who, from time to time, holds the office which has general administration of the taxing Act under which a taxation decision has been made;
- (e) “member” means a member of a tribunal;
- (f) “Minister” means the Minister responsible for finance;
- (g) “objection decision” means a taxation decision made in respect of a taxation objection;
- (h) “proceedings” in relation to a tribunal, means –
 - (i) an application to a tribunal for review of a taxation;
 - (ii) an application to a tribunal for an extension of time under section 16(2); or
 - (iii) an application to a tribunal for reinstatement of an application under section 25(4);
- (i) “registrar” means the registrar of a tribunal;
- (j) “tax” includes duty rate, levy or other imposition;
- (k) “taxation decision” means any assessment, determination, decision or notice;
- (l) “taxing Act” means any Act which imposes a tax; and
- (m) “tribunal” means a tax appeals tribunal established by this Act and, in relation to a proceeding, means a tax appeals tribunal established as constituted for the purposes of the proceeding.

2. Establishment of tribunals.

- (1) There are established taxation appeals tribunals.

- (2) A tribunal shall consist of a chairperson and four other tribunal members appointed in accordance with the Act.

3. Appointment of the chairperson of a tribunal.

- (1) The Minister, in consultation with the chairperson of the Judicial Service Commission, shall appoint the chairperson of a tribunal.
- (2) A person is not qualified to be appointed chairperson of a tribunal unless he or she is qualified to be appointed a judge of the High court.

4. Appointment of the other members of a tribunal.

- (1) The other members of the tribunal shall be appointed by the Minister.
- (2) A member of a tribunal shall be appointed on a part-time or full-time basis.

5. Qualifications for appointment.

- (1) A person may only be appointed as a member of a tribunal if the person –
 - (a) is of high moral character and proven integrity; and
 - (b) has not been convicted of any offence involving moral turpitude
- (2) A member of a tribunal shall be a person qualified in taxation, finance, accounting or law.
- (3) No member of a tribunal may be an officer of the Uganda Revenue Authority or a civil servant.

6. Term of appointment.

- (1) The Chairperson shall hold office for a term of three years and is eligible for reappointment.
- (2) Subject to this Act, a member of a tribunal shall hold office for a term of three years and is eligible for reappointment.

7. Conditions of appointment.

- (1) Subject to this Act, a member of a tribunal holds office on such terms and conditions as are prescribed, including terms and conditions relating to remuneration and allowances.
- (2) The appointment of a judge as chairperson shall not affect his or her tenure of office as a judge, or his or her rank, title, status, precedence, salary and allowances, or other rights or privileges as the holder of the office of judge of the courts of judicature and, for all

purposes, his or her service as chairperson shall be taken to have been service as holder of the office of such a judge.

8. Oath of office.

(1) This section applied to all members of a tribunal.

(2) A member of a tribunal may resign his or her office by notice in writing delivered to the Minister.

9. Termination of appointment.

(1) This section applies to all members of a tribunal.

(2) A member of a tribunal may resign his or her office by notices in writing delivered to the Minister.

(3) A member may be removed from office only for -

(a) inability to perform the functions of his or her office arising from infirmity of body or mind:

(b) misbehavior or misconduct;

(c) incompetence; or

(d) being an undischarged bankrupt

(4) The Minister shall remove a member of a tribunal if the question of his or her removal has been referred to a committee appointed under subsection (5) and the committee has recommended to the Minister that the member ought to be removed from office on any ground described in subsection (3).

(5) If the Minister is of the opinion that a member of a tribunal should be removed, the Minister shall appoint a committee consisting of three persons who are or who have held offices as judges of a court having unlimited jurisdiction in civil and criminal matters or a court having jurisdiction in appeals from such a court, or who are advocates of at least ten years' standing.

(6) The committee appointed under subsection (5) shall inquire into the matter and report to the Minister recommending whether or not the member ought to be removed under this section.

(7) Where the question of the removal of a member of the tribunal is referred to a committee under this section, the Minister shall suspend the member from performing the functions of his or her office.

- (8) A suspension under subsection (7) shall cease to have effect if the committee advises the Minister that the member suspended should not be removed from office.

10. Disclosure of interest.

Where a member is, or is to be, a member of the tribunal as constituted for the purposes of a proceeding and the member has an interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions, the member shall disclose the interest to the parties to the proceeding and, except with the consent of all the parties to the proceeding, the member shall not take part in the proceeding or exercise any powers in relation to the review by a tribunal of the taxation decision to which the proceeding relates.

PART 111 – ORGANISATION OF THE TRIBUNALS.

11. Official seal.

- (1) A tribunal shall have a seal which shall be judicially noticed.
- (2) The seal of a tribunal shall be affixed by or with the authority of the tribunal to such documents as are required by a direction of the chairperson to be sealed with the seal of the tribunal.

12. Arrangement of business.

- (1) A tribunal shall have a seal which shall be judicially noticed.
- (2) Without limiting the operation of subsection (1), the chairperson shall give directions as to –
- (a) the arrangement of the business of the tribunal;
 - (b) the places at which the tribunal may sit;
 - (c) the procedure of the tribunal generally; and
 - (d) the procedure of the tribunal at a particular place.
- (3) The times and places of the hearings of a tribunal shall be determined by the chairperson with a view to secure a reasonable opportunity for applicants to appear before the tribunal with as little inconvenience and expense as is practicable.

13. Constitution of a tribunal for exercise of powers.

- (1) A tribunal shall be constituted for a proceeding by three members.

- (2) At a hearing of a proceeding before the tribunal at which the tribunal is constituted by three members –
 - (a) if the chairperson is a member of the tribunal as constituted, he or she shall preside;
or
 - (b) in any other case a member elected by the members present from among their number shall preside.
- (3) Where, in the case of a proceeding constituted by three members, one of those members ceases to be a member, or ceases to be available for the purposes of the proceeding, before the matter to which the proceeding related is determined –
 - (a) if the parties to the proceeding agree, then the proceeding shall be completed by the tribunal constituted by the remaining members of the tribunal; or
 - (b) if the parties do not agree, the proceedings shall be adjourned, another member shall replace the member who ceased to be a member for the purposes of the proceeding and the proceeding shall be reheard.
- (4) Where, as a result of subsection (3)(a), the tribunal is constituted by two members and the members do not agree on the decision to be made, the chairperson shall assign another member to the tribunal for the purposes of the proceeding, and the proceeding shall be reheard.
- (5) Where a proceeding is reheard by the tribunal, the tribunal may, for the purposes of the proceeding, have regard to any record of the proceeding before the tribunal as previously constituted, including a record of any evidence taken in that proceeding.

14. Tribunal to review taxation decisions.

- (1) Any person who is aggrieved by a decision made under a taxing Act by the Uganda Revenue Authority may apply to the tribunal for a review of the decision.
- (2) The tribunal has power to review any taxation decision in respect of which an application is properly made.
- (3) A tribunal shall in the discharge of its functions be independent and shall not be subject to the direction or control of any person or authority.

15. Deposit of portion of tax pending determination of objection.

- (1) A taxpayer who has lodged a notice of objection to an assessment shall, pending final resolution of the objection, pay 30 percent of the tax assessed or that part of the tax assessed not in dispute, whichever is greater.

- (2) Subject to subsection (1), in the case of goods which are perishable, the goods shall be released to the taxpayer immediately after payment of the amount of tax prescribed in that subsection; but the Uganda Revenue Authority shall be given surely equivalent to the amount of tax assessed.

16. Application for review of a taxation decision.

- (1) An application to a tribunal for review of a taxation decision shall –
 - (a) be in writing in the prescribed form;
 - (b) include a statement of the reasons for the application; and
 - (c) be lodged with the tribunal within thirty days after the person making the application has been served with notice of the decision.
- (2) A tribunal may, upon application in writing, extend the time for the making of an application to the tribunal for a review of a taxation decision.
- (3) An applicant to a tribunal shall serve as copy of the application on the decision maker within five days after lodging the application with the tribunal.
- (4) Where an application for review relates to a taxation decision that is an objection decision, the applicant is, unless the tribunal orders otherwise, limited to the grounds stated in the taxation objection to which the decision relates.
- (5) An application to a tribunal for review of a taxation decision is not taken to have been made unless the prescribed nonrefundable fee, if any, in respect of the application has been paid.
- (6) The Civil Procedure and Limitation (Miscellaneous Provisions) Act shall not apply to an application for review.
- (7) An application for review of a taxation decision shall be made within six months after the date of the taxation decision.

17. Lodging of material documents with the tribunal.

- (1) Subject to this section, not later than thirty days after being served with a copy of an application to a tribunal to review a taxation decision, the decision maker shall lodge with the tribunal two copies of –
 - (a) the notice of the decision;
 - (b) a statement giving the reasons for the decision; and

- (c) every other document in the decision maker's possession or under his or her control which is necessary to the tribunal's review of the decision.
- (2) Where the tribunal is of the opinion that there may be –
- (a) particular other documents; or
 - (b) other documents included in a class of documents, which may be relevant to the review of a decision by the tribunal, the tribunal may, by notice in writing, require the decision maker to lodge with the tribunal the documents specified in the notice to the extent that those document are in the person's possession or under his or her control.
- (3) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of documents.

18. Burden of proof.

In a proceeding before a tribunal for review of a taxation decision, the applicant has the burden of proving that -

- (a) Where the taxation decision is an objection decision in relation to an assessment, the assessment is excessive; or
- (b) In any other case, the taxation decision should not have been made or should have been made differently.

19. Review by the tribunal

(1) For the purpose of reviewing a taxation decision, a tribunal may exercise all the powers and discretions that are conferred by the relevant taxing Act on the decision maker and shall make a decision in writing –

- (a) affirming the decision under review;
- (b) varying the decision under review;
- (c) setting aside the decision under review and either –
 - (i) making a decision in substitution for the decision so set aside; or
 - (ii) remitting the matter to the decision maker for reconsideration in accordance of the tribunal.

(2) The tribunal shall give reasons in writing for its decision, including its findings on material questions of fact and reference to the evidence or other material on which those findings were based.

(3) A decision on an application for review shall be made as soon as is practicable after the hearing has been completed; and the tribunal shall cause a copy of the decision, including the reasons for the decision, to be served on each party to the proceeding.

(4) Subject to subsection (5), a decision of a tribunal comes into operation upon the giving of the decision or on such other date as may be specified by the tribunal in the decision.

(5) A taxation decision varied by a tribunal or a decision made by the tribunal in substitution for a taxation decision under review shall, for all purposes other than for the purpose of making an application to the tribunal for review or the lodging of an appeal against the decision, be deemed to be a decision of the decision maker and, unless the tribunal orders otherwise, has effect on and from the day on which the decision under review had effect.

(6) A decision of a tribunal shall have effect as and be enforceable as if it were a decision of a court.

(7) Subject to subsection (9), all decisions of a tribunal and all evidence received by it, including a transcript of the report of the hearings, are public records open to the inspection of the public.

(8) Subject to subsection (9), a tribunal shall provide for the publication of its decisions, including reasons, in such form and manner as may be adapted for public information and use, and such authorized publication is evidence of the decisions of the tribunal in all courts of Uganda without any further proof of authentication.

(9) A tribunal shall ensure that in releasing, or allowing access to, information under subsection (7) or (8) measures are taken to prevent the disclosure of trade secrets or other confidential information.

20. Hearings.

Subject to article 28 of the Constitution, hearings before the tribunal shall be open to the public unless the tribunal, on the request of either party, directs that the hearing should be closed to the public.

21. Powers of the tribunal.

(1) for the purpose of a proceeding before a tribunal, the tribunal may –

(a) take evidence on oath;

(b) proceed in the absence of a party who has had reasonable notice of the proceeding; and

(c) adjourn the hearing of the proceeding from time to time.

(2) For the purpose of the hearing of a proceeding before a tribunal, the tribunal shall have powers of the High Court to summon a person to appear before it –

(a) to give evidence; or

(b) to produce books, documents or things in the possession, custody or control of the person named in the summons that are mentioned in the summons.

(3) Where a tribunal considers it desirable for the purposes of avowing expenses or delay, or for any other special reasons, it may receive evidence whom interrogations are administered to make a full and true reply to the interrogations.

(4) A tribunal shall have power to issue a commissioner request to examine witnesses abroad.

(5) A tribunal may make an order as to costs against any party, and the order shall be enforceable in like manner to an order of the High Court.

22. Procedure.

(1) In any proceeding before a tribunal, the procedure of the tribunal is subject to this Act, within the discretion of the tribunal

(2) A Proceeding before a tribunal shall be conducted with as little formality and technicality as possible, and the tribunal shall not be bound by the rules of evidence but may inform itself or any matter in such manner as it thinks appropriate.

(3) The proceedings of a tribunal shall be conducted in accordance with such rules of practice and procedure as the tribunal may specify, and the tribunal may direct the application of the rules of practice and procedure of any court subject to such modifications as the tribunal may direct.

(4) The tribunal shall have such assistance in carrying out its lawful writs, processes, orders, rules, decrees or commands as is available to a court in Uganda.

23. Representation before the tribunal.

At the hearing of a proceeding before a tribunal, the applicant may appear in person or may be represented.

24. Opportunity to make submissions concerning evidence.

A tribunal shall ensure that every party to a proceeding before the tribunal is given a reasonable opportunity to present his or her case and, in particular, to inspect any documents to which the tribunal proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

25. Discontinuance, dismissal or reinstatement of an application.

(1) An applicant may, by notice in writing lodged with a tribunal, at any time, notify the tribunal that the application is discontinued or withdrawn, and the tribunal shall dismiss the application without proceeding to review the decision.

(2) If an application fails, without reasonable excuse, to appear at the hearing of the proceeding, a tribunal may dismiss the application without proceeding to review the decision.

(3) If an applicant fails within a reasonable time to proceed with the application or comply with a direction by a tribunal in relation to the application, the tribunal may dismiss the application.

(4) Where the tribunal has dismissed an application under subsection (2) or (3), the applicant may, within thirty days after receiving notification that the application has been dismissed, apply to the tribunal for reinstatement of the application, and the tribunal may, if it considers it appropriate to do so, reinstate the application and give such directions as appear to be appropriate in the circumstances.

26. Power of the tribunal if the parties reach agreement.

If, at any stage during a proceeding, the parties to the proceeding agree in writing as to the terms of a decision of the tribunal in the proceeding or in relation to a part of the proceeding or a matter arising out of a proceeding and the tribunal is satisfied that a decision in those terms is within the powers of the tribunal, the tribunal, may –

- (a) Where the agreement reached is as to the terms of a decision of the tribunal in the proceeding, make a decision in accordance with those terms without holding a hearing or, if the hearing has commenced, without completing the hearing; or
- (b) Where the agreement reached relates to a part of a proceeding or a matter arising out of a proceeding, in its decision in the proceeding, give effect to the terms of the agreement without dealing at the hearing with that part of the proceeding or the matter arising out of the proceeding to which the agreement relates.

27. Appeals to the High Court from decisions of a tribunal.

(1) A party to a proceeding before a tribunal may, within thirty days after being notified of the decision or within such further time as the High Court may allow, lodge a notice of appeal with the registrar of the High Court, and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the tribunal.

(2) An appeal to the High Court may be made on questions of law only, and the notice of appeal shall state the question or questions of law that will be raised on the appeal.

(3) The High Court shall hear and determine the appeal and shall make such order as it thinks appropriate by reason of its decision, including an order affirming or setting aside the decision of the tribunal or an order remitting the case to the tribunal for reconsideration.

28. Operation and implementation of a decision subject to review or appeal.

(1) Where an application for review of a taxation decision has been lodged with a tribunal or an appeal against a decision of a tribunal has been lodged with the High Court, the reviewing body may make an order staying or otherwise affecting the operation or implementation of the decision under review or appeal, or a part of the decision, as the reviewing body considers appropriate for the purposes of securing the effectiveness of the proceeding and determination of the application or appeal.

(2) Where the decision maker is required to refund an amount of tax to a person as a result of a decision of a reviewing body, the tax shall be repaid with interest at the rate specified in the relevant law on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the last day of the month in which the refund is made.

(3) In this section, “reviewing body” –

- (a) in the case of an application for review to a tribunal, the tribunal; or
- (b) in the case of an appeal to the High Court, the High Court.

PART V – MANAGEMENT OF THE TRIBUNALS.

29. Management of the administrative affairs of the tribunal.

(1) The chairperson is responsible for managing the administrative affairs of the tribunal.

(2) In the management of the administrative affairs of the tribunal, the chairperson shall be assisted by the registrar of the tribunal and such officers and employees as may be necessary for the efficient discharge of the tribunal’s functions.

(3) The registrar and other officers and employees of the tribunal shall be appointed by the tribunal.

30. Registrar of the tribunal

(1) There shall be a registrar of each tribunal who shall perform the registry functions of the tribunal.

(2) A person shall not be qualified to be appointed registrar unless he or she is qualified to be appointed as a registrar of the High Court.

(3) A registrar has power to do all things necessary or convenient to be done for the purpose of assisting the chairperson under section 29.

(4) The chairperson may give the registrar directions regarding the exercise of his or her powers under this Part.

PART VI – OFFENCES AND PENALTIES

31. Failure to comply with a summons.

Any person who has been served with a summons issued by the registrar –

- (a) To appear as a witness before a tribunal; or
- (b) To produce a book, document or thing,

And who, without reasonable excuse, fails to comply with the summons, commits an offence and is liable on conviction to a fine not exceeding sixty currency points or to imprisonment not exceeding two years or to both.

32. Failure to answer questions.

Any person who appears as a witness before a tribunal and who, without reasonable excuse, refuses or fails to answer a question that he or she is required to answer by the presiding member at the proceeding commits an offence and is liable on conviction to a fine not exceeding sixty currency points or to imprisonment not exceeding two years or to both.

33. False or misleading evidence.

Any person who appearing as a witness before a tribunal gives evidence that, to his or her knowledge, is false or misleading commits an offence and is liable on conviction to a fine not exceeding sixty currency points or to imprisonment not exceeding two years or to both.

34. Contempt of a tribunal.

Any person who –

- (a) Insults a member in, or in relation to the exercise of his or her powers or functions as a member;
- (b) Interrupts the proceedings of a tribunal;
- (c) Creates a disturbance, or takes part in creating a disturbance in or near a place where a tribunal is sitting; or
- (d) Does any other act or thing that would, if a tribunal were a court of record, constitute a contempt of that court, commits an offence and is liable on conviction to a fine not

exceeding twenty-five currency points or to imprisonment not exceeding six months or to both.

PART VII - FINANCIAL PROVISIONS

35. Funds, accounts and audit.

- (1) A tribunal shall annually present a budget to the Minister for his or her approval.
- (2) The funds of a tribunal shall consist of –
 - (a) money appropriated by Parliament for the purposes of the tribunal;
 - (b) grants received by the tribunal with the approval of the Minister;
 - (c) fees and fines levied by the tribunal to be retained as appropriation in aid;
 - (d) any other money as may, with the approval of the Minister, be received by or made available to the tribunal for the purpose of performing its functions.
- (3) A tribunal shall keep proper books of account which shall be subject to annual audit by the Auditor General.

PART VIII – MISCELLANEOUS

36. Immunity from suit.

No action, suit, prosecution or any other proceeding may be brought or instituted personally against a person who is or was a member of the tribunal in respect of any act done or omitted to be done in good faith in the discharge of any function under this Act.

37. Delegation.

- (1) The chairperson may, by an instrument in writing, delegate to a member all or any of his or her functions under this Act, other than the power of delegation.
- (2) A power delegated under this section when exercised by the delegate shall, for all purposes of this Act, be deemed to have been exercised by the chairperson.
- (3) A delegation may be made to a member under this section notwithstanding that a delegation to another member is, or delegations to other members are, in force under this Act.
- (4) A delegation under this section does not prevent the exercise of a power by the chairperson.

38. Service of notices and other documents.

The rules for service of notices and other documents in the taxing Act under which the taxation decision under review is made shall apply for the purpose of serving any notice or document required or authorized by this Act.

39. Regulations.

The Minister may, by statutory instrument, make regulations for better carrying into effect the provisions and purposes of this Act.

40. Power of Minister to amend the Schedule.

The Minister may, with approval of Cabinet, by statutory instrument, amend the Schedule to this Act.

41. Transitional.

This Act applies to taxation decisions made before the coming into operation of this Act.

Schedule.

S.1.

Currency point.

A currency point is equivalent to twenty thousand shillings.

History: Act 12/1997; S.1.73/1998

Cross References

Civil Procedure and Limitation (Miscellaneous Provisions) Act, Cap.72. Constitution of 1995.
