

**BILLS SUPPLEMENT**

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**THE TAX APPEALS TRIBUNAL BILL, 1997**

**MEMORANDUM**

The object of this Bill is to establish a Tax Appeals Tribunal for the settlement of tax disputes in pursuance of clause (3) of article 152 of the Constitution; to provide for its composition and functions; to provide for appeals from the Tribunal and also to provide for other related matters.

**J.S. MAYANJA-NKANGI,**  
*Minister of Finance.*

THE TAX APPEAL TRIBUNAL BILL, 1997

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**SCHEDULE**

A BILL for an Act

ENTITLED

**THE TAX APPEALS TRIBUNAL ACT, 1997**

**An Act to establish a Tax Appeals Tribunal pursuant to clause (3) of article 152 of the Constitution.**

WHEREAS clause (3) of article 152 of the Constitution requires Parliament to make laws to establish tax tribunals for the purpose of settling tax disputes;

NOW THEREFORE BE IT ENACTED by Parliament as follows:

**PART I—PRELIMINARY.**

1. (1) This Act may be cited as the Tax Appeals Tribunal Act, 1997.

Short title  
and  
commence-  
ment.

(2) This Act comes into force on a date appointed by the Minister by statutory instrument and the Minister may appoint different dates for different provisions.

2. (1) In this Act, unless the context otherwise requires—

“applicant” means a person who has made an application to the Tribunal for—

- (a) review of a taxation decision; or
- (b) an extension of time under subsection (2) of section 16; or
- (c) reinstatement of an application under subsection (4) of section 25;

“currency point” means the value of currency point specified in the Schedule to this Act;

“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;

“member” means a member of the Tribunal;

“Minister” means the Minister responsible for finance;

“objection decision” means a taxation decision made in respect of a taxation objection;

“Chairperson” means the Chairperson of the Tribunal appointed under section 4;

“proceeding” in relation to the Tribunal, means—

- (a) an application to the Tribunal for review of a taxation decision; or
- (b) an application to the Tribunal for an extension of time under subsection (2) of section 16; or
- (c) an application to the Tribunal for reinstatement of an application under subsection (4) of section 25;

“Registrar” means the Registrar of the Tribunal;

“tax” includes duty, rate, levy or other imposition;

“taxation decision” means any assessment, determination, decision, or notice;

“taxing Act” means any Act which imposes a tax; and

“Tribunal” means the Tax Appeals Tribunal established by this Act and, in relation to a proceeding, means the Tax Appeals Tribunal established as constituted for the purposes of the proceeding.

(2) For the purposes of this Act, where a taxing Act provides that a person dissatisfied with a taxation decision may object against the decision, such an objection is referred to as a “taxation objection”.

PART II—ESTABLISHMENT OF THE TAXATION APPEALS TRIBUNAL.

3. (1) There is established a Taxation Appeals Tribunal.

Establishment of Tribunal.

(2) The Tribunal shall consist of a Chairperson and not less than four but not more than six members appointed in accordance with this Act.

4. The Minister shall appoint the Chairperson of the Tribunal who shall serve on a part-time basis.

Appointment of the Chairperson of the Tribunal.

5. (1) The other members of the Tribunal shall be appointed by the Minister.

Appointment of the other Members of the Tribunal.

(2) A member of the Tribunal shall be appointed on a part-time basis member.

Qualifications for appointment.

6. (1) A person may only be appointed as a member of the Tribunal if the person—

- (a) is of high moral character and proven integrity; and
- (b) has not been convicted of an offence or been liable for penal tax under a taxing Act;
- (c) has not been convicted of any offence involving moral turpitude; and
- (d) has, in the opinion of the Minister, special knowledge or skills relevant to the exercise of the powers of the Tribunal.

(2) No member of the Tribunal may be an officer of the Uganda Revenue Authority.

Term of appointment.

7. (1) The Chairperson shall hold office for a term of three years and shall be eligible for re-appointment.

(2) Subject to this Act, a member of the Tribunal shall hold office for a term of three years, and is eligible for re-appointment.

Conditions of appointment.

8. (1) Subject to this Act, a member of the 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 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 such a Judge.

Oath of office.

9. A person who is appointed as a member of the Tribunal shall, before assuming the duties of his or her office, take and subscribe the Oath of Allegiance and the Judicial Oath in the Fourth Schedule to the Constitution.

10. (1) This section applies to all members of the Tribunal.

(2) A member of the Tribunal may resign his or her office by notice 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; or

(b) misbehaviour or misconduct; or

(c) incompetence; or

(d) being an undischarged bankrupt.

(4) The Minister shall remove a member of the Tribunal if the question of his or her removal has been referred to a committee appointed under subsection (6) and the committee has recommended to the Minister that the member ought to be removed from office on any ground described in subsection (3).

(6) If the Minister is of the opinion that a member of the 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.

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

(8) 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.

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

Disclosure  
of Interest.

11. 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 any 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 the Tribunal of the taxation decision to which the proceeding relates.

### PART III—ORGANISATION OF THE TRIBUNAL.

Official  
Seal.

12. (1) The Tribunal shall have a seal which shall be judicially noticed.

(2) The seal of the 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.

Arrange-  
ment of  
business.

13. (1) Subject to this Act, the Chairperson is responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal.

(2) Without limiting the operation of subsection (1), the Chairperson shall give directions as to—

- (a) the arrangement of the business of the Tribunal; and
- (b) the members who are to constitute the Tribunal for the purposes of a particular proceeding; and
- (c) the places at which the Tribunal may sit; and
- (d) the procedure of the Tribunal generally; and
- (e) the procedure of the Tribunal at a particular place.

(3) The times and places of the hearings of the Tribunal shall be determined by the Chairperson with a view to securing a reasonable opportunity for applicants to appear before the Tribunal with as little inconvenience and expense as is practicable.

14. (1) The Tribunal may be constituted for a proceeding by one member or by three members at the discretion of the Chairperson.

Constitution  
of Tribunal  
for exercise  
of powers.

(2) For the purposes of the exercise of the Tribunal's powers under subsections (2) and (4) of section 16, subsection (2) of section 17, subsections (1) and (3) of section 25, section 26, and subsection (2) of section 28, the Tribunal shall be constituted—

(a) where a direction has not been given under paragraph (b) of subsection (2) of section 13 as to the member or members who are to constitute the Tribunal for the purposes of the proceeding to which the exercise of the powers relates, by the Chairperson or such other member as the Chairperson may direct; or

(b) in any other case, by the Tribunal as constituted for the purposes of the proceeding to which the exercise of the powers relates.

(3) 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, the member directed by the Chairperson to do so shall preside.

(4) 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 relates 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) in any other case, the Chairperson shall assign another member to constitute the Tribunal for the purposes of the proceeding and the proceeding shall be reheard.

(5) Where, as a result of paragraph (a) of subsection (4), 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.

(6) 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.

#### PART IV—REVIEW BY THE TRIBUNAL OF TAXATION DECISIONS.

**15.** (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.

**16.** (1) An application to the Tribunal for review of a taxation decision shall—

(a) be in writing in the prescribed form; and

(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.

Tribunal to  
Review  
taxation  
decisions.

Applica-  
tions for  
Review of a  
taxation  
decision

(2) The 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 the Tribunal shall serve a 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 the Tribunal for review of a taxation decision is not taken to have been made unless the prescribed fee if any, in respect of the application has been paid.

17. (1) Subject to this section, not later than thirty days after being served with a copy of an application to the Tribunal to review a taxation decision, the decision maker shall lodge with the Tribunal two copies of—

Lodging of  
material  
document  
with  
Tribunal.

(a) the notice of the decision; and

(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 such documents 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.** In a proceeding before the 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.** (1) For the purpose of reviewing a taxation decision, the 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; or
- (b) varying the decision under review; or
- (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 with any directions or recommendations 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 its decision (including the reasons for the decision) to be served on each party to the proceeding.

(4) Subject to subsection (5), a decision of the 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 the 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 the 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 the 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), the 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 authorised publication is evidence of the decisions of the Tribunal in all courts of Uganda without any further proof of authentication.

(9) The 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.

Hearings.

20. 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.

Powers of the Tribunal.

21: (1) For the purpose of a proceeding before the Tribunal, the Tribunal may—

- (a) take evidence on oath; and
- (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 the 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 the Tribunal considers it desirable for the purposes of avoiding expenses or delay, or for any other special reason, it may receive evidence by affidavit and administer interrogations and require such persons to whom interrogations are administered to make a full and true reply to such interrogations.

(4) The Tribunal shall have power to issue a Commission or to request to examine witnesses abroad.

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

22. (1) In any proceeding before the Tribunal, the procedure of the Tribunal is, subject to this Act, within the discretion of the Tribunal.

(2) A proceeding before the 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 on any matter in such manner as it thinks appropriate.

(3) The proceedings of the Tribunal shall be conducted in accordance with such rules of practice and procedure as the Chairperson may specify and the Chairperson may direct the application of the rules of practice and procedure of any court subject to such modifications as the Chairperson 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. At the hearing of a proceeding before the Tribunal, the applicant may appear in person or may be represented.

Representation before the Tribunal.

24. The 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.

Opportunity to make submissions concerning evidence.

25. (1) An applicant may, by notice in writing lodged with the 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.

Discontinuance, dismissal, or reinstatement of application.

(2) If an applicant fails, without reasonable excuse, to appear at the hearing of the proceeding, the 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 the Tribunal in relation to the application, the Chairperson may, on behalf of the Tribunal, dismiss the application without proceeding to review the decision.

(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. 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, if it appears appropriate to do so—

- (a) where the agreement reached is as to the terms of a decision of the Tribunal in the proceeding, may 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, may, 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. (1) A party to a proceeding before the 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

Power of  
Tribunal if  
parties  
reach a  
agreement.

Appeals to  
High Court  
from  
decisions of  
High Court.

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.

(4) An appeal from the Tribunal to the High Court shall be heard by a panel of three Judges of the High Court nominated by the Principal Judge.

(5) A single Judge of the High Court may exercise any power of the High Court under this section in any interlocutory cause or matter.

(6) Any person dissatisfied with the decision of a single Judge under subsection (5) is entitled to have the matter determined by the panel of Judges provided for under this section which may confirm, vary or reverse the decision.

(7) A decision of the High Court on appeal to it from a decision of the Tribunal is final.

28. (1) Subject to this section, the lodging of—

(a) an application to the Tribunal for review of a taxation decision; or

(b) an appeal to the High Court from a decision of the Tribunal,

does not affect the operation of the decision or prevent the taking of action to implement the decision.

Operation  
and  
implemen-  
tation of a  
decision  
Subject to  
review or  
appeal.

(2) Where an application for review of a taxation decision has been lodged with the Tribunal or an appeal against a decision of the 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.

(3) 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.

(4) In this section, “reviewing body” means—

(a) in the case of an application for review to the Tribunal, the Tribunal; or

(b) in the case of an appeal to the High Court, the High Court.

#### PART V—MANAGEMENT OF THE TRIBUNAL.

29. (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 public officers.

30. (1) There shall be a Registrar of the Tribunal who shall perform the registry functions of the Tribunal.

Registrar 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.

(2) The Registrar has power to do all things necessary or convenient to be done for the purpose of assisting the Chairperson under section 29.

(3) The Chairperson may give the Registrar directions regarding the exercise of his or her powers under this Part.

PART VI—OFFENCES.

31. Any person who has been served with a summons issued by the Registrar—

Failure to  
comply with  
summons.

(a) to appear as a witness before the 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 both.

32. Any person who appears as a witness before the 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 imprisonment not exceeding two years, or both.

Failure to  
answer  
questions.

33. Any person who appearing as a witness before the 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 imprisonment not exceeding two years, or both.

False or  
misleading  
evidence.

Contempt of  
Tribunal.

**34. Any person who—**

- (a) insults a member in, or in relation to, the exercise of powers or functions as a member; or
- (b) interrupts the proceedings of the Tribunal; or
- (c) creates a disturbance, or takes part in creating a disturbance in or near a place where the Tribunal is sitting; or
- (d) does any other act or thing that would, if the Tribunal was a court of record, constitute a contempt of that court,

commits an offence and is liable on conviction to a fine not exceeding sixty currency points or imprisonment not exceeding two years, or both.

**PART VII—MISCELLANEOUS.**

Immunity  
from suit.

**35.** 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.

Delegation.

**36. (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.

37. 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 authorised by this Act.

Service of notices and other documents.

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

Regulations

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

Power of Minister to amend Schedule.

40. The following enactments are repealed—

Repeals.

(a) sections 91, 92, 93, 94, 95 and 96 of the Income Tax Decree, 1974;

Decree No. 1 of 1974.

(b) sections 26 to 30 of the Finance Statute, 1994, and

Statute No. 9 of 1994.

(c) sections 35 to 39 of the Value Added Tax Statute, 1996.

Statute No. 8 of 1996.

41. This Act applies to taxation decisions made before the Act came into operation.

Transitional

## SCHEDULE

### CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.