

**BILLS SUPPLEMENT**

*to The Uganda Gazette No. 35, Volume CXVII, dated 31st May, 2024*

Printed by UPPC, Entebbe, by Order of the Government.

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**Bill No. 62***National Tribunal Bill***2024****THE NATIONAL TRIBUNAL BILL, 2024****MEMORANDUM****1. Policy and principles of Bill**

The policy behind the Bill is to give effect to the Government Policy for Rationalisation of Government Agencies and Public Expenditure (RAPEX) which was adopted by the Cabinet on 22<sup>nd</sup> February 2021 and is contained in Cabinet Minute No. 43(CT 2021).

**2. Defects in existing law**

The Tax Appeals Tribunal was established by the Tax Appeals Tribunal Act, Cap. 345 whereas the Electricity Disputes Tribunal was established by the Electricity Act, Cap. 145. Both tribunals deal with the resolution of disputes arising from the implementation of the different Acts. This presents a huge cost of administration to the treasury. Additionally, instead of having two separate councils dealing with disputes, a national tribunal may be established to handle all disputes arising from both laws, and if necessary other laws as well.

**3. Remedies proposed in Bill.**

The intention of the Bill is to merge the Tax Appeals Tribunal and the Electricity Disputes Tribunal into one national tribunal called the National Tribunal which shall adjudicate all disputes subject to a tribunal.

#### 4. Provisions of Bill

The Bill has eight Parts and 47 clauses.

Part I of the Bill deals with interpretation of words and phrases used in the Bill.

Part II of the Bill deals with the establishment of the National Tribunal. The Part provides for matters such as the appointment of the chairperson of National Tribunal and other members of National Tribunal, the qualifications for appointment, the term of office of appointment, the conditions of appointment, the oath of office and the termination of appointment.

Part III of the Bill provides for the official seal of the National Tribunal. Most importantly, the Part provides for the constitution of panels to handle disputes depending on subject matter.

Part IV of the Bill deals with the power of the National Tribunal to review decisions and related matters including appeals to the High Court from decisions of National Tribunal.

Part V of the Bill provides for the management of the National Tribunal. The Part provides for the appointment of the Registrar of the National Tribunal.

Part VI of the Bill sets out the various offences and penalties. Some of the offences include the failure to comply with summons of the Tribunal, failure to answer questions, giving false or misleading evidence and contempt of the National Tribunal.

Part VII of the Bill sets out the financial provisions of the Tribunal such as the funds, accounts, and audit of the National Tribunal.

Part VIII of the Bill deals with miscellaneous matters such as immunity from suits for members of the National Tribunal, delegation of functions, service of notices and other documents.

  
HON. NORBERT MAO,

*Minister of Justice and Constitutional Affairs*

THE NATIONAL TRIBUNAL BILL, 2024.

ARRANGEMENT OF CLAUSES

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*Clauses*

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A Bill for an Act

ENTITLED

**THE NATIONAL TRIBUNAL BILL, 2024.**

**An Act to establish the National Tribunal and for related matters.**

PART I—INTERPRETATION.

**1. Interpretation.**

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

“applicant” means a person who has made an application to the National Tribunal for the review of any decision provided for by any written law;

“chairperson” means the chairperson of the National Tribunal appointed under section 3;

“currency point” has the value assigned to it 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 Act under which a decision has been made;

“member” means a member of the National Tribunal;

“Minister” means the Minister responsible for justice;

“National Tribunal” means the National Tribunal established by this Act;

“proceeding”, in relation to the National Tribunal, means an application to the National Tribunal for review of a decision;

“registrar” means the registrar of the National Tribunal.

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

## PART II—ESTABLISHMENT OF NATIONAL TRIBUNAL.

### **2. Establishment of National Tribunal.**

(1) There is established a National Tribunal.

(2) The National Tribunal shall consist of a chairperson and six other National Tribunal members appointed in accordance with this Act.

### **3. Appointment of chairperson of National Tribunal.**

(1) The Minister, in consultation with the chairperson of the Judicial Service Commission and the Minister responsible for the public service, shall appoint the chairperson of the National Tribunal.

(2) A person is not qualified to be appointed chairperson of the National Tribunal unless he or she is qualified to be appointed a judge of the High Court.

### **4. Appointment of other members of National Tribunal.**

(1) The other members of the National Tribunal shall be appointed by the Minister, in consultation with the Minister responsible for the public service.

(2) A member of the National Tribunal shall be appointed on fulltime basis.

**5. Qualifications for appointment.**

(1) A person may only be appointed as a member of the National 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 the National Tribunal shall be a person qualified in taxation, finance, accounting or law or such other qualification the Minister may, by statutory instrument, prescribe.

(3) No member of a National Tribunal may be a public officer.

**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 the National 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 the National 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.**

A person who is appointed as a member of the National 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.

**9. Termination of appointment.**

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

(2) A member of the National 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;
- (b) misbehaviour or misconduct;
- (c) incompetence; or
- (d) being an undischarged bankrupt.

(4) The Minister shall remove a member of the National 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 National 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 National 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 National 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 a National Tribunal of the decision to which the proceeding relates.

### PART III—ORGANISATION OF THE NATIONAL TRIBUNAL.

#### **11. Official seal.**

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

(2) The seal of the National Tribunal shall be affixed by or with the authority of the National Tribunal to such documents as are required by a direction of the chairperson to be sealed with the seal of the National Tribunal.

**12. Arrangement of business.**

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

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

- (a) the arrangement of the business of the National Tribunal;
- (b) the places at which the National 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 the National 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.

**13. Constitution of National Tribunal for exercise of powers.**

(1) The National Tribunal shall be constituted for a proceeding by three members.

(2) At a hearing of a proceeding before the National Tribunal at which the National Tribunal is constituted by three members—

- (a) if the chairperson is a member of the National 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 relates is determined—

- (a) if the parties to the proceeding agree, then the proceeding shall be completed by the National constituted by the remaining members of the National 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 National 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 National Tribunal for the purposes of the proceeding, and the proceeding shall be reheard.

(5) Where a proceeding is reheard by the National Tribunal, the National Tribunal may, for the purposes of the proceeding, have regard to any record of the proceeding before the National Tribunal as previously constituted, including a record of any evidence taken in that proceeding.

#### **14. Constitution of panels.**

(1) The National Tribunal may constitute a panel comprising members of the National Tribunal and persons with knowledge and experience in any matter before the National Tribunal for a decision.

(2) The Minister may, by regulations, provide for the constitution, appointment, duration, remuneration, procedure any other relevant matter for panels constituted under this section.

#### **15. Recommendation of panels.**

(1) A panel shall hear a matter referred to it by the National Tribunal.

(2) Upon hearing a matter referred to it under subsection (1), the panel shall make recommendations to the National Tribunal.

(3) Upon receipt of the recommendations of the panel, the National Tribunal shall make decision.

(4) The Minister may, by regulations, provide for the procedural matters relating to the making of recommendations including hearings and transmission of recommendations to the National Tribunal.

PART IV—REVIEW BY NATIONAL TRIBUNAL  
OF DECISIONS.

**16. National Tribunal to review decisions.**

(1) Any person who is aggrieved by any decision made under any Act subject to review by a National Tribunal may apply to the National Tribunal for a review of the decision.

(2) The National Tribunal has power to review any decision in respect of which an application is properly made.

(3) A National 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. National Tribunal matters arising out of specific matters**

The Minister shall, by regulations, provide for specific matters arising out of specific legislation including tax legislation.

**16. Application for review of decision.**

(1) An application to the National Tribunal for review of a 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 National Tribunal within thirty days after the person making the application has been served with notice of the decision.

(2) A National Tribunal may, upon application in writing, extend the time for the making of an application to the National Tribunal for a review of a decision.

(3) An applicant to a National Tribunal shall serve a copy of the application on the decision maker within five days after lodging the application with the National Tribunal.

(4) The Civil Procedure and Limitation (Miscellaneous Provisions) Act shall not apply to an application for review.

(5) An application for review of a decision shall be made within six months after the date of the decision.

**17. Lodging of material documents with the National Tribunal.**

(1) Subject to this section, not later than thirty days after being served with a copy of an application to the National Tribunal to review a decision, the decision maker shall lodge with the National 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 National Tribunal's review of the decision.

(2) Where the National 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 National Tribunal, the National Tribunal may, by notice in writing, require the decision maker to lodge with the National

Tribunal the documents specified in the notice to the extent that those 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. Burden of proof.**

In a proceeding before a National Tribunal for review of a decision, the applicant has the burden of proving that decision should not have been made or should have been made differently.

### **19. Review by the National Tribunal.**

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

- (a) affirming the decision under review;
- (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 National Tribunal.

(2) The National 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 National 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 a National Tribunal comes into operation upon the giving of the decision or on such other date as may be specified by the National Tribunal in the decision.

(5) A decision varied by the National Tribunal or a decision made by the National Tribunal in substitution for a decision under review shall, for all purposes other than for the purpose of making an application to the National 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 National Tribunal orders otherwise, has effect on and from the day on which the decision under review had effect.

(6) A decision of a National 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 National 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 National 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 National Tribunal in all courts of Uganda without any further proof of authentication.

(9) The National 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 National Tribunal shall be open to the public unless the National Tribunal, on the request of either party, directs that the hearing should be closed to the public.

**21. Powers of the National Tribunal.**

(1) For the purpose of a proceeding before the National Tribunal, the National 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 the National Tribunal, the National 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 National 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 the persons to whom interrogations are administered to make a full and true reply to the interrogations.

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

(5) The National 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 the National Tribunal, the procedure of the National Tribunal is, subject to this Act, within the discretion of the National Tribunal.

(2) A proceeding before the National Tribunal shall be conducted with as little formality and technicality as possible, and the National 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 National Tribunal shall be conducted in accordance with such rules of practice and procedure as the National Tribunal may specify, and the National Tribunal may direct the application of the rules of practice and procedure of any court subject to such modifications as the National Tribunal may direct.

(4) The National 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 National Tribunal.**

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

**24. Opportunity to make submissions concerning evidence.**

The National Tribunal shall ensure that every party to a proceeding before the National Tribunal is given a reasonable opportunity to present his or her case and, in particular, to inspect any documents to which the National 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 the National Tribunal, at any time, notify the National Tribunal that the application is discontinued or withdrawn, and the National Tribunal shall dismiss the application without proceeding to review the decision.

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

(4) Where the National 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 National Tribunal for reinstatement of the application, and the National 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 National 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 National Tribunal in the proceeding or in relation to a part of the proceeding or a matter arising out of a proceeding and the National Tribunal is satisfied that a decision in those terms is within the powers of the National Tribunal, the National Tribunal, may—

(a) where the agreement reached is as to the terms of a decision of the National 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 National Tribunal.**

(1) A party to a proceeding before the National 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 National 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 National Tribunal or an order remitting the case to the National Tribunal for reconsideration.

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

(1) Where an application for review of a decision has been lodged with the National Tribunal or an appeal against a decision of the National 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) In this section, “reviewing body” means—

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

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

## PART V—MANAGEMENT OF THE NATIONAL TRIBUNAL.

**29. Management of the administrative affairs of the National Tribunal.**

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

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

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

**30. Registrar of the National Tribunal.**

(1) There shall be a registrar of the National Tribunal who shall perform the registry functions of the National 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 the National 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 the National 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 the National 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 National 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 the National Tribunal;
- (c) creates a disturbance, or takes part in creating a disturbance in or near a place where the National Tribunal is sitting;  
or

- (d) does any other act or thing that would, if the National 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) The National Tribunal shall annually present a budget to the Minister for his or her approval.

- (2) The funds of the National Tribunal shall consist of—
- (a) money appropriated by Parliament for the purposes of the National Tribunal;
  - (b) grants received by the National Tribunal with the approval of the Minister;
  - (c) fees and fines levied by the National 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 National Tribunal for the purpose of performing its functions.

(3) A National 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

National 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 Act under which the decision under review is made shall apply for the purpose of serving any notice or document required or authorised 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 decisions made before the coming into operation of this Act.