

ACTS SUPPLEMENT

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Act 7 *East African Excise Management
(Amendment) Act* **2012**

**THE EAST AFRICAN EXCISE MANAGEMENT (AMENDMENT)
ACT, 2012**

ARRANGEMENT OF SECTIONS.

Section

1. Commencement.
2. Amendment of section 2 of East African Excise Management Act, Cap. 28.
3. Amendment of section 47 to principal Act.
4. Amendment of section 53 to principal Act.
5. Repeal of sections 56, 56A, 57 to principal Act.
6. Amendment of section 60 to principal Act.
7. Repeal of sections 62, 80, 83 and 84 to principal Act.
8. Substitution of section 90 to principal Act.
9. Insertion Part IXA to principal Act.
10. Repeal of Part X, Part XI and XII to principal Act.
11. Insertion of Fifth Schedule.

**THE EAST AFRICAN EXCISE MANAGEMENT
(AMENDMENT) ACT, 2012**

An Act to amend the East African Excise Management Act, Cap. 28 to provide for the making of returns and assessments; to provide for enforcement procedures to enable the collection of excise duty; to provide for offences and penalties relating to returns and assessments; and for other related purposes.

DATE OF ASSENT: 26th September, 2012.

Date of Commencement: Section see 1.

BE IT ENACTED by Parliament as follows:

1. Commencement.

This Act shall be deemed to have come into force on 1st July, 2012.

2. Amendment of section 2 of East African Excise Management Act, Cap. 28.

Section 2 of the East African Excise Management Act, Cap. 28 in this Act referred to as the principal Act is amended by inserting the following definitions in their alphabetical order—

““currency point” has the value assigned to it in the Fifth Schedule;

“duty period” means a calendar month;

“Minister” means the Minister responsible for finance;

“tribunal” means the Tax Appeals Tribunal established under the Tax Appeals Tribunal Act, Cap. 345.”

3. Amendment of section 47 to principal Act.

Section 47 to the principal Act is amended by repealing subsection (2).

4. Amendment of section 53 to principal Act.

Section 53 is amended by repealing the proviso.

5. Repeal of sections 56, 56A, 57 to principal Act.

Sections 56, 56A and 57 to the principal Act are repealed.

6. Amendment of section 60 to principal Act.

Section 60 to the principal Act is amended by repealing subsection (1).

7. Repeal of sections 62, 80, 83, and 84 to principal Act.

Sections 62, 80, 83 and 84 to the principal Act are repealed.

8. Substitution of section 90 to principal Act.

Section 90 to the principal Act is hereby substituted with the following—

“90. Aiding and abetting.

A person who aids and abets another person to commit an offence under this Act, or counsels or induces another person to commit that offence, commits an offence and is liable on conviction to imprisonment not exceeding one year or a fine not exceeding twenty four currency points or both.”

9. Insertion Part IXA to principal Act.

The principal Act is amended by inserting immediately after Part IX the following—

“PART IXA—RETURNS AND ASSESSMENTS

90A. Returns.

(1) A licensee shall lodge a return with the Commissioner General by the fifteenth day of the following month.

(2) A return shall be in the form prescribed by the Commissioner General and shall be furnished in the manner prescribed by the Commissioner General.

90B. Application of information technology.

Subject to conditions as the Commissioner General may prescribe, the formalities or procedures may be carried out by use of information technology.

90C. Assessments.

(1) Where a person liable to pay duty defaults in furnishing a return or the Commissioner General is not satisfied with a return furnished by that person, the Commissioner General may, in his or her best judgment, make an assessment of the duty payable by that person.

(2) Where the Commissioner General makes an assessment under subsection (1), the Commissioner General shall include with the assessment a statement of reasons as to why the Commissioner General is not satisfied with the return.

(3) Where an assessment has been made under this section, the Commissioner General shall serve a notice of the assessment on the person stating—

- (a) the amount of duty payable;
- (c) the amount of duty paid, if any;
- (c) the date the duty is due; and
- (d) the time, place and manner of objecting to the assessment.

90D. Objection to assessment.

(1) Where a person liable to pay duty is dissatisfied with an assessment made under section 90C, that person may, within forty-five days after service of the notice of assessment, lodge with the Commissioner General an objection to the assessment.

(2) An objection to an assessment shall be in writing and state precisely the grounds upon which it is made.

(3) Where a person fails to lodge an objection to an assessment within the stipulated period under subsection (1), the Commissioner General may, upon application in writing by the person liable to pay duty, extend the time for lodging an objection.

(4) An application under subsection (3) shall only be granted where the Commissioner General is satisfied that the failure of the person to lodge an application was due to absence from Uganda, sickness or other reasonable cause.

(5) Where the Commissioner General refuses to grant an extension of time under subsection (3), the person liable to pay duty may, within thirty days after service of notice of the decision, apply to the tribunal for a review of the decision.

(6) After consideration of the objection to an assessment, the Commissioner General may allow the objection in whole or in part and amend the assessment accordingly, or disallow the objection.

(7) The decision of the Commissioner General under subsection (6) shall be referred to as an “objection decision”.

(8) Where an objection decision has not been made by the Commissioner General within thirty days after the person lodged the objection with the Commissioner General, the person may, by notice in writing to the Commissioner General, elect to treat the Commissioner General as having made a decision to allow the objection.

(9) A person shall be deemed to have served the Commissioner General with the notice of the election under subsection (8) on the date the notice of the person's election was lodged with the Commissioner General.

90E. Appeal to the Tribunal.

(1) A person dissatisfied with an objection decision may, within **thirty** days after being served with notice of the objection decision, lodge an application with the Tribunal for review of the objection decision and shall serve a copy of the application on the Commissioner General.

(2) An appeal lodged under subsection (1) shall be conducted in accordance with the Tax Appeals Tribunal Act and rules and regulations made under it.

(3) A person shall, before lodging an application with the tribunal, pay to the Commissioner General, thirty percent of the tax in dispute or that part of the tax assessed not in dispute, whichever is the greater.

90F. Appeal to the High Court.

(1) A party who is dissatisfied with the decision of the Tribunal may, within thirty days after being notified of the decision, lodge a notice of appeal with the Registrar of the High Court and the party appealing shall serve a copy of the notice of appeal on the other party to the proceedings before the Tribunal.

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

(3) An appeal under subsection (1) to the High Court shall be made by lodging a notice of appeal with the registrar of the High Court within forty-five days after service of notice of the objection decision.

(4) A person who has lodged a notice of appeal with the registrar of the High Court shall, within five working days of doing so, serve a copy of the notice of appeal on the Commissioner General.

90G. Appeal to the Court of Appeal.

A party to a proceeding before the High Court who is dissatisfied with the decision of the High Court may, with leave of the Court of Appeal, appeal the decision to the Court of Appeal.

90H. Burden of proof.

The burden of proof in any—

- (a) objection to an assessment;
- (b) appeal of an objection decision to the High Court;
- (c) review of an objection decision by the Tribunal;
- (d) appeal from the decision of the High Court or the tribunal in relation to an objection decision,

is on the person liable to pay duty, on the balance of probabilities, the extent to which the assessment made by the Commissioner General is excessive or erroneous, whichever is the case in dispute.

90I. Duty as a debt due to the Government of Uganda.

(1) Duty, when it becomes due and payable is a debt to the Government of Uganda and is payable to the Commissioner General in the manner and at the place prescribed.

(2) Duty that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner General acting in the Commissioner General's official name, subject to the general directions of the Attorney-General.

(3) In any suit under this section, the production of a certificate signed by the Commissioner General stating the name and address of the person liable and the amount of duty due and payable by the person shall be sufficient evidence of the amount of duty due and payable by that person.

90J. Recovery of duty from other persons.

(1) Where a person fails to pay duty on the date on which the duty is payable, and the duty is not the subject of a dispute the Commissioner General may, by notice in writing, require any person—

- (a) owing or who may owe money to the person liable to pay duty;
- (b) holding or who may subsequently hold money for, or on account of, the person liable to pay duty;
- (c) holding or who may subsequently hold money on account of some other person for payment to the person liable to pay duty; or
- (d) having authority from some other person to pay money to the person liable to pay duty,

to pay that money to the Commissioner General on the date set out in the notice, up to the amount of the duty due.

(2) The date specified in the notice under subsection (1) must not be a date before the money becomes due to the person liable to pay duty, or is held on behalf of the person liable to pay duty.

(3) At the same time that notice is served under subsection (1), the Commissioner General shall also serve a copy of the notice on the person liable to pay duty.

(4) Where a person served with a notice under subsection (1) is unable to comply with the notice by reason of lack of moneys owing to, or held for, the person liable to duty, the person shall, as soon as is practicable and in any case before the payment date specified in the notice, notify the Commissioner General accordingly in writing setting out the reasons for the inability to comply.

(5) Where a notice is served on the Commissioner General under subsection (4), the Commissioner General may, by notice in writing—

- (a) accept the notification and cancel or amend the notice issued under subsection (1); or
- (b) reject the notification.

(6) A person dissatisfied with a decision under subsection (5) may only challenge the decision under the objection and appeal set out in sections 90D, 90E, 90F, 90G and 90H.

(7) A person who makes a payment pursuant to a notice under subsection (1) is deemed to have been acting under the authority of the person liable to pay duty and of all other persons concerned and is hereby indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract, or agreement.

(8) An amount due under this section is treated for all purposes of this Act as if it were duty due.

90K. Collection of duty by distraint.

(1) The Commissioner General may recover any unpaid duty by distress proceedings against the movable property of a person liable to pay duty, in this section referred to as the “person liable”.

(2) In accordance with subsection (1), the Commissioner General shall issue an order in writing specifying the person against whose property the proceedings are authorised, the location of the property and the duty liability to which the proceedings relate, and may require a police officer to be present while distress is being executed.

(3) For the purposes of executing distress under subsection (1), the Commissioner General may, at any time, enter any house or premises described in the order authorising the distress proceedings.

(4) The property upon which distress is levied under this section, other than perishable goods, shall be kept for not more than fourteen days either at the premises where the distress was levied or at any other place that the Commissioner General may consider appropriate, at the cost of the person liable.

(5) Where the person liable does not pay the duty due, together with the costs of the distress—

- (a) in the case of perishable goods, within a period that the Commissioner General considers reasonable having regard to the condition of the goods; or
- (b) in any other case, within fourteen days after the distress is levied, the property distrained may be sold by public auction or otherwise dealt with in any other manner as the Commissioner General may direct.

(6) The proceeds of a disposal under subsection (5) shall be applied by the auctioneer or seller towards the cost of taking, keeping and selling the property distrained upon, then towards the duty due.

(7) The remainder of the proceeds under subsection (5), if any, shall be given to the person liable.

(8) This section shall not preclude the Commissioner General from proceeding under section **90I** with respect to the balance owed if the proceeds of the distress are not sufficient to meet the costs of the distress and the duty due.

(9) All costs incurred by the Commissioner General in respect of any distress may be recovered by the Commissioner General from the person liable, and the provisions of this Act relating to the collection and recovery of duty shall apply as if the costs were duty due under this Act.

90L. Duties of receivers.

(1) A receiver shall, in writing, notify the Commissioner General within fourteen days of being appointed to the position of receiver or of taking possession of an asset in Uganda, whichever occurs first.

(2) The Commissioner General may, in writing, notify a receiver of the amount which appears to the Commissioner General to be sufficient to provide for any duty which is or will become payable by the person whose assets are in the possession of the receiver.

(3) A receiver shall not part with any asset in Uganda which is held by the receiver in the capacity as receiver without the prior written permission of the Commissioner General.

(4) A receiver—

- (a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner General under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner General;

- (b) is liable to the extent of the amount set aside for the duty of the person who owned the asset; and
- (c) may pay any debt that has priority over the duty referred to in this section notwithstanding any provision of this section.

(5) If the receiver fails to comply with this section, then the receiver is personally liable for the amount required to be set aside.

(6) In this section, “receiver” includes any person who, in respect to an asset in Uganda, is—

- (a) a liquidator of a company;
- (b) a receiver appointed out of court or by any court;
- (c) a trustee for a bankrupt;
- (d) a mortgagee in possession;
- (e) an executor of a deceased’s estate; or
- (f) any other person conducting the business of a person legally incapacitated.

90M. Security on property for unpaid duty.

(1) Where a person who is the owner of land or buildings situated in Uganda fails to pay duty, the Commissioner General may, by notice in writing, notify the person of the intention to apply to the Commissioner for Land Registration that land or buildings be the subject of security for the duty as specified in the notice.

(2) If, within 30 days after the date of service of the notice under subsection (1), a person on whom a notice has been served fails to make payment of the whole of the amount of the duty specified in the notice, the Commissioner General may, by notice in writing, in this section referred to as a “notice of direction”, direct the commissioner for land registration that the land or buildings of the person, to the extent of the interest of the person in the land or buildings, be the subject of security for unpaid duty in the amount specified in the notice.

(3) Where a notice of direction is served on the Commissioner Land Registration under subsection (2), the Commissioner Land Registration shall, without fee, register the direction as if it were an instrument or mortgage over, or charge on, as the case may be, the land or buildings.

(4) Upon registration of the direction under subsection (3), the registration shall, subject to any prior mortgage or charge, operate as a legal mortgage over or charge on the land or building to secure the amount of the unpaid duty.

(5) Upon receipt of the whole of the amount of duty secured under subsection (4), the Commissioner General shall serve notice on the commissioner land registration cancelling the direction made under subsection (2) and the Commissioner Land Registration shall, without fee, record the cancellation at which time the direction shall cease to exist.

90N. Remission.

(1) The Commissioner General may remit the duty payable by a person in respect of excisable goods or excisable services where he or she is satisfied—

- (a) that any excisable goods were destroyed by accidental fire, or other unavoidable cause, while in any building, room, or place, which has been entered in accordance with this Act and which is in the factory in which they were manufactured;

- (b) that, in the case of spirits—
- (i) the spirits have been used in the manufacture of specially denatured spirits by a denaturer at that denaturer's factory and if he or she is further satisfied that the specially denatured spirits have been delivered from that factory, in such quantities as he or she may determine, to a person, and for a purpose approved by him or her;
 - (ii) the spirits have been used by a denaturer at his or her factory for the manufacture of methylated spirits;
 - (iii) the spirits have been delivered direct from a distillery or distiller's warehouse and that they will be used in quantities and under conditions as he or she may determine in any industry or manufacture other than the manufacture or preparation of beverages, perfumery or toiletry preparations in which the use of spirits is required and if he or she is further satisfied that the use in such industry or manufacture of denatured or methylated spirits is unsuitable or detrimental;
 - (iv) the spirits have been delivered from a distillery or distiller's warehouse, in quantities and in accordance with conditions as he or she may determine, to a recognised person for medical, scientific or educational purposes; or
 - (v) the spirits have been delivered to a wine manufacturer for use in the fortification of wine manufactured at his or her factory;

- (c) that any goods have, with the prior permission of the Commissioner-General, been destroyed by the licensee under the supervision of a proper officer prior to leaving their building, room, or place, which has been entered in accordance with this Act and which is in the factory in which they were manufactured; and
 - (d) that goods have been duly exported or shipped for use as stores for any aircraft or vessel.
- (2) In this section, recognised person means—
- (a) a person registered or licensed under the Medical and Dental Practitioners Act or the Veterinary Surgeons Act;
 - (b) a pharmacist registered under the Pharmacy and Drug Act; or
 - (c) any other person or class of persons as the Minister may by statutory instrument approve.

(3) An application for a remission under this section be made to the Commissioner General in writing within two years.

900. Refunds.

(1) A person liable to pay duty may apply to the Commissioner General for a refund of any duty paid in error or in excess of the duty assessed or due.

(2) An application for a refund under this section shall be made to the Commissioner General in writing within two years after—

- (a) the date on which the Commissioner General served the notice of assessment for the duty to which the refund application relates; or
- (b) the date on which the duty was paid.

(3) Where the Commissioner General is satisfied that duty has been overpaid, the Commissioner General shall—

- (a) apply the excess in reduction of any other duty due from the person liable to pay duty; and
- (b) at the written option of the person liable to pay duty, apply the balance of the excess, if any, in reduction of any outstanding liability of the person liable to pay duty in regard to other taxes not in dispute.

(4) Where the Commissioner General is required to refund an amount of duty to a person as a result of—

- (a) an application made to him or her under this Act;
- (b) a decision under section **90D**;
- (c) a decision of the High Court or the tribunal under section 90F or 90E; or
- (d) a decision of the Court of Appeal under section 90G,

the Commissioner General shall pay simple interest at a rate of two percent per month for the period commencing thirty days after the date the application for the refund and ending on the last day on which a refund is made.

(5) Notwithstanding subsection (4), a person liable to duty who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the tribunal or the High Court, or submitted to the Commissioner General all necessary and satisfactory information required in relation to the refund in question, whichever is the later.

(6) The Commissioner General shall, within thirty days of making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.

(7) A person dissatisfied with a decision referred to in subsection (6) may only challenge the decision under the objection and appeal procedure in this Act.

PART IXB—OFFENCES AND PENALTIES.

90P. Interest on unpaid duty.

(1) A person who fails to pay duty is liable to pay interest at a rate equal to 2 percent per month on the duty unpaid calculated from the date on which the payment was due until the date on which payment is made.

(2) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the duty to which the interest relates is found not to have been due and payable.

(3) Where good cause is shown, in writing, by the person liable for payment of interest, the Minister may, on the advice of the Commissioner General, remit, in whole or in part, any interest charged under this section.

(5) Interest charged under this section shall be simple interest.

(6) The provisions of this Act relating to the collection and recovery of duty apply to any interest charged under this section as if it were duty due.

90Q. Failure to furnish a return.

(1) A person who fails to furnish a return or any other document by the prescribed date of being so required under this Act commits an offence and is liable on conviction to a fine not exceeding fifteen currency points.

(2) If a person convicted of an offence under subsection (1) fails to furnish the return or document to which the offence relates within the period specified by the court, that person commits an offence and is liable on conviction to a fine not exceeding twenty currency points.

90R. Failure to comply with recovery provision.

(1) Any person who fails to comply with any notice under section 90J commits an offence and is liable on conviction to a fine not exceeding twenty-five currency points.

(2) Where a person is convicted of an offence under subsection (1), the court shall, in addition to imposing a penalty, order the convicted person to pay to the Commissioner General the amount to which the failure relates.

90S. Failure to maintain proper records.

A person who fails to maintain proper records under this Act commits an offence and is liable on conviction to—

- (a) where the failure was deliberate, a fine of not less than twenty four currency points or to imprisonment not exceeding one year; or
- (b) in any other case, a fine not exceeding twenty five currency points.

90T. Making false or misleading statements.

(1) A person who makes a statement to the Commissioner General or an officer—

- (a) that is false or misleading in a material particular; or
- (b) omits from any statement, any matter or thing without which the statement is misleading in a material particular,

commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or to imprisonment not exceeding one year or both.

(2) It is a defence for the accused person to prove that he or she did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(3) A reference in this section to a statement made to the Commissioner General or an officer is a reference to a statement made in writing to the Commissioner General or an officer acting in the performance of his or her duties under this Act, and includes a statement made—

- (a) in an application, certificate, declaration, notification, return, objection or other document made, prepared, given, filed or furnished under this Act;
- (b) in information required to be furnished under this Act;
- (c) in any document furnished pursuant to this Act;
- (d) in answer to a question asked of a person; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to the Commissioner General or an officer.

90U. Obstructing an officer of the authority.

A person who obstructs an officer in the performance of duties under this Act commits an offence and is liable on conviction to a fine not exceeding twenty four currency points.

90V. Offences by and relating to officers.

- (1) An officer who—

- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward, whether pecuniary or otherwise, or promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do or to abstain from doing, permit, conceal or connive at any act or thing whereby the duty is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to imprisonment not exceeding one year or a fine not exceeding twenty four currency points or both.

(2) Any person who—

- (a) directly or indirectly offers or gives to any officer payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) proposes or enters into any agreement with any officer in order to induce the officer to do or to abstain from doing, permit, conceal or connive at any act or thing whereby duty is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to imprisonment not exceeding one year or a fine not exceeding twenty four currency points or both.

*East African Excise Management
(Amendment) Act*

Act 7

2012

(3) Notwithstanding subsection (1), an officer who commits an act specified in subsection (1)(a) or (b), and who volunteers information to the Commissioner General relating to that act shall—

- (a) be exonerated from prosecution; and
- (b) receive 20 percent of the fine that would be imposed on a person convicted of an offence under subsection (1).

(4) Notwithstanding subsection (2), a person who commits an act specified in subsection (2)(a) or (b), and who volunteers information to the Commissioner General relating to that act shall—

- (a) be exonerated from prosecution; and
- (b) be liable to duty only to the extent agreed upon with the officer to whom the offence relates.

(5) An officer convicted of an offence under subsection (1) is, in addition to any penalty imposed under that section, liable to pay the difference in duty between the duty due and the duty payable by a person under subsection(4)(b).

(6) The amount due under subsection(5) shall be deemed to be duty due from the officer under section **90I**.

(7) Any person, not being an officer, who takes or assumes the name, designation, character or appearance of an officer for the purpose of—

- (a) obtaining admission to any premises; or
- (b) doing or procuring to be done any act which he would not be entitled to do or procure to be done on his own authority; or

- (c) doing any unlawful act,

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

90W. Offences with violence.

- (1) Any person who—

- (a) maliciously shoots at an aircraft, vessel or vehicle in the service of the Uganda Revenue Authority; or
- (b) maliciously shoots at, maims, or wounds, an officer while in the execution of his duty; or
- (c) commits with violence any of the offences referred to in subsection (4),

commits an offence and is liable on conviction to a fine not exceeding four hundred and eighty currency points or imprisonment not exceeding twenty years or both.

- (2) Any person who—

- (a) while committing any offence under this Act is armed with any firearm or otherwise offensive weapon; or
- (b) while being so armed, is found with any goods liable to forfeiture under this Act,

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

- (3) Any person who—

- (a) while committing any offence under this Act is disguised in any way; or

- (b) while being so disguised, is found with any goods liable to forfeiture under this Act,

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

(4) Any person who—

- (a) staves, breaks or destroys, any goods for the purpose of preventing seizure; or
- (b) rescues, staves, breaks or destroys, any goods for the purpose of preventing the securing of such goods after they have been seized; or
- (c) rescues any person arrested for an offence under this Act; or
- (d) in any way obstructs any officer in the execution of his duty,

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

(5) For the purposes of this section, the expression “violence” means any criminal force or harm to any person, or any criminal mischief to any property, or any threat or offer of such force, harm, or mischief, or the carrying or use of any dangerous or offensive weapon in such manner that terror is likely to be caused to any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm, or mischief, to them or to their property.

90X. Offences by companies.

(1) Where an offence is committed by a company, every person who, at the time the offence was committed—

- (a) was a nominated officer, director, general manager, secretary or other similar officer of the company; or
- (b) was acting or purporting to act in that capacity,

is, without prejudice to the liability of the company, deemed to have committed the offence.

(2) Subsection (1) does not apply where—

- (a) the offence was committed without that person's consent or knowledge; and
- (b) the person has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

90Y. Officer may appear on behalf of the Commissioner General.

(1) Notwithstanding anything contained in any written law, any officer duly authorised in writing by the Commissioner General may appear in any court on behalf of the Commissioner General in any proceedings in which the Commissioner General is a party.

(2) Subject to the directions of the Attorney General an officer may conduct any prosecution for an offence under this Act and, for that purpose, shall have all the powers of a public prosecutor appointed under the Magistrates Courts Act.

90Z. Compounding offences.

(1) Where any person commits an offence under this Act other than an offence under section 90, the Commissioner General may, at any time prior to the commencement of court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner General, not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner General shall only compound an offence under this section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner General compounds an offence under this section, the order referred to in subsection (1)—

- (a) shall be in writing and specify the offence committed, the sum of money to be paid and the due date for payment, and shall have attached to it the written admission referred to in subsection (2);
- (b) shall be served on the person who committed the offence;
- (c) shall be final and not subject to any appeal; and
- (d) may be enforced in the same manner as a decree of any court for the payment of the amount stated in the order.

(4) Where the Commissioner General compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of that offence or for penalty.

90ZA. Place of trial.

(1) Any person charged with an offence under this Act may be proceeded against, tried and punished in any place in Uganda in which the person may be in custody for the offence as if the offence had been committed in that place.

(2) Subsection (1) shall not preclude the prosecution, trial and punishment of a person in any place in which, but for this section, the person might have been prosecuted, tried and punished.

90ZB. Duty charged to be paid notwithstanding prosecution.

The amount of any duty or interest due and payable under this Act shall not be abated by reason only of the conviction or punishment of the person liable for payment of the duty for an offence under this Act or for the compounding of such offence under section **90Z**.

90ZC. Penalty for failure to furnish a return.

A person who fails to furnish a return within the time required under this Act is liable to pay a penalty of 2 percent of the duty payable or ten currency points per month, whichever is the greater, for the period the return is outstanding.

90ZD. Penalty in relation to records.

A person who deliberately fails to maintain proper records in accordance with the requirements of this Act is liable to pay a penalty equal to double the amount of duty payable by the person for the duty period.

90ZE. Penalty in relation to false or misleading statements.

Where a person knowingly or recklessly—

- (a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or
- (b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

and the duty payable by the person exceeds the duty that was assessed as payable based on the false or misleading information, that person is liable to pay a penalty equal to double the amount of the excess.

90ZF. Recovery of penalty.

(1) Liability for penalty under the Act is calculated separately with respect to each section dealing with penalty.

(2) The imposition of a penalty is in addition to any interest imposed under this Act and any other penalty imposed as a result of a conviction of an offence.

90ZG. Power of minister to amend Fifth Schedule.

The Minister may, with the approval of Cabinet, by statutory instrument, amend the Fifth Schedule.”

10. Repeal of Part X, Part XI and XII.

The principal Act is amended by repealing Part X, Part XI and Part XII.

11. Insertion of Fifth Schedule.

The principal Act is amended by inserting immediately after the Fourth Schedule the following—

“FIFTH SCHEDULE

CURRENCY POINT

A currency point is equivalent to twenty thousand Uganda shilling”.