


LEGAL NOTICE NO. 179

THE CAPITAL MARKETS AUTHORITY ACT
(Cap. 485A)

IN EXERCISE of the powers conferred by section 35A of the Capital Markets Authority Act, the Chief Justice makes the following Rules-

THE CAPITAL MARKETS TRIBUNAL RULES, 2002

- Citation. 1. These Rules may be cited as the Capital Markets Tribunal Rules, 2002.
- Interpretation. 2. In these Rules —
 "Chairman" means the chairman of the Tribunal;
 "Secretary" means the secretary to the Tribunal;
 "Tribunal" means the Capital Markets Tribunal established under section 35A of the Act.
- Publication of address of Tribunal. 3. The Secretary shall publish a notice in the Gazette of the address at which documents may be presented to, filed with or served on the Tribunal or the Secretary.
- Form of appeal. 4.(1) An appeal to the Tribunal shall be entered by presentation of a memorandum of appeal, with six copies thereof, together with the prescribed fee to the Secretary.
 (2) The memorandum shall set out concisely, under distinct heads and numbered consecutively, the grounds of appeal without argument or narrative.
 (3) The memorandum shall be signed by the appellant, if

 THE NATIONAL ASSEMBLY	
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the appellant is an individual, or by a director and the chief executive, if the appellant is a corporation.

(4) The memorandum shall be presented within fifteen days after the date on which the decision appealed from was communicated to the appellant.

Statement of facts
of appellant

5. Each copy of the memorandum of appeal shall be accompanied by a statement, signed by the appellant, setting out precisely all the facts on which the appeal is based and referring specifically to the documentary or other evidence which it is proposed to adduce at the hearing of the appeal, and to which shall be annexed the original copy of the decision of the Authority on which the appeal is based, and each document or extract from a document referred to upon which the appellant proposes to rely as evidence at the hearing of the appeal.

Service of
memorandum

6. Within seven days after the presentation of the memorandum of appeal to the Secretary, a copy thereof and the statement of facts of the appellant and the documents annexed thereto shall be served by the appellant upon the Authority.

Statement of
defence

7.(1) The Authority shall, within twenty-one days after service of the memorandum of appeal upon it, file with the Secretary a statement of defence signed by the chief executive of the Authority or a person authorized by him in writing and a statement of facts together with six copies thereof and the provisions of rule 5 shall apply *mutatis mutandis* to the statement of facts.

(2) At the time of filing the statement of defence and the statement of facts under paragraph (1), the Authority shall serve a copy thereof, together with copies of any documents annexed thereto, upon the appellant.

(3) Where the Authority does not desire to file a statement of facts under this rule, the Authority shall forthwith give written notice to that effect to the Secretary

and to the appellant and in that case the Authority shall be deemed at the hearing of the appeal to have admitted the facts set out in the statement of facts of the appellant.

8.(1) The provisions of the Civil Procedure Rules made under the Civil Procedure Act dealing with the service of a summons shall apply with respect to the serving of documents under these Rules as though those provisions formed part of these Rules.

Service,
Cap. 21.

(2) The Tribunal may, on the application of a party, direct that documents be served in a different manner than that provided for under paragraph (1).

9.(1) The appellant may, at any time before the appeal is heard, withdraw the appeal by notice in writing to the Secretary.

Withdrawal of
appeal.

(2) If an appeal is withdrawn the Tribunal shall make an order under section 35A(18) of the Act as to costs.

10. No party to the appeal shall communicate, outside the hearing of the appeal, with the Chairman or any other member of the Tribunal other than the Secretary.

No
communications
outside hearing.

11.(1) The Secretary shall within three days after receiving the memorandum of appeal under rule 4 notify the Chairman of the receipt thereof.

Time and place of
hearing.

(2) The Chairman shall, after the documents of the parties are received, fix a time, date and place for a meeting of the Tribunal for the purpose of hearing the appeal and the Secretary shall cause notice thereof to be served on the appellant and the Authority.

(3) The Secretary shall supply each member of the Tribunal with a copy of the notice of hearing and all documents received by the Secretary from the parties to the appeal.

(4) Unless the parties to the appeal otherwise agree, each party shall be entitled to not less than seven days notice of the time, date and place fixed for the hearing of the appeal.

Summoning and
attendance of
witnesses.
Cap. 21.

12. The provisions of the Civil Procedure Rules made under the Civil Procedure Act dealing with the summoning and attendance of witnesses shall apply with respect to the hearing of an appeal as though those provisions formed part of these Rules.

Assessors.

13. (1) If in the opinion of the Chairman a matter arises in a hearing which calls for specialized knowledge, he may call upon any person who he considers to be possessed of such knowledge to sit with the Tribunal as an assessor to assist the Tribunal.

(2) A person called upon to sit with the Tribunal under paragraph (1) shall be paid his reasonable expenses and a daily remuneration, the amount of which shall be decided by the Chairman.

Representative to
file a notice.

14. A person representing a party before the Tribunal shall file a notice of his appointment as the representative of the party and any subsequent change shall be notified by the filing of a notice of change of representative or a notice of intention to act in person as the case may be.

Hearing
procedure.

15. The following shall apply with respect to the hearing of an appeal —

- (a) the Authority shall be entitled to be represented;
- (b) the appellant shall state the grounds of his appeal and may support it by any relevant evidence, but save with the consent of the Tribunal and upon such terms as it may determine, the appellant may not at the hearing rely on a ground of appeal other than a ground stated in the memorandum of appeal and may not adduce evidence of facts or documents unless those facts have been referred to in, or copies

- of those documents have been annexed to, the statement of facts of the appellant;
- (c) at the conclusion of the statement and evidence on behalf of the appellant, the Authority may make submissions supported by relevant evidence, and the conditions of sub-paragraph (b) shall *mutatis mutandis* apply to evidence of facts and documents to be adduced by the Authority;
 - (d) the appellant shall be entitled to reply but may not raise a new issue or argument;
 - (e) the Chairman or a member of the Tribunal may at any stage of the hearing ask any questions to the parties or a witness examined at the hearing, which he considers necessary to the determination of the appeal;
 - (f) a witness called and examined by either party to the appeal may be cross-examined by the other party to the appeal and if so cross-examined may be re-examined;
 - (g) the Tribunal may call and examine witnesses and a witness called and examined by the Tribunal may be cross-examined by either party to the appeal;
 - (h) the Tribunal may adjourn the hearing of the appeal for the production of further evidence or for other good cause, as it considers necessary or desirable, on such terms as it may determine;
 - (i) the Tribunal shall consider and reach its decision according to law;
 - (j) the decision of the Tribunal shall be on the basis of a majority vote and shall be in writing, dated and signed by the Chairman and the members of the Tribunal who participated in the decision;

- (k) the Secretary shall record the proceedings of the Tribunal and include that record, together with a copy of the decision, in a document to be certified and signed by the Chairman as a true and correct record of the proceedings and decision;
- (l) the Secretary shall forward a certified copy of the document described in sub-paragraph (k) to each party;
- (m) a copy certified under sub-paragraph (k) shall be conclusive evidence of the decision and proceedings of the Tribunal.

Copies of documents admissible.

16. Save where the Tribunal in any particular case otherwise directs or where a party to the appeal objects, copies of documents shall be admissible in evidence but the Tribunal may at any time direct that the original shall be produced notwithstanding that a copy has already been admitted in evidence.

Tribunal may adopt civil procedure rules. Cap. 21.

17. In matters of procedure not governed by these Rules or the Act, the Tribunal may adopt the Civil Procedure Rules made under the Civil Procedure Act.

Extension of time limits.

18. The Chairman may, on application, extend the time appointed by these Rules for doing any act or taking any proceedings upon such terms and conditions, if any, as appear to the Chairman to be just and expedient.

Orders for costs.

19. The Tribunal shall make an order under section 35A(18) of the Act as to costs on an appeal.

Fees.

20. The fees set out in the Schedule are prescribed in respect of the matters described in the Schedule.

Transition.

21. The following shall apply with respect to an appeal made before these Rules come into operation —

- (a) these Rules shall apply with necessary modifications and such modifications as the Chairman may direct;
- (b) nothing done before these Rules come into operation shall be ineffective only because it was not done in accordance with these Rules;
- (c) any applicable time limit under these Rules that would otherwise have commenced or expired shall be deemed not to have commenced or expired but shall be deemed to have commenced running upon the publication of these Rules; and
- (d) if anything was done before these Rules come into operation for which a fee would have been payable under these Rules if they had been in operation, that fee shall be payable within ten days after the publication of these Rules.

Schedule
Fees

(r. 20)

	Description	Fee (Shs.)
1.	Presentation of a memorandum of appeal	10,000
2.	Filing of statement of defence by the Authority	2,500
3.	Filing of any other document	1,500

Made on the 7th November, 2002.

BERNARD CHUNGA,
Chief Justice.

