

THE TAX ADMINISTRATION ACT,
(CAP. 438)

REGULATIONS

(Made under section 28B (6))

THE TAX ADMINISTRATION (ADMINISTRATION OF TAX OMBUDSMAN SERVICE)
REGULATIONS, 2022

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PART I
PRELIMINARY PROVISIONS

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| Citation | 1. These Regulations may be cited as the Tax Administration (Administration of Tax Ombudsman Service) Regulations, 2022. |
| Applica-
tion | 2. These Regulations shall apply in relation to the appointment of staff of the Tax Ombudsman Service and the conduct of the functions of the Tax Ombudsman. |
| Interpret
ation
Cap. 438
Cap. 399 | <p>3. In these Regulations, unless the context otherwise requires: -</p> <p>"Act" means the Tax Administration Act;</p> <p>"Authority" means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act;</p> <p>"Code" means the Code of Ethics and Conduct for the Tax Ombudsman and staff of the Tax Ombudsman Service issued pursuant to regulation 12;</p> <p>"complaint" means a representation of a procedural or administrative grievance alleging deficiency in the course of administering tax laws by the Authority, Commissioner General or a staff of the Authority; made orally, in writing or through electronic means.</p> <p>"Commissioner General" has the meaning ascribed to it under the Act;</p> |

"Minister" means the Minister responsible for finance; and
"Tax Ombudsman" means the Tax Ombudsman appointed under section 288 of the Act.

PART II
RECRUITMENT AND CONDUCT OF TAX OMBUDSMAN

Recruitment

4. Subject to the Scheme of Service of the Tax Ombudsman Service, there shall be appointed from the government or other public institutions such number and categories of employees such qualification as may be considered necessary to assist the Tax Ombudsman in the performance of Administration of Tax Ombudsman Service.

Management and Control of Tax Ombudsman Service

5.-(1) The Ombudsman shall manage and supervise the Tax Ombudsman Service, and shall for that purpose be responsible for -

- (a) the day to day operations of the Tax Ombudsman Service;
- (b) management of resources of the Tax Ombudsman Service including management of funds and properties.
- (2) The Ombudsman shall be the disciplinary authority of staff of the Tax Ombudsman Service.

Restriction to hold other office

6. A person employed in the Tax Ombudsman Service shall not hold any other office or employment in respect of which emoluments are payable.

Principles to be observed by Tax Ombudsman

- 7.-(1) The Ombudsman shall, in the performance of his duties: -
- (a) act independently and objectively;
 - (b) observe informal, fair and cost-effective procedures in determining any complaint received;
 - (c) be impartial in safeguarding the interest of the complainant and that of the Commissioner General;
 - (d) accord due weight to considerations of equity;
 - (e) devise means of effectively resolving complaints and causes of complaints; and
 - (f) maintain confidentiality, in respect of every complaint

received, unless disclosure is required by law.

(2) No person shall interfere the Ombudsman in the discharge of his duties and functions as provided under the Act

PART III

STAFF OF THE TAX OMBUDSMAN SERVICE AND PERFORMANCE OF FUNCTIONS

Delegation of powers and duties

8.-(1) The Ombudsman may, delegate any power or duties conferred on him to any person employed in the Tax Ombudsman Service.

(2) Without prejudice to sub regulation (1), a person employed to perform any of the duties of the Ombudsman shall not require a written authorization in that respect.

(3) The Ombudsman may, for purposes of sub regulation (1), withdraw any delegation, impose any conditions or limitations or give such directions as he considers necessary.

Remuneration and Allowances

9. There shall be paid to the Ombudsman and staff of the Tax Ombudsman Service such allowance or remuneration and other benefits as shall be determined by the Minister.

Immunity

10. Notwithstanding the provisions of any other law, no action or other proceedings shall lie or be instituted against the Ombudsman or employee of the Tax Ombudsman Service for or in respect of any act or thing done or omitted to be done in good faith in the exercise of the powers conferred by these regulations.

PART IV

CODE OF ETHICS AND CONDUCT AND PROCEEDINGS UPON BREACH

Code

11.-(1) There is hereby established a Code of Ethics and Conduct for the Tax Ombudsman Service.

(2) The provisions of the Schedule to these Regulations shall have effect to the Code of Ethics and Conduct for the Tax Ombudsman Service.

Aware-
ness and
compliance to
Code

12.-(1) The Ombudsman and any other person engaged to perform any duty of the Ombudsman shall-

- (a) be provided with a copy of the Code by the Ministry responsible for Finance.
- (b) upon assuming office or at a such other applicable time, subscribe to an oath of compliance with the Code as set out in the Schedule to the Code.

Sanction
for
breach of
Code

13.-(1) Breach of the Code by any person to whom it applies shall constitute misconduct.

(2) Any person who is in breach of the Code shall be liable to such disciplinary action as may be imposed pursuant to these Regulations, and the disciplinary action may include termination of service.

(3) The Ombudsman shall enforce the Code of Ethics and Conduct for the staff of the Tax Ombudsman.

(4) The Minister may issue guidelines for the better carrying out of this regulation.

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SCHEDULE
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(Made under regulation 12(1))

CODE OF ETHICS AND CONDUCT FOR THE TAX OMBUDSMAN AND STAFF OF
THE TAX OMBUDSMAN SERVICE

(a) Oath

Oath
of
allegia-
nce

1.-(1) An Oath of allegiance to the Code constitute the formal declarations of ethics of the Ombudsman and Staff of the Tax Ombudsman Service. Swearing or affirming to an oath is symbolically a formal step to the compliance in the professional socialization process.

(2) Oath of allegiance to which the Ombudsman and Staff of the Tax Ombudsman Service shall ascribe to, shall be descriptive as follows:

"At this time, I vow to devote my professional life to the service of mankind through the profession of ombudsman service. I will consider the welfare of humanity and relief of human suffering my primary concerns. I will use my knowledge and skills to the best of my ability in serving the public and other related professionals.

I will do my best to keep abreast of developments and maintain professional competence in my profession of ombudsman service. I will obey laws governing the practice of ombudsman and will support enforcement of such laws. I will maintain the highest standards of moral and ethical conduct. I take these vows voluntarily with the full realization of the trust and responsibility with which I am empowered by the public".

(b) Objectives and Guiding Principles

Objectives

2. The main objectives of this Code are to-

- (a) provide guiding principles for the conduct of an ombudsman;
- (b) ensure efficient and quality delivery of service by Tax Ombudsman and persons serving in his behalf to the public and the adherence to professionalism in the course of provision of service;
- (c) promote public confidence in determination of complaints as a means of resolving complaints; and
- (d) provide protection for members of the public who use the services of the Tax Ombudsman Service.

Principles
guiding
handling of
complaints

3.-(1) Tax Ombudsman or person acting as such shall, in handling complaint, be guided by the following principles:

- (a) parties to a complaint are free to make their own voluntary and non- coerced decisions regarding the possible resolution of any issue in dispute;
- (b) decision made by the parties is respected and encouraged by a Tax Ombudsman or person acting as such;
- (c) Tax Ombudsman or person acting as such provide the parties at or before the first hearing of complaint with information about their role in resolution of complaint;
- (d) Tax Ombudsman or person acting as may express views or opinions on the matters at issue, and may identify evaluative approaches so as to reach an amicable settlement;
- (e) where appropriate, Tax Ombudsman or person acting as such may advise unrepresented parties to obtain independent legal advice or consult with other professionals to assist the parties to make informed decisions; and
- (f) upholding high integrity and moral standing in the conduct of service.

(c) Conduct and Practice of Tax Ombudsman or person acting as such

Disclosure

4.-(1) Before accepting an appointment as Tax Ombudsman or person acting as such and at all times after accepting such an appointment, a Tax Ombudsman or person acting as such shall disclose in writing any circumstance that could potentially give rise to a reasonable apprehension of a lack of independence or impartiality in the resolution of a complaint.

(2) A Tax Ombudsman or person acting as such who makes a disclosure of any circumstance under sub regulation (1) shall

continue to serve as a Tax Ombudsman or person acting as such if all parties to the complaint waive, in writing, the right to object to any reasonable apprehension of a lack of independence or impartiality or conflict of interest that arises as a consequence of that disclosure.

Confidentiality

5.-(1) The Tax Ombudsman or person acting as such shall inform the parties and any experts, advisors, and any other persons who accompany a party to a complaint resolution session of the confidential nature of proceedings.

(2) The Tax Ombudsman or person acting as such, the parties, the experts and advisors, and any other persons who accompanies a party to a session shall maintain confidentiality of any of his undertakings and shall not disclose to any non-party any information, documents or communications that are created, disclosed, received, or made available in connection with the session except-

- (a) with the written consent of the parties;
- (b) when ordered to do so by a court or otherwise required to do so by law;
- (c) when the information or document discloses an actual or potential threat to life;
- (d) in respect of any report that is required to be prepared by the Tax Ombudsman or person acting as such;
- (e) where data about Tax Ombudsman or person acting as such is for research and education purposes, and where the parties in complaint are not, nor may reasonably be anticipated to be, identified by such disclosure; or
- (f) where the information is otherwise available to the public.

(3) Where the Tax Ombudsman or person acting as such holds private sessions with one or more parties, he shall discuss the nature of such sessions with all parties before commencing such sessions and shall inform the parties of any limits to confidentiality that may apply to information disclosed during private sessions.

(4) The Tax Ombudsman or person acting as such shall maintain confidentiality in the storage and disposal of such notes, records, files, information, documents and communications.

Quality of
process

6.-(1) make reasonable efforts before a complaint is initiated or at the start of the process to ensure that the parties understand the process. conduct complaint handling session in a manner that permits the parties to participate effectively in the process and that encourages respect among the parties. acquire and maintain professional skills and abilities required to uphold the quality of the process. act professionally at all times, and he shall not engage in behavior that will bring the Tax Ombudsman or person acting as such into disrepute.

(2) A Tax Ombudsman or person acting as such who considers that a complaint matter which he is involved may raise ethical may

take appropriate action, which may include adjourning or terminating the process.

Advertising

7. In advertising or offering services to clients or potential clients, a Tax Ombudsman or person acting as such shall-

(a) refrain from guaranteeing settlement or promising specific results;

and

(b) provide accurate information about his education, background, tax ombudsman training and experience.

Agreement to mediate

8. A Tax Ombudsman or person acting as such and the parties shall prepare and execute an agreement setting out-

(a) terms and conditions under which the parties are engaging the mediation;

(b) any additional rules that the parties agree shall apply to the mediation.

Termination or suspension of proceedings

9.-(1) A Tax Ombudsman or person acting as such may suspend or terminate the complaint proceedings-

(a) if requested, in writing, by one or more of the parties; or

(b) with a written declaration by him that further efforts at resolving the complaint would not be useful at this time.

(d) *Miscellaneous Provisions*

Other conduct obligations

10.-(1) Nothing in the Code replaces or supersedes any other ethical standard or code that may govern the Tax Ombudsman or person acting as such.

(2) Where there are multiple such standards or codes, the Tax Ombudsman or person acting as such shall be bound by the stricter of them.

Avoidance of breach of Code

11. A Tax Ombudsman or person acting as such shall take all necessary measures for avoidance of the breach of the Code and shall do all necessary endeavors to support those who seek to uphold it and report immediately any unethical decisions or practices by Tax Ombudsman or person acting as such.

Breach of Code

12. A person who contravenes any provision to this Code shall be deemed to have committed a misconduct and shall be pursued in the manner provided under the regulations to which this Code is promulgated.

Dodoma,
3rd January, 2022

MWIGULU LAMECK NCHEMBA MADELU,
Minister for Finance and Planning