GOVERNMENT NOTICE No. 01published on 5/1/2024

# THE ACCOUNTANTS AND AUDITORS (REGISTRATION) ACT, (CAP. 286)

### **RULES**

(Made under section 25(3))

### THE ACCOUNTANTS AND AUDITORS (APPEALS BOARD) RULES, 2024

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# THE ACCOUNTANTS AND AUDITORS (REGISTRATION) ACT, (CAP. 286)

### **RULES**

(Made under section 25(3))

### THE ACCOUNTANTS AND AUDITORS (APPEALS BOARD) RULES, 2024

# PART I PRELIMINARY PROVISIONS

Citation

1. These Rules may be cited as the Accountants and Auditors (Appeals Board) Rules, 2024.

Interpretation

2. In these Rules, unless the context otherwise requires -

Cap 286

"Act" means the Accountants and Auditors (Registration) Act;

"Appeals Board" means the Appeals Board established under the Act;

"Board" means the National Board of Accountants and Auditors established by the Act;

"Chairman" means the Chairman of the Appeals Board and in his absence, the Vice Chairman;

"decision" means the decision of the Board and includes any directive of the Board attached to the decision;

"intervene" with its grammatical variations and cognate expressions, means the entry into proceedings by a person who has sufficient interest in the outcome of the proceedings and who has been granted leave to join in the proceedings as a party;

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- "Minister" means the Minister responsible for the accountancy profession;
- "party" in relation to an appeal or application, means an appellant, applicant or respondent, and includes an authorised officer acting for the party in the appeal or application;
- "Register" means a register maintained by the Appeals Board into which all proceedings and decisions are entered;
- "Registrar" means an officer appointed by the Minister under rule 3;
- "Registry" means the Registry of the Appeals Board;
- "respondent" means a person against whom an appeal has been lodged or an application has been filed.

Registrar and secretariat of Appeals Board

- 3.-(1) The Minister shall appoint or designate a public officer being a senior lawyer to be the Registrar of the Appeals Board.
- (2) The Registrar shall be responsible for providing services to the Appeals Board as shall be determined by the Act and these Rules.
- (3) There shall be a Secretariat to be headed by the Registrar which shall perform all administrative functions of the Appeals Board.
- (4) The Minister shall, in consultation with the Appeals Board, determine number and category of staff of the Secretariat.

# PART II PROCEDURE FOR APPEALS AND APPLICATIONS

Appeals against decisions of Appeals Board

- 4. A person or firm aggrieved by the decision of the Board may appeal to the Appeals Board on the following grounds:
  - (a) refusal to register name;

- (b) deletion of name from the register;
- (c) transfer of name from one register to another;
- (d) reclassify registration;
- (e) refuse to enter name in the register or under the classification applied for;
- (f) refuse to restore name to the register;
- (g) suspend the effect of registration of name;
- (h) refuse to enter the firm's name in the register of practicing firms; or
- (i) suspension of the effect of registration of the firm in the register.

Service of document

5. The service of documents on the Appeals Board shall be addressed to the Registrar.

Language of Appeals Board 6. The language of the Appeals Board shall be English or Kiswahili, save for the decisions of the Appeals Board which shall be in English.

Provided that the Appeals Board may, upon request by either party, cause that decision be translated in Kiswahili.

Notice of appeal

- 7.-(1) A person who intends to appeal to the Appeals Board shall lodge with the Registrar a notice of appeal within thirty days from the date the decision was made.
  - (2) Every notice of appeal shall-
  - (a) state whether the appeal is intended against the whole or part of the decision, and shall, in the case it is intended against part of the decision, specify the part of the decision complained of;
  - (b) state the name and postal, physical and service address of the appellant;
  - (c) state the name and address of the respondent;
  - (d) be signed and dated by either the appellant in person, his advocate or legal representative; and

- (e) be substantially as set out in "FORM A" in the First Schedule.
- (3) The appellant shall, not later than seven days after lodging a notice of appeal, serve a copy of the notice on the respondent.
- (4) A person on whom a notice of appeal is served shall, within seven days after service, lodge with the Registrar and serve on the appellant and every other person named in the notice of appeal a notice of address for service.
  - (5) The notice referred to in subrule (4) shall-
  - (a) state the postal and physical address of the respondent;
  - (b) be signed by the respondent; and
  - (c) be substantially as set out in "FORM B" in the First Schedule.

Institution of appeal

- 8.-(1) An appeal shall be instituted within twenty one days of the date when the notice of appeal was lodged.
- (2) In computing the twenty-one days the period of time from which the appellant requests in writing for copies of proceedings and decision of the Board to the date the appellant obtains such copies, shall be excluded:

Provided that, the exclusion of the period of time shall not take effect unless the appellant submits to the Registrar a copy of a letter requesting for such documents when lodging the notice of appeal.

- (3) An appeal shall be instituted by lodging with the Registrar-
  - (a) a copy of the memorandum of appeal; and
  - (b) a copy of record of appeal.
- (4) A memorandum of appeal shall be substantially as set out in "FORM D" in the First Schedule.
  - (5) The memorandum of appeal shall-
  - (a) set out concisely and, without arguments or narrative-

- (i) grounds of appeal, consecutively numbered specifying the points alleged to have been wrongly decided;
- (ii) nature of the order sought from the Appeals Board; and
- (b) be signed and dated by either the appellant in person or duly authorised officer.
- (6) The record of appeal shall contain proceedings of the relevant Committee, resolution of the Bord and the decision appealed against.

Power to return document

- 9.-(1) Where a document lodged or filed does not comply with the requirements of these Rules, or is materially incomplete or lacks clarity, the Registrar shall direct in writing the person who lodged or filed the document to rectify the defects contained in that document within the period of time prescribed by the Registrar, or return the document where the person does not comply with such direction.
- (2) A person who is dissatisfied with the decision of the Registrar returning any document, may refer the matter to the Appeals Board for determination and decision.

Effect of default in instituting appeal

10. Where a party who has lodged a notice of appeal and fails to institute an appeal within the prescribed time, the notice of appeal shall be deemed to have been withdrawn and the party may be liable to pay costs.

Service of memorandum and record of appeal

11. The appellant shall, within seven days after lodging the memorandum and record of appeal, serve copies on each respondent.

Mode and proof of service of documents

12.-(1) Where a document is required to be served on any party, the document may be sent electronically, by hand, registered post at the address provided by the party or

with the leave of the Appeals Board, by publication.

(2) Proof of service shall be given by affidavit as set out in "FORM C" in the First Schedule within ten days of lodging the document to the Registrar, unless the Appeals Board directs otherwise.

Application to intervene

- 13.-(1) Subject to section 25 of the Act, a person who has sufficient interest in the outcome of the appeal shall, within seven days of the publication of the notice, file a statement of intervention to the Registrar to intervene in the proceedings.
  - (2) The statement of intervention shall contain -
  - (a) facts supporting the intervention;
  - (b) reliefs sought;
  - (c) a list of documents annexed; and
  - (d) a copy of every document which the intervener intends to rely upon.
- (3) A statement of intervention to be served to all appellants shall be substantially as set out in in "FORM E" in the First Schedule.
- (4) The parties to the proceedings shall, within seven days of being served with the statement of intervention, file a reply to the statement.

Reply to memorandum of appeal

- 14.-(1) Upon being served with the memorandum of appeal and the record of appeal, the respondent shall, within fourteen days, file a reply and serve the copies to each of the other party.
  - (2) The reply shall contain-
  - (a) the arguments of facts and law relied upon;
  - (b) reliefs sought; and
  - (c) list of documents annexed.
- (3) A reply to memorandum of appeal shall be substantially as set out in "FORM E" in the First Schedule.
  - (4) Where a respondent intends to rely upon a

preliminary objection to the hearing of an appeal or application, the respondent shall, not less than three days before the hearing, issue a notice to the appellant specifying grounds of objection and the relevant law or decision intended to be relied upon and shall file a notice with the Registrar.

Signature and sealing of summons, etc

15. Every summons, warrant, notice or formal document issued by the Appeals Board shall be signed by the Registrar or a person acting as Registrar, and shall be affixed with the seal of the Appeals Board.

Applications

- 16.-(1) An application to the Appeals Board shall be made by chamber summons and supported by an affidavit.
- (2) Notwithstanding the provisions of subrule (1), the Appeals Board may entertain oral applications made in the course of hearing.
- (3) A party who is served with a chamber summons and intends to challenge the application, shall lodge an affidavit in reply and serve a copy to the applicant.
- (4) The provisions of this rule shall not apply to applications made to the Registrar.

List of authorities and copies of judgment to be referred to

- 17.-(1)A party who intends to rely on the previous decision of the appeals authority, judgment in any reported or unreported case or to quote anything from any book or authority at the hearing of an appeal or application shall, not less than three days before the hearing of the appeal or application-
  - (a) lodge with the Registrar a copy of the list containing-
    - (i) the full citation of the previous decision of the appeals authority or of a case; or
    - (ii) in the ease of a book, the title of the book, name of author and edition of the book or

### authority;

- (b) attach extracts of the relevant pages of the previous decision of the Appeals Authority, case, book or authority; and
- (c) serve a copy of the list on the other party.
- (2) Previous decision of the appeals authority, judgment in any reported or unreported case or quotation from any book or authority lodged under this rule shall not be binding to the Appeals Board when making decision:

Provided that, previous decisions of the Court of Appeal shall be binding to the Appeals Board when making decision.

#### Consolidation

18. Where two or more appeals or applications are pending in respect of the same decision, or the same or similar issues, the Appeals Board may, on its own motion or upon application by any of the parties, order that the proceedings or any particular issue or matter raised in the proceedings be consolidated or heard together.

#### Sittings

19. The Appeals Board may hold its sittings in such places as it considers appropriate having regard to the just, expeditious and economical conduct of the proceedings.

#### Powers of Registrar

- 20. The Registrar or, in his absence, an officer authorised by the Registrar and approved by the Chairman, shall have powers to-
  - (a) sign orders of the Appeals Board where the Chairman vacates office after pronouncing judgment without signing the order;
  - (b) certify orders of the Appeals Board;
  - (c) admit or return applications for execution proceedings in respect of the decisions and orders of the Appeals Board;
  - (d) order that a decision or order of the Appeals

- Board be executed:
- (e) issue process for execution of decisions and orders of the Appeals Board; and
- (f) perform functions and exercise powers of the Taxing Master under Taxation and Remuneration of Advocates Rules within the Appeals Board.

Extension of time

21. The Appeals Board may, on application by a party and upon adducing good cause, extend the time limited by these Rules or by its decision whether before or after the expiration of that time.

### PART III HEARING AND DECISIONS

Notice of hearing and delivery of decisions

- 22.-(1) The Registrar shall, within a period of not less than seven days before the hearing, unless the Appeals Board sets a hearing date, issue to the parties a notice of hearing date.
- (2) Where the matter in issue is of an urgent nature, the Appeals Board may dispense with the requirements of subrule (1).
- (3) The notice of the hearing date shall be issued in writing and served to the parties or, where circumstances permit, be communicated to the parties through telephone or other electronic means.
- (4) The notice of the date of delivery of decision shall be issued to the parties by the Registrar after the completion of the hearing of parties.
- (5) Notwithstanding subrule (1) the Appeals Board may direct that the hearing be conducted by way of written submission.

Quorum

23.-(1) The Chairman, or in his absence, the Vice-

Chairman shall preside at the hearing of the Appeals Board.

(2) For purposes of hearing an appeal or application, the quorum of the Appeals Board shall be constituted of not less than three members including the Chairman.

Hearing procedure

24. The Appeals Board shall hear first the appellant or applicant followed by the respondent then the appellant or applicant on rejoinder.

Rejection of appeal

- 25.-(1) The Appeals Board may reject an appeal in whole or in part at any stage of the proceedings where-
  - (a) the memorandum of appeal or the application discloses no valid grounds;
  - (b) the appellant or applicant does not have sufficient interest in the decision;
  - (c) the appellant or applicant fails to comply with any rule, direction or order of the Appeals Board; or
  - (d) the appeal or application is frivolous or vexatious.
- (2) Where the Appeals Board rejects an appeal or application, it may make any consequential order as it considers appropriate.

Proceedings to be conducted in public

- 26.-(1) The proceedings of the Appeals Board shall be conducted in public unless the Appeals Board decides otherwise.
- (2) The Appeals Board shall adhere to the principles of natural justice and shall avoid formality and technicality of rules of evidence and procedure with a view to ensuring just, expeditious and economical handling of the proceedings.

Power of Appeals

27. Where it is necessary to make an order for purposes of dealing with any matter for which no provision

Board to give directions as to procedure Cap. 33

is made by these Rules or any other written law or better meeting the ends of justice, the Appeals Board may, on application or on its own motion, apply the Civil Procedure Code.

Confidentialit y

- 28.-(1) Where a party intends that a document lodged or filed be treated confidential he shall make an application in writing-
  - (a) at the time of lodging appeal or filing application; and
  - (b) within four days of getting the knowledge of the document, indicating the words or paragraphs for which confidentiality is requested.
- (2) The application for confidential treatment of a document shall state specific reasons, and the Appeal Board shall, where the confidential part of the information is not relevant in making decision, require the applicant to furnish the Appeals Board with a non-confidential version.
- (3) In the event of an objection, the Appeals Board shall decide the matter after hearing the parties.

Power to reappraise evidence and to take additional evidence 29.-(1) In respect of any appeal, the Appeals Board may-

- (a) reappraise the evidence and draw inferences of facts;
- (b) in its discretion, take additional evidence; or
- (c) call any person or expert as a witness.
- (2) In the event that the Appeals Board determines to take additional evidence, such evidence may be oral or by affidavit and the Appeals Board shall allow cross-examination.
- (3) The parties shall have the right to be present when additional evidence is taken.

Virtual evidence

30. The Appeals Board may, upon application by a party, allow a witness to give evidence virtually without necessarily being present at the place of sitting at the cost of the applicant.

Power to order submission of report 31. In dealing with any appeal or application, the Appeals Board may order the Board to submit a report on any matter relating to the proceedings.

Powers of Appeals Board to confirm, reverse or vary orders, etc

- 32. The Appeals Board may, in dealing with any appeal or application-
  - (a) confirm, reverse, substitute or vary the decision of the Board; or
  - (b) make any necessary, incidental or consequential orders.

Decisions to be embodied in orders

- 33.-(1) A decision of the Appeals Board in appeal or application, other than a decision in application made informally in the course of hearing, shall be embodied in an order which shall be drawn by the Registrar.
- (2) An order shall state the date on which the decision was given and the order extracted and shall be signed by the Registrar.

Rectification of errors

34. A clerical or arithmetical error in a decision or order may be rectified by the Appeals Board either on its own motion or on application by an interested person.

Procedure on non-appearance

- 35.-(1) Where, on a day fixed for hearing, the appellant or applicant fails to appear, the appeal or application shall be dismissed unless the Appeals Board decides otherwise.
- (2) Where the appellant or applicant appears and the respondent fails to appear, the appeal or application shall proceed unless the Appeals Board decides otherwise.

- (3) Where an appeal or application is dismissed or allowed, the party in whose absence the appeal or application was dismissed or allowed may, within thirty days of the decision, apply to the Appeals Board to restore the appeal or application, if he was prevented by sufficient cause from appearing.
- (4) Upon the applicant showing good cause, the Appeals Authority shall set aside orders made under subrule (1) and restore the appeal and proceed to determine the appeal pursuant to rule 24.

## PART IV GENERAL PROVISIONS

Withdrawal of appeal or application

- 36.-(1) The appellant or applicant may, at any time after instituting an appeal or filing an application, lodge with the Registrar a notice that he does not intend further to prosecute the appeal or application.
- (2) Upon receipt of the notice, the Appeals Board shall mark the appeal or application withdrawn with or without costs.

Settlement of appeal or application out of Appeals Board

- 37.-(1) Where all the parties to an appeal or application consent to settle the appeal or application out of the Appeals Board, the appellant or applicant shall, within three days from the date of the consent, notify the Registrar in writing of the consent to settle the appeal or application out of the Appeals Board.
- (2) The notice to the Appeals Board shall be attached with the consent agreement signifying the consent of the parties to the appeal or application.
- (3) The consent agreement referred to under subrule (2) shall be signed by all the parties to the appeal or application and shall set out the-

- (a) names of the parties to the appeal or application;
- (b) appeal or application number;
- (c) declaration of each party to the consent agreement;
- (d) terms of the consent agreement; and
- (e) date and place in which the consent agreement is concluded.
- (4) Upon receipt of the notice and the consent agreement, the Appeals Board shall enter judgment in the appeal or make such order to give effect to the settlement.
- (5) For purposes of these Rules, "consent agreement" means a document lodged with the Appeals Board signifying the consent of all parties to an appeal or application to settle the appeal or application out of the Appeals Board.

Costs

38. The Appeals Board may make such orders as to costs as it considers necessary.

Security for costs Cap. 33 39. The Appeals Board may, at any time, direct that security for costs be deposited pursuant to the Civil Procedure Code.

Decision of Appeals Board 40.-(1) The decision of the Appeals Board shall, as far as possible, be made unanimously:

Provided that in the case of the equality of votes, the Chairman shall, in addition to his deliberative vote, have a casting vote.

(2) The decision of the Appeals Board shall be in writing, dated and signed by all members constituting the panel:

Provided that, where a member does not agree with the secession of the majority, he may write a dissenting

opinion.

(2) The decision of the Appeals Board shall be pronounced in public by the Chairman, any member of the panel or the Registrar on the date fixed for that purpose.

Execution of decision of Appeals Board Cap. 33 41. Decisions and orders of the Appeals Board, and application of taxation of costs, shall be enforced and executed by the Appeals Board in the same manner as decisions and orders of the High Court in accordance with the Civil Procedure Code.

Immunity of members

42. A member of the Appeals Board shall not be personally liable for any act or default of the Appeals Board done or omitted in good faith in the course of carrying out the responsibilities and functions of, or exercising the powers conferred upon, the Appeals Board.

Fees

- 43.-(1) The fees prescribed in the Second Schedule shall be payable in respect of matters and services specified therein.
- (2) The fees payable on lodging or filing any document shall be paid at the time when the document is lodged or filed.

### FIRST SCHEDULE

# THE ACCOUNTANTS AND AUDITORS APPEALS BOARD (Made under Rule 8(2)(e))

FORM A

In the matter of intended appeal No
betweenwith Index/Reg No(Appelant)
And(Respondent)
NOTICE OF APPEAL
TAKE NOTICE THATbeing aggrieved/dissatisfied with decision of
GIVEN aton theday
ofintends to appeal to the Appeals Board against the whole decision or part thereof namely
The address for service of the Appellant is
It is intended to serve copies of this notice on
Dated this
Signed(Appellant)
Lodged in the registry of the Appeals Board this
Registrar
Copies to be served upon:

# Accountants and Auditors (Appeals Board) Rules

GN. No. 01(Contd)
Drawn and filed by:
THE ACCOUNTANTS AND AUDITORS APPEALS BOARD FORM B
(Made under Rule 8(5)(c))
In the matter of intended appeal Noof
betweenwith Index/Reg No(Appelant)
And(Respondent)
NOTICE OF ADDRESS FOR SERVICE
TAKE NOTICE that address for service of the respondent(s) served with notice of appeal
is
Dated thisday of20

# Accountants and Auditors (Appeals Board) Rules

GN. No. 01(Contd)
Signed(Appellant)
Lodged in the registry of the Appeals Board thisday of20
Copies to be served upon:
Drawn and filed by:

## THE UNITED REPUBLIC OF TANZANIA

(Made under rule 13(2))

FORM C

IN THE ACCOUNTANTS AND AUDITORS APPEALS BOARD
AT
APPEAL NOOF
BETWEEN
APPELLANT
AND
RESPONDENT
AFFIDAVIT OF PROCESS-SERVER UPON RETURN OF A SUMMONS OR NOTICE
I,
(1) I am a process-server of the Appeals Board.
(2) On the day of
(3) The said
*the said
01 01
*(State any other reason why service could not be effected)
Sworn/Affirmed by the said who is known to me
personally or who has been identified to me by
the latter being known to

# \*Delete whichever is not applicable

## THE UNITED REPUBLIC OF TANZANIA

(Made under rule 9(4))

	APPEAL	NO	OF	
			BETWEEN	
				APPELLANT
			AND	
				RESPONDENT
		<u>MEMOR</u>	ANDUM OF APPEAL	
PART	ΓICULARS OF	THE APPEI	LLANT	
(a)	Name:			
(b)	Index/Reg.		No.	
` /	Postal			
(d)	City,		Municipality,	
(e)	Telephone			
(f)		No:		_
GRO	UNDS/ REASO	NS FOR TH	IE APPEAL	

# Accountants and Auditors (Appeals Board) Rules

GN. No.	. 01(Contd)			
5.	REMEDIES/RELIEFS/0	CLAIMS SOUGHT: (nr	ımher reliefs consec	utively)
٥.	E 1			utively)
	5.2			
	5.3			
	5.4			
	5.5			
	5.6			
	5.7			
	5.8			
	5.9			
	5.10			
Dated t	his	day of	2	0
Name:				
Designa	ation:			
Signed		(the	Appellant/Legally	Authorised
represe	ntative).			
			Registro	ur
Copies	to be served upon:			
		•		
D				
Drawn	and filed by:			
Drawn	and filed by:			
	and filed by:			

## THE UNITED REPUBLIC OF TANZANIA

(Made under rule 16(3))

FORM E

	AT		
	APPEAL NO	OF	
		BETWEEN	
			APPELLANT
		AND	
			RESPONDENT
	DEDLY TO THE		
		MEMORANDUM C	<u> PF APPEAL</u>
PA	RTICULARS OF THE RE	SPONDENT	
Na	me:		
	lex/Reg. No		
Po	stal address:		
Ph	ysical Address:		
Ci	y, Municipality, Town:		
Te	lephone No:		
Fa	x No		
E-1	nail address:		
. ب	PLY TO THE STATEME		ny additional nages as ne
RE (If	the space provided is not a statements. Ensure you adsented by the Appellant)		
RE (If	the space provided is not a statements. Ensure you add		
REE (Iff the pre-	the space provided is not a statements. Ensure you addisented by the Appellant)  ST OF DOCUMENTS	OR ITEMS TO BE	nds of appeal in the same
RE (Iff the pre-	the space provided is not a statements. Ensure you adsented by the Appellant)  ST OF DOCUMENTS	OR ITEMS TO BE	nds of appeal in the same

4.5 4.6 4.7 4.8 4.9

S/N	Name		Designation	Address	
	Dated	this		day	of

Dated	this 20	day	of
Name:		Desig	gnation:
Signed by representa		(the Respondent/Legally Aut	horized
		Registrar	
Copies to be serv	ved upon:		
• • • • • • • • • • • • • • • • • • • •			
Drawn and filed by	:		

## NBAA Appeals Board

(Made under rule 15(3))

FROM E

n the matter of an appeal No	
Appeal from the decision of	
STATEMENT OF INTERVENTION	
Pursuant to the Order of the Appeals Board dated	
1	
t is proposed to ask the Appeals Board for order/orders	
List of documents annexed	
1	
2(etc)	
Signed: Intervener(s)	
Lodged in the Registry of the Appeals Board at this day of	
Registrar	
Copies to be served upon:	
Drawn and filed by:	

## SECOND SCHEDULE

(Made under rule 49)

## Fees

SN	Particulars	Amount	Amount
		(In Tshs)	(In Tshs)
		Individual	Firms
Part .	A: Fees relating to appeals		
1.	lodging notice of appeal	30,000/-	50,000/-
2.	lodging a record and memorandum of appeal	200,000/-	500,000/-
Part	B: Fees in connection with applications		
1.	filling chamber summons and affidavit or counter affidavit	30,000/-	50,000/-
Part	c: Fees in connection intervention proceedings		
1.	Lodging of notice of intervention proceedings	30,000/-	50,000/-
2.	lodging statement of intervention	30,000/-	50,000/-
3.	filling a reply to the statement of intervention	30,000/-	50,000/-
Part	D: Fees in connection to the document to be filled		
1.			
2.			
3.	filing any other document	20,000/-	30,000/-
Part	I E: Miscellaneous	<u> </u>	
1.	Supply a copy of a decision of the Appeals Board	20,000/-	30,000/-
2.	Perusing a case file	20,000/-	30,000/-

Dodoma,	Eliezer Mbuki Feleshi
, 2023	Attorney General