

Rules under section 197 (1)
THE AGRICULTURAL APPEALS TRIBUNAL RULES

L.N.380/1961.

L.N.761/1963.

1. These Rules may be cited as the Agricultural Appeals Tribunal Rules.

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

"appellant" means a person who is empowered by any Act to appeal to the Tribunal;

"chairman" means the chairman of the Tribunal;

"hearing" means a sitting of the Tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses, delivering the decision of the Tribunal or doing anything lawfully requisite to enable the Tribunal to reach a decision on any particular appeal or matter prosecuted before it;

"secretary" means the person appointed by the Minister, from time to time, to perform the duties of secretary to the Tribunal;

"Tribunal" means the Agricultural Appeals Tribunal established under section 193 of the Act.

3. (1) Every appeal shall be made in the form of a memorandum in writing presented by the appellant or his advocate and shall have attached thereto a copy of the order, action, decision or direction appealed against.

(2) Each separate ground of appeal shall be contained in a separate paragraph of the memorandum and numbered consecutively.

(3) The appellant shall, within the time specified in the Act under the provisions of which the appeal is made, deliver to the secretary in person or send to him by registered post his memorandum of appeal.

(4) The appellant shall attach to his memorandum of appeal any documentary evidence, or copy thereof, relative to his appeal, which is in his possession or which he can reasonably obtain.

4. (1) As soon as may be practicable after the lodging of the memorandum of appeal in pursuance of rule 3, the chairman shall fix a date and place for the bearing and shall cause to be served upon the appellant, not less than fourteen clear days before the date fixed for the bearing, a notice in the form in the First Schedule, and shall at the same time cause a copy of the notice to be sent to the Minister.

(2) An appellant may at any time before the hearing of his appeal deliver in writing to the secretary notice that he desires to withdraw his appeal, and thereupon the appeal shall be struck out with such order as to costs as may appear just to the Tribunal.

(3) If at the hearing the appellant fails to appear, either in person or by his representative, or if the Minister's representative fails to appear, it shall be at the discretion of the Tribunal whether to proceed with the hearing or to adjourn the hearing or determine it. or to give such instructions as appear to it to be just and expedient in all the circumstances of the case.

5. (1) The hearings of the Tribunal shall be in public, unless for good cause shown the Tribunal directs that a hearing shall be held in private-

(2) The Tribunal shall give the Minister's representative an opportunity to address the Tribunal and call witnesses, and shall give the appellant and other interested parties or their representatives an opportunity to cross-examine any witness called, and shall give the Minister's representative an opportunity to re-examine any witness cross-examined.

(3) The Tribunal shall give the appellant or his representative an opportunity to address the Tribunal and call witnesses, and shall give the Minister's representative an opportunity to cross-examine any witnesses called, and shall give the appellant or his representative an opportunity to re-examine any witness cross-examined.

(4) The appellant may, if he so desires, give evidence as a witness on his own behalf.

(5) The Tribunal may require any witness to give evidence on oath, and for that purpose the chairman may administer oaths.

6. (1) The provisions of Order XV of the Civil Procedure Rules (which deals with the summoning and attendance of witnesses) shall apply mutatis mutandis for the purposes of hearings under these Rules.

(2) Any assessor called to sit with the Tribunal shall be paid his reasonable out-of-pocket expenses and a daily remuneration, the amount of which shall be decided by the chairman subject to any general or specific direction by the Minister.

7. The Tribunal may with the consent of the owner or occupier, if it deems necessary or expedient in any particular case, enter and inspect any land or anything else of whatsoever description concerned in an appeal.

8. (1) The Tribunal may require the attendance before it of such other persons as witnesses, not called by any of the parties to an appeal, and may consider such other evidence, as may appear to the Tribunal to assist it in reaching its decision, subject to the right of the Minister and the appellant, or their representatives, to cross-examine any such witnesses as provided in rule 5.

(2) The Tribunal shall not be bound to reject any evidence on the ground only that the evidence would be inadmissible in any other court or tribunal, and may dispense with the formal proof of any of the documents mentioned in paragraph (4) of rule 3 and in the Second Schedule.

(3) The Tribunal may take notice of the circumstances existing at the date of the hearing of the appeal where there has been any change of circumstances since the date of the lodging of the appeal.

(4) The Tribunal may adjourn the hearing from time to time if for any reason it appears to the Tribunal necessary or desirable to do so.

9. The chairman may, upon such terms and conditions, if any, as appear to him to be just and expedient, extend the time appointed by these Rules for doing any act or taking any proceedings; a request for any such extension may be addressed to the secretary either before or after the expiration of the time so appointed:

Provided that no such extension shall be granted after the expiry of a period of three months after the time so appointed.

10. (1) The decision of the Tribunal shall be recorded in a document to be certified by the chairman as correctly recording such decision,

(2) As soon as may be practicable after the certification of the document mentioned in paragraph (1), a copy thereof, certified in accordance with paragraph (3), shall be forwarded by the secretary to the Minister and to the appellant.

(3) Copies of the document referred to in paragraph (2) shall be prepared as may be necessary by the secretary and shall be certified by him as true copies.

(4) Every copy so certified shall be conclusive evidence of the decision of the Tribunal on the matter to which the decision relates.

11. (1) Save as in these Rules expressly provided, the Tribunal shall have the power to regulate its own procedure.

(2) Subject to the provisions of rule 9, non-compliance by either the Minister or an appellant with any of the provisions of these Rules shall not render proceedings void unless the Tribunal so directs, and the chairman may at any time give such instructions as appear to him to be necessary or desirable by reason of any such non-compliance.

12. (1) Any appeal to the Tribunal under paragraph (ii) of the proviso to subsection (5) of section 2 of the Act shall be made by notice in writing in the form in the Third Schedule to these Rules, signed by the appellant or his advocate, and served at the same time on—

(a) the secretary; and

(b) any person interested or appearing to the appellant to be interested in the land.

(2) Any person served with a notice under subparagraph (ft) of paragraph (1) may, if he so desires, within twenty-one days from the date of service, make a written statement either personally or through his advocate, by way of comment upon the application and serve copies of the statement upon the appellant, or his advocate and the Minister, and in that event he shall at the same time forward a copy of the statement to the secretary.

(3) As soon as may be practicable after the period of twenty-one days, the chairman shall fix a date and place for the hearing of the appeal, and shall cause to be served upon the parties interested in the appeal, or their advocates, not less than ten clear days before the date fixed for the hearing, a notice in the form in the Fourth Schedule.

(4) The chairman may at any time direct that a copy of any notice of appeal pending under this rule, and of the notice of hearing, shall be served upon any person appearing to him to be interested in the land the subject of the appeal, whether or not that person is named in the notice of appeal or has been served with a notice in accordance with subparagraph (b) of paragraph (1).

13. (1) When in the opinion of the chairman a matter arises in a hearing under these Rules which calls for special knowledge, he may call upon any person who he considers to be possessed of such special knowledge to sit with the Tribunal as an assessor.

(2) At the conclusion of a hearing with an assessor, the chairman shall require the assessor to state his opinion on the matter referred to in paragraph (1).

(3) The Tribunal in delivering its decision shall not be bound to conform to the opinion of the assessor.

(4) In the event of the Tribunal not agreeing with the opinion of an assessor it shall record the reasons for so doing in writing.

14. (1) There shall be paid to the secretary the sum of twenty shillings at the time of lodging an appeal under rule 3 or an application under paragraph (2) of rule 12:

Provided that if the appellant or applicant, as the case may be, succeeds in the appeal or application such fee shall be returned to him.

(2) Any such fees not refunded shall be paid by the secretary to the Minister.

SECOND SCHEDULE (r. 8 (2))
DOCUMENTS OF WHICH FORMAL PROOF MAY BE DISPENSED WITH AT THE
DISCRETION OF THE TRIBUNAL

1. A plan of any land concerned in the case.
2. A schedule, related to the plan, of any crops, including existing crops or fallows, previous crops or fallows, and any permanent or temporary pasture, relative to the Minister's case.
3. A copy of any directions relative to the Minister's case given by or on behalf of the Minister to the appellant.
4. A copy of any documentary evidence relative to the Minister's case, other than documents sent, given or served at any time by or on behalf of the Minister to or on the appellant.

THIRD SCHEDULE (r. 12 (1))
NOTICE OF APPEAL AGAINST DETERMINATION OF OWNERSHIP BY THE MINISTER

TO.....
.....
.....

TAKE NOTICE that
of
is appealing to the Agricultural Appeals Tribunal under the proviso to section 2 (5) of the Agriculture Act, for a determination that the said.....
in relation to the provisions of Part I of the said Act, be treated as the owner of the land known as in the place ofwho has been determined by the Minister to be deemed to be the owner of the said land.

My reasons for this appeal are as follows—

The following persons are or appear to be interested in the land—

Names Addresses

Date.....
Appellant or his Advocate.
.....

FOURTH SCHEDULE (r. 12 (3))
NOTICE OF LEAVING OF APPEAL AGAINST DETERMINATION OF OWNERSHIP BY THE
MINISTER

The Agricultural Appeals Tribunal

P.O. Box

NAIROBI

To.....

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.....

NOTICE OF HEARING

TAKE NOTICE that a hearing of the appeal by dated that he should, in relation to the provisions of Part I of the Agriculture Act, be treated as the owner of the land known as.....

..... in the place of has been fixed to take place at

on the day of 19....,ato'clock in the noon. If for any reason you do not propose or are unable to attend, either in person or by your representative, you should IMMEDIATELY inform me in writing at the address mentioned at the head of this Notice, stating the reasons for your inability to attend.

Date.....

for Chairman.