

Rwanda

Law establishing a Rwanda Revenue Authority Law 15 of 1997

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Law 15 of 1997

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Commenced on 15 November 1997

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We, Pasteur BIZIMUNGU,

President of the Republic

THE TRANSITIONAL NATIONAL ASSEMBLY HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND WE ORDER THAT IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.

The Transitional National Assembly meeting in its session of September 23, 1997;

Given the Fundamental Law of the Republic of Rwanda, in particular the Constitution of June 10, 1991, in articles 69 and 78 and the Arusha Protocol of Agreement on Power-Sharing, in Articles 6-d, 40, 72 and 73;

Given the Decree-Law no 39/75 of November 7, 1975, on Public Establishments, as amended;

Given the Law n° 2 of March 11, 1996, on Government-owned establishments and on public investments in Article 5 - 2;

ADOPTS:

Chapter I **Designation and functions**

Article 1

There is hereby established a body to be called the Rwanda Revenue Authority, hereinafter referred to as the «Authority».

Article 2

The Authority shall be a public establishment and shall be supervised by the Ministry having jurisdiction over finance («the Ministry»).

The Authority has its head office in Kigali. It may establish branch offices elsewhere to ensure it is able to carry out its responsibilities.

The Ministry having jurisdiction over finance shall remain responsible for fiscal policy.

Article 3

The Authority shall be a body corporate and may:

- (a) acquire, dispose of and hold property;
- (b) sue and be sued in its corporate name;

- (c) prosecute violations of taxation and customs laws;
- (d) do all such other things as a body corporate may lawfully do.

Article 4

Every document purporting to be an instrument issued by the Authority and to be sealed by the seal of the Authority shall be deemed to be such an instrument and shall be received in evidence without further proof.

Article 5

Within the limits of taxation and customs law, the functions of the Authority shall be to assess, collect, administer and account for fiscal and customs revenue collected thereunder to the Ministry. The Authority shall also be responsible for granting exemptions provided for in taxation and customs law, in accordance with procedure established by the Authority.

Article 6

The Authority shall also advise the Government on matters of policy relating to revenue.

The Authority shall also perform such other functions in relation to revenue as the Cabinet may direct.

Chapter II The Board of Directors

Article 7

The governing body of the Authority shall be the Board, which has administrative powers and power to dispose of property to carry out its purposes.

Article 8

The Board shall consist of eight voting members who are:

- (a) the Chairman of the Board, appointed by the Prime Minister by way of ministerial order on decision of the Cabinet;
- (b) the Commissioner General of the Authority;
- (c) the Secretary General in the Ministry having jurisdiction over finance, as an *ex-officio* member;
- (d) the Secretary General in the Ministry having jurisdiction over Commerce and Industry, as an *ex-officio* member;
- (e) the Governor of the National Bank of Rwanda (NBR) because of his or her attributions.
- (f) three upright and distinguished members in the fields of accountancy, law or economics, or other relevant fields, appointed by the Prime Minister on recommendation of the Cabinet. The integrity of these members is to be taken into account.

None of the Board of Directors is allowed to vote during the debates over issue relating to him personally.

Article 9

The Board shall have the duty to review and adopt the policy of the Authority submitted by the management team in accordance with article 24. The Board shall then supervise the implementation of the agreed policy.

The Board may also form committees for the purposes of carrying out its functions.

Article 10

All members of the Board shall be paid fees as determined by the Cabinet on proposal of the Minister having jurisdiction over finance (the «Minister»).

The members shall serve for a term of three years and shall be eligible for reappointment for one additional term, unless their membership is by virtue of their employment, in which case their membership will continue as long as they remain in the relevant office.

Where a member is replaced before his or her term is completed, his or her replacement shall complete the term.

Article 11

A member of the Board may, in writing addressed to the Prime Minister, resign his or her office.

The resignation is valid only when it is accepted by the Prime Minister, upon advice of the Cabinet. If the decision is not made within four months, the resignation is deemed accepted.

Article 12

The Prime Minister, on the decision of the Cabinet, may suspend or terminate the appointment of a member of the board of Directors:

- (a) for the member's inability to perform the functions of his or her office;
- (b) for misbehaviour;
- (c) if the member is declared bankrupt or insolvent;
- (d) if the member is in fact convicted of a criminal offence;
- (e) if the member was absent from four consecutive meetings of the Board in a financial year without justification or a prior permission of the Chairman.

Article 13

The Board shall hold its meetings at such time and place as it determines, at least once monthly, but as often as the interests of the Authority require.

The first meeting shall be convened by the Chairman of the Board and this shall elect one of its members to be the Vice-President.

Article 14

The Chairman shall preside at every meeting of the Board and in his or her absence, the Vice President takes over his or her responsibility.

Article 15

The Chairman or, in his or her absence, the Vice-President in his or her place may, at any time, call for a special meeting on his or her own motion or upon a written request by a majority of the members of the board of Directors.

Article 16

Notice of a Board meeting shall be given in writing to each member at least five days before the meeting but an urgent meeting may be called at less than five days notice at the Chairman's own motion or at the request of two or more members.

Article 17

The Board may hold meetings and make valid decisions at least if two thirds of its members are present.

A simple majority of the members present at a meeting is sufficient to pass a proposition. In the event of equality of votes, the Chairman has a casting vote.

Article 18

A member of the Board who has direct or indirect personal interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest to the Board.

Article 19

A disclosure of interest under article 18 shall be recorded in the minutes of the meeting of the Board and the member making this disclosure shall not, unless the Board otherwise determines, vote in respect of the matter.

If it is established that the member having a personal interest in the issue being discussed has willingly hidden the interest, but the decision on the vote of which he or she has participated has not yet come into force, the decision in question will be subject to revision, and the member withheld from having access to meetings until disciplinary strategies are taken over his or her conduct according to articles 12 and 23 of this law.

In case a member has participated to vote for a decision hiding voluntarily his or her personal interest and in case the decision is implemented, the member shall have no access in meetings and shall be submitted to a penalty according to the provision in articles 12 and 23 of this Law. And, he or she ought to bear the responsibility of the decision's negative effects on the Authority achievement.

Chapter III

Organization of services and staff of the Authority

Article 20

The Commissioner General of the Authority shall be responsible for day-to-day management of the Authority and shall be appointed by an order of the Prime Minister issued in a Cabinet meeting, on the recommendation of the Board, following open competition and selection.

The Commissioner General shall be appointed on a renewable five year performance contract.

Article 21

The Commissioner General shall report to the Board on the general functioning of the Authority. The Commissioner General or the person acting in his or her place shall represent the Authority in justice. However he or she may be represented by lawfully entitled persons.

Article 22

The Commissioner General shall not undertake or accept any other gainful employment or business. In the absence or incapacity of the Commissioner General, he appoints in the interim one of his or her collaborators present in the Authority. The Commissioner General shall make a declaration over this replacement to the Board of Directors.

The board of Directors may appoint one member among them to replace the Commissioner General in his or her absence if it is not possible in the case above. The board fixes also the period of that interim.

Article 23

The Cabinet may, after consultation with the Board, suspend or terminate the appointment of the Commissioner General:

- (a) for misbehaviour;
- (b) for incompetence;
- (c) for breach of employment contract;
- (d) if he or she is declared bankrupt or insolvent;
- (e) if he or she is definitely convicted of a criminal offence; or
- (f) for any other sufficient cause.

The Prime Minister shall sign the suspension or termination order.

Article 24

The management team of the Authority shall be appointed by the Board of Directors for a renewable three year performance contract.

The management team shall be responsible for formulating the policy of the Authority. It shall then submit the policy to the Board for approval or amendment according to article 9 of the present law.

Article 25

Members of the management team referred to in article 24 may, at their request or upon invitation of the Board, attend and participate in the deliberations of the meetings of the Board of Directors but without voting rights.

Article 26

The management team shall be responsible to appoint and fire junior employees of the Authority.

Article 27

The Board or such other body, including the management team, as the Board may appoint shall be responsible for the discipline of the staff of the Authority.

Article 28

The statutes, the organic structure for the staff and the organisation of the Authority services are determined by the Board.

The Board shall legally determine the salaries, treatments and other benefits payable to the officers and staff of the Authority.

Chapter IV

Financial provisions

Article 29

Revenue collected by the Authority under this Law shall be credited to the Public Treasury.

However the Authority may retain a percentage of collected revenue in order to operate, but that percentage shall not exceed its own budget allocated for that financial year.

Article 30

The funds of the Authority are constituted by:

- (a) amounts of money of the Authority's own budget appropriated by the state in its budget.
- (b) loans or grants received by the Authority after the approval of the Minister of guardianship.
- (c) any other monies as may be received by or made available to the Authority for the purpose of performing its functions.

Article 31

The draft budget for each financial year is prepared by the Commissioner General and submitted to the Board which shall scrutinise it and then transmit it to the Ministry. The budget draft is finally approved by the Cabinet and transmitted to the National Assembly in the budget draft by the Ministry of guardianship.

Article 32

The Commissioner General shall, not later than three months before the end of each financial year, prepare and submit to the Board estimates of the Authority's income and expenditure for the following year. The Commissioner General may, before the end of a financial year, prepare and submit any estimates supplementary to the estimates of a current financial year.

Article 33

No expenditure shall be made out of the funds of the Authority unless that expenditure is approved by the Board under the estimates for the financial year in which the expenditure is to be incurred or in the supplementary of the estimates of the year.

Chapter V

Annual reports and audit

Article 34

The Authority shall ensure that all funds received are properly accounted for to the Ministry, that all payments made from those funds are properly authorised and that adequate control is maintained over its property and over the incurring of liabilities by the Authority.

Article 35

The annual accounts of the Authority shall be audited by a competent, official organ established by law. Such organ may appoint an external auditor if it deems it necessary.

Article 36

The Commissioner General shall within three months after the end of each financial year submit:

- (a) to the Ministry, the Cabinet and the Board an annual report in respect of the year, containing:
 - (i) financial statements,
 - (ii) a short and medium term business plan specifying, amongst other things:
 - (1) performance indicators and any other related information,
 - (2) a report on the operations of the Authority;
 - (iii) such other information as the Ministry, the Cabinet or the Board may, before or after the completion of the annual report, direct;
- (b) to the Cabinet, reports on a regular basis, at least quarterly, on the operations of the Authority
- (c) to the Public Accounts Court and the Auditing organ specified in Article 35 of this law:
 - (i) the accounts of the Authority for the financial year, and
 - (ii) the annual report referred to in paragraph (a) of this Article.

Article 37

The high Auditing Organ of legal competence shall have to audit the accounts within two months after he or she has received them and submit his or her report to the Board, the Cabinet, the Public Accounts Court and the National Assembly.

Article 38

An Internal Auditor shall be appointed to be responsible for the regular auditing of the Authority's accounts. He or she shall submit to the Commissioner General a report in respect of each audit conducted, and provide copies thereof to the Board and the Ministry. The report shall indicate corrective actions that need to be taken. The Auditor shall also submit to the commissioner General a quarterly audit report summarising the audits carried out over the period, and provide copies thereof to the Board and the Ministry.

Article 39

The Commissioner General shall submit every report referred to in Article 38 to the high Auditing organ specified by the present law.

Chapter VI Transitional and final provisions

Article 40

All property, except any such property as the Cabinet may determine, which immediately before the commencement of this Act belonged to Government for the use of revenue departments, namely the Customs

and Taxation departments, shall, on the date of commencement of this Act and without further assurance, be taken over and be possessed by the Authority subject to all interests, liabilities, charges, obligations affecting the said property.

Article 41

Except as otherwise provided in Article 40 of this Law in relation to property, all contracts, debts, commitments and liabilities of the Government attributable to the Departments of Customs and Taxation shall remain vested in the Government and may be enforced by or against the Government.

Article 42

All legal proceedings and claims pending in respect of revenue to which Article 5 applies shall be continued at the Authority's behest.

Article 43

All previous provisions contrary to the present Law are abrogated.

Article 44

This Law is written in the three official languages of the Republic of Rwanda, the version in English being considered as the original.

Article 45

This Law comes into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.