

## CHAPTER 171

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## CHAPTER 171

### THE EXCHANGE CONTROL ACT.

*Commencement:* 15 November, 1951.

**An Act to confer powers and impose duties and restrictions in relation to gold, currency, payments, securities and debts, and the import, export, transfer and settlement of property, and for purposes connected with the matters aforesaid.**

#### PART I—INTERPRETATION.

##### 1. General provisions as to interpretation.

- (1) In this Act, except so far as the contrary is expressly provided or the context otherwise requires—
- (a) “authorised dealer” means, in relation to gold or any foreign currency, a person for the time being authorised by the Minister by statutory order to act for the purposes of this Act as an authorised dealer in relation to gold or, as the case may be, that foreign currency;
  - (b) “authorised depositary” means a person for the time being authorised by the Minister by statutory order to act as an authorised depositary for the purposes of Part IV of this Act;
  - (c) “bearer certificate” means a certificate of title to securities by the delivery of which, with or without endorsement, the title to the securities is transferable;
  - (d) “certificate of title to securities” means any document of title by which a person recognises the title of another to securities issued or to be issued by the first-mentioned person, and in the case of any such document with coupons, whether attached or on separate coupon sheets, includes any coupons which have not been detached;
  - (e) “coupon” means a coupon representing dividends or interest on a security;
  - (f) “foreign currency” has the meaning ascribed to it by section 2;
  - (g) “gold” means gold coin or gold bullion;
  - (h) “policy of assurance” means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—

(i) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life; and (ii) any policy securing the payment of an immediate annuity, and the reference in this definition to the occurrence of a specified event which is certain to happen shall include the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen; (i) “prescribed” means prescribed, for the purposes of the provision

in question by statutory order of the competent authority; (j) “scheduled territories” has the meaning ascribed to it by section 2; (k) “secondary securities” has the meaning ascribed to it by section 20;

- (l) “securities” means the shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty;
- (m) “unit” means, in relation to a unit trust scheme, a right or interest, whether described as a unit, as a subunit or otherwise, which may be acquired under the scheme;
- (n) “unit trust scheme” means any arrangements made for the purpose, or having the effect, of providing for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of any property.

(2) Any provision of this Act, however worded, the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or, as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of this Act imposing an obligation on any person to do an act if he or she possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly—

- (a) where all those persons possess that attribute, operate to impose a joint obligation on all of them to do the act; and
- (b) where only some of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that

attribute to do all he or she can to secure the doing of the act.

(3) Any power conferred by this Act to prescribe the declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a specified manner.

(4) Nothing in this Act shall be construed as requiring the Minister to pay any sum otherwise than in East African shillings or otherwise than in Uganda, and any provision of this Act requiring the Minister to pay any sum to any person shall, where that sum is in a foreign currency, be construed as a provision that the Minister shall pay to that person the amount in East African shillings which he or she would have received for the foreign currency if he or she had sold it to an authorised dealer in pursuance of an offer made under section 3 at the time when the sum is paid.

(5) The obligations and prohibitions imposed by this Act shall, subject to the express limitations contained in the Act, apply to all persons, notwithstanding that they are not Uganda citizens.

## PART II—GOLD AND FOREIGN CURRENCY.

### **2. Dealings in gold and foreign currency.**

(1) Except with the permission of the Minister, no person, other than an authorised dealer, shall, in Uganda, and no person resident in Uganda, other than an authorised dealer, shall outside Uganda, buy, borrow or hold any gold or foreign currency from, or sell or lend any gold or foreign currency to any person other than an authorised dealer.

(2) Except with the permission of the Minister, no person resident in the scheduled territories, other than an authorised dealer, shall, in Uganda, do any act which involves, is in association with or is preparatory to buying or borrowing any gold or foreign currency from, or selling or lending any gold or foreign currency to, any person outside Uganda.

(3) Where a person buys or borrows any gold or foreign currency in Uganda or, being a person resident in Uganda, or a person resident in the scheduled territories, does any act which involves, is in association with or is preparatory to the buying or borrowing of gold or foreign currency outside Uganda, he or she shall comply with such conditions as to the use to which

it may be put or the period for which it may be retained as may from time to time be notified to him or her by the Minister.

- (4) In this Act—
  - (a) “foreign currency” means any currency issued as legal tender in any country outside the scheduled territories, and any reference to foreign currency, except so far as the context otherwise requires, includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank;
  - (b) reference to the buying or selling of foreign currency shall include references to any transaction by which foreign currency is exchanged for any article, goods, services or other valuable consideration;
  - (c) “scheduled territories” means the territories specified in the First Schedule to this Act.

(5) The Minister may, by statutory instrument, amend the First Schedule to this Act.

### **3. Surrender of gold and foreign currency.**

(1) Every person in Uganda and every person resident in Uganda who is entitled to sell, or to procure the sale of, any gold, or any foreign currency to which this section applies, and is not an authorised dealer, shall offer it, or cause it to be offered, for sale to an authorised dealer within a period specified by the Minister by statutory order, unless the Minister consents to his or her retention and use of the gold or foreign currency or he or she disposes of it to any other person with the permission of the Minister.

(2) If a person who has obtained the consent of the Minister to his or her retention and use of any gold or foreign currency, and has stated in an application for the consent that he or she requires the gold or currency for that purpose, subsection (1) shall thereupon apply to him or her in relation to that gold or currency as if the Minister had revoked his or her consent to the person’s retention and use of the gold or currency.

(3) A person who acquires any gold or foreign currency from an authorised dealer shall be treated for the purposes of this section as if the Minister had consented to his or her retention and use of that gold or currency, subject, however, to any conditions notified to him or her in accordance with section 2(3), and as if any statement he or she made in an

application for that gold or currency as to the purpose for which he or she requires it had been made by him or her in an application for the Minister's consent to his or her retention and use of it.

(4) Where a person has become bound under this section to offer or cause to be offered any gold or foreign currency for sale to an authorised dealer, he or she shall not be deemed to comply with that obligation by any offer made or caused to be made by him or her, if the offer is an offer to sell at a price exceeding that authorised by the Minister, or without payment of any usual and proper charges of the authorised dealer, or otherwise on any unusual terms.

(5) Where a person has become bound under this section to offer or cause to be offered any gold or foreign currency for sale to an authorised dealer and has not complied with that obligation, the Minister may direct that that gold or currency shall vest in him or her, and it shall vest in the Minister accordingly free from any mortgage, pledge or charge, and the Minister may deal with it as he or she thinks fit, but the Minister shall pay to the person who would but for the direction be entitled to the gold or currency such sum as the person would have received for it if he or she had sold it to an authorised dealer in pursuance of an offer made under this section at the time when the vesting occurred.

(6) In any proceedings in respect of a failure to comply with this section, it shall be presumed, until the contrary is shown, that the gold or currency in question has not been offered for sale to an authorised dealer.

#### **4. Bailees of gold and foreign currency.**

(1) Every person in Uganda by whom or to whose order, whether directly or indirectly, any gold or any foreign currency in the form of notes is held in Uganda but who is not entitled to sell it or procure its sale shall notify the Minister in writing that he or she so holds that gold or currency.

(2) The Minister may direct any person in Uganda by whom or to whose order, whether directly or indirectly, any gold or any foreign currency in the form of notes is held in Uganda, whether or not he or she is entitled to sell it or procure its sale, to cause that gold or currency to be kept at all times in the custody of such banker as may be specified in the direction.



## **5. Travellers cheques, etc.**

(1) Every person in Uganda and every person resident in Uganda who holds or to whose order there is held any document to which this section applies, being a document expressed in terms of East African shillings, shall encash it or cause it to be encashed in the scheduled territories with the person issuing it or with a banker, unless the Minister consents to the person's retention and use of the document and, where in the person's application for that consent he or she has stated that he or she requires it for a particular purpose, unless also he or she still requires it for that purpose.

(2) Any person who acquires any document to which subsection (1) applies from an authorised dealer shall be treated for the purposes of that subsection as if the Minister had consented to his or her retention and use of that document, subject, however, to any conditions notified to him or her in accordance with of section 2(3), and as if any statement he or she made in an application for that document as to the purpose for which he or she requires it had been made by him or her in an application for the consent of the Minister to his or her retention and use of it.

(3) A document to which this section applies not expressed in terms of East African shillings shall, if it is of a kind intended to enable the person to whom it is issued to obtain any foreign currency, be treated also for the purposes of this Act as itself being foreign currency.

(4) For the purposes of this Act, the person issuing a document to which this section applies, and the person to whom the document is issued, shall be deemed respectively to sell and buy foreign currency and where foreign currency is obtained by means of the document, to sell and buy that foreign currency.

(5) This section shall apply to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it and ,in particular, to any travellers cheque or other draft or letter of credit so intended.

### PART III—PAYMENTS.

#### **6. Payments in Uganda.**

Except with the permission of the Minister, no person shall do any of the following—

- (a) make any payment to or for the credit of a person resident outside the scheduled territories;
- (b) make any payment to or for the credit of a person resident in the scheduled territories by order or on behalf of a person resident outside the scheduled territories;
- (c) open an account outside the scheduled territories or make payments to such account held by a person resident in the scheduled territories; or
- (d) place any sum to the credit of any person resident outside the scheduled territories; except that where a person resident outside the scheduled territories has paid a sum in or towards the satisfaction of a debt due from him or her, this paragraph shall not prohibit the acknowledgment or recording of the payments.

#### **7. Payments outside Uganda.**

(1) Except with the permission of the Minister, no person shall in Uganda and no person resident in Uganda shall, outside Uganda, subject to this section, make any payment outside Uganda to or for the credit of a person resident outside the scheduled territories, and no person resident in the scheduled territories shall, in Uganda do any act which involves, is in association with or is preparatory to the making of any such payment.

(2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him or her in accordance with Part II of this Act or retained by him or her in pursuance of a consent of the Minister given in that behalf.

#### **8. Compensation deals.**

(1) Except with the permission of the Minister, no person shall in Uganda and no person resident in Uganda shall, outside Uganda, make any payment to or for the credit of a person resident in the scheduled territories, and no person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to the making of any

such payment outside Uganda, as consideration for or in association with—

- (a) the receipt by any person of a payment made outside the scheduled territories, or the acquisition by any person of property which is outside the scheduled territories; or
- (b) the transfer to any person, or the creation in favour of any person, of a right, whether present or future, and whether vested or contingent, to receive a payment outside the scheduled territories or to acquire property which is outside the scheduled territories.

(2) Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

#### PART IV—SECURITIES.

### **9. Issue of securities.**

(1) Except with the permission of the Minister, no person shall, in Uganda, issue any security or whether in Uganda or elsewhere, do any act which involves, is in association with or is preparatory to the issuing outside Uganda of any security which is registered or to be registered in Uganda, unless the following requirements are fulfilled—

- (a) neither the person to whom the security is to be issued, nor the person, if any, for whom he or she is to be a nominee, is resident outside the scheduled territories; and
- (b) the prescribed evidence is produced to the person issuing the security as to the residence of the person to whom it is to be issued and that of the person, if any, for whom he or she is to be a nominee.

(2) The subscription of the memorandum of association of a company to be formed under the Companies Act, by a person resident outside the scheduled territories, or by a nominee for another person so resident, shall, unless he or she subscribes the memorandum with the permission of the Minister, be invalid insofar as it would on registration of the memorandum have the effect of making him or her a member of or shareholder in the company, so, however, that this provision shall not render invalid the incorporation of the company.

(3) Where, by virtue of subsection (2), the number of the subscribers of the memorandum who on its registration become members of the company

is less than the minimum number required to subscribe the memorandum, the provisions of the Companies Act, relating to the carrying on of business of a company, the number of whose members is reduced below the legal minimum shall apply to the company as if the number of its members had been so reduced.

#### **10. Transfer of securities and coupons.**

(1) Except with the permission of the Minister, a security registered in Uganda shall not be transferred, and a security not so registered shall not be transferred in Uganda, unless, in either case, the following requirements are fulfilled—

- (a) neither the transferor nor the person, if any, for whom he or she is a nominee is resident outside the scheduled territories;
- (b) the transferor delivers to the transferee at or before the time of the transfer the prescribed declarations as to his or her residence and that of the person, if any, for whom he or she is a nominee;
- (c) neither the transferee nor the person, if any, for whom he or she is to be a nominee is resident outside the scheduled territories;
- (d) except where the security is registered in Uganda otherwise than in a subsidiary register, the Minister is satisfied that the requirements of paragraph (c) of this subsection are fulfilled; but—
  - (i) neither the transferee nor his or her agent shall be deemed to have committed an offence by reason only that the requirements of paragraph (a) of this subsection were not fulfilled unless the transferee or, as the case may be, his or her agent, knew or had reason to believe that those requirements were not fulfilled; and
  - (ii) neither the transferor nor his or her agent shall be deemed to have committed an offence by reason only that any of the requirements of paragraphs (c) and (d) of this subsection have not been fulfilled unless, in the case of a nonfulfillment of the requirements of paragraph (c), the transferor or, as the case may be, his or her agent, knew or had reason to believe that those requirements were not fulfilled.

(2) Except with the permission of the Minister, a security not registered in Uganda shall not be transferred outside Uganda if either the transferor or the transferee, or the person, if any, for whom the transferor or

transferee is or is to be a nominee, is resident in Uganda.

- (3) Except with the permission of the Minister—
  - (a) no coupon shall be transferred in Uganda if either the transferee or the person, if any, for whom he or she is to be a nominee is resident outside the scheduled territories;
  - (b) no person shall in Uganda do any act which involves, is in association with or is preparatory to the transfer of any coupon outside Uganda if either the transferor or transferee, or the person, if any, for whom the transferor or transferee is or is to be a nominee, is resident in Uganda.

#### **11. Issue of bearer certificates and coupons.**

Except with the permission of the Minister, no person shall, in Uganda, and no person resident in Uganda shall, outside Uganda, issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon, and no person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to such issue or alteration outside Uganda.

#### **12. Substitution of securities and certificates outside Uganda.**

(1) Except with the permission of the Minister, no person in Uganda shall, and no person resident in Uganda shall, outside Uganda, do any act with intent to secure—

- (a) that a security which is—
  - (i) registered in Uganda; or
  - (ii) transferable by means of a bearer certificate in Uganda, becomes, or is replaced by, a security registered outside Uganda or a security transferable by means of a bearer certificate issued outside Uganda; or
- (b) that a certificate of title to any other security is issued outside Uganda in substitution for or in addition to a certificate of title to that security which is in, or is or has been lost or destroyed in Uganda.

(2) Except with the permission of the Minister, no person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in subsection (1)(a) or (b).

### **13. Payments of capital monies outside Uganda.**

Except with the permission of the Minister—

- (a) no person in Uganda and no person resident in Uganda shall outside Uganda do any act with intent to secure that capital monies payable on a security registered in Uganda are paid outside Uganda, or that, where the certificate of title to a security is in Uganda, capital monies payable on the security are paid outside Uganda without production of the certificate to the person making the payment;
- (b) no person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in paragraph (a).

### **14. Duties of persons keeping registers.**

Except with the permission of the Minister, no person concerned with the keeping of any register in Uganda shall—

- (a) enter in the register the name of any person in relation to any security unless there has been produced to him or her the prescribed evidence that the entry does not form part of a transaction which involves the doing of anything prohibited by this Act;
- (b) enter in the register, in respect of any security, an address outside the scheduled territories, except for the purpose of any transaction for which the permission of the Minister has been granted with the knowledge that it involved the entry of that address; or
- (c) do any act in relation to the register which recognises or gives effect to any act appearing to him or her to have been done with such intent as is mentioned in sections 12 and 13, whether done by a person in or resident in Uganda or not.

### **15. Additional provisions as to nominee holdings.**

- (1) Where—
    - (a) the holder of a security is a nominee and the person for whom he or she is a nominee is resident outside the scheduled territories;
- or

(b) the holder of a security is not a nominee and is resident outside the scheduled territories, then, except with the permission of the Minister, no person resident in Uganda shall do any act by which the holder becomes his or her nominee in respect of the security.

(2) Except with the permission of the Minister, a person resident in Uganda for whom the holder of a security is a nominee shall not do any act by which—

- (a) the holder, being a person resident outside the scheduled territories, holds the security otherwise than as his or her nominee; or
- (b) the holder, not being a person resident outside the scheduled territories, holds the security as nominee for a person resident outside the scheduled territories.

(3) Where the holder of a security is a nominee, then, except with the permission of the Minister, neither he nor she, if he or she is resident in Uganda, nor any person resident in Uganda through whose agency the exercise of all or any of the holder's rights in respect of the security are controlled, shall—

- (a) do any act by which he or she recognises or gives effect to the substitution of another person as the person from whom he or she directly receives his or her instructions unless both the person previously instructing him or her and the person substituted for that person were, immediately before the substitution, resident in the scheduled territories and not elsewhere; or
- (b) do any act by which he or she ceases to be a person bound to give effect to the instructions of another person in relation to the security, unless the person who previously instructed him or her is resident in the scheduled territories and not elsewhere.

(4) Where the holder of a security is not a nominee and is resident in Uganda, then, except with the permission of the Minister, he or she shall not do any act by which he or she becomes the nominee of another person in respect of the security, unless that other person is resident in the scheduled territories and not elsewhere.

(5) No person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in this section.

## **16. Deposit of certificates of title.**

(1) This section and section 17 apply to any security except—

- (a) a security which is registered in Uganda otherwise than in a subsidiary register, and on which none of the dividends or interest is payable on presentment of a coupon; and
- (b) any other securities as may be prescribed,

and in the following provisions of this section and in section 17 the expressions “security”, “certificate of title” and “coupon” mean respectively a security to which the sections apply, a certificate of title to such a security and a coupon representing dividends or interest on such a security.

(2) It shall be the duty of every person by whom or to whose order, whether directly or indirectly, a certificate of title is held in Uganda, and of every person resident in Uganda by whom or to whose order, whether directly or indirectly, a certificate of title is held outside Uganda, to cause the certificate of title to be kept at all times, except with the permission of the Minister, in the custody of an authorised depositary, and nothing in this Part of this Act shall prohibit the doing of anything for the purpose of complying with the requirements of this subsection.

(3) Except with the permission of the Minister, an authorised depositary shall not part with any certificate of title or coupon required under this section to be in the custody of an authorised depositary; but this subsection shall not prohibit an authorised depositary—

- (a) from parting with a certificate of title or coupon to or to the order of another authorised depositary, where the person from whom the other authorised depositary is to receive instructions in relation to the certificate of title or coupon is to be the same as the person from whom he or she receives instructions;
- (b) from parting with a certificate of title, for the purpose of obtaining payment of capital monies payable on the security, to the person entrusted with payment of the capital monies;
- (c) from parting with a coupon in the ordinary course for collection.

(4) Except with the permission of the Minister, no capital monies, interest or dividends shall be paid in Uganda on any security except to or to the order of an authorised depositary having the custody of the certificate of title to that security, so, however, that this subsection shall not be taken as restricting the manner in which any sums lawfully paid on account of the



capital monies, interest or dividends may be dealt with by the person receiving them.

(5) Except with the permission of the Minister, an authorised depositary shall not do any act by which he or she recognises or gives effect to the substitution of one person for another as the person from whom he or she receives instructions in relation to a certificate of title or coupon, unless there is produced to him or her the prescribed evidence that he or she is not by so doing giving effect to any transaction which is prohibited by this Act.

(6) Where a certificate of title which under this section should for the time being be in the custody of an authorised depositary is not in the custody of an authorised depositary, then except with the permission of the Minister, no person shall, in Uganda, and no person resident in Uganda shall, outside Uganda, buy, sell, transfer or do anything which affects his or her rights or powers in relation to, the security, or do any act which involves, is in association with or is preparatory to any such transaction outside Uganda.

(7) Except with the permission of the Minister, no person in or resident in Uganda shall, in the case of a certificate of title with coupons, whether attached or on separate coupon sheets, detach any of the coupons otherwise than in the ordinary course for collection.

#### **17. Additional provisions as to deposited certificates.**

(1) Where a certificate of title to a security is by section 16 required to be and is in the custody of an authorised depositary, the provisions of this section shall, except so far as the Minister otherwise directs, have effect in relation to it until—

- (a) there are delivered to him or her the prescribed declarations as to the ownership of the security and the residence of the owners of the security; and
- (b) in the case of a certificate of title which— (i) would ordinarily be accompanied by coupons, whether attached or on separate coupon sheets; but (ii) when it comes into custody of the authorised depositary wants, in order to render it complete, any coupons which would not in the ordinary course have been detached for collection, there have also been deposited with him or her the coupons so wanting at the time when the certificate of title comes into his or her custody; but where the

prescribed declarations have been delivered to an authorised depositary and he or she has parted with the certificate of title, paragraph (a) of this subsection shall not again apply on the certificate coming into custody of another authorised depositary or again coming into his or her own custody.

(2) Except with the permission of the Minister, the authorised depositary shall not part with or destroy the certificate of title or any coupons belonging to it, otherwise than as mentioned in section 16(3)(b) and (c), or do any act by which he or she recognises or gives effect to the substitution of one person for another as the person from whom he or she receives instructions in relation thereto; but where the person from whom an authorised depositary receives instructions in relation to any certificate of title becomes bankrupt in Uganda or dies, this subsection shall not prohibit the authorised depositary from recognising the trustee in bankruptcy or personal representative as the person entitled to give instructions in relation to the certificate of title.

(3) The authorised depositary shall place any capital monies, dividends or interest on the security received by him or her to the credit of the person by virtue of whose authority he or she received them, but shall not permit any part of the sums received to be dealt with except with the permission of the Minister.

## **18. Special provisions as to dealings in certain securities.**

(1) The Minister may, if in his or her opinion there are circumstances rendering it necessary or expedient so to do, by statutory order direct that this section shall apply to such securities as may be prescribed, being securities on which capital monies, dividends or interest are payable in foreign currency or as respects which the holder has an option to require payment of any capital monies, dividends or interest in a foreign currency.

(2) Except with the permission of the Minister, no person shall, in Uganda, and no person resident in Uganda shall, outside Uganda, transfer, or do anything which affects his or her rights or powers in relation to any security to which this section applies, and no person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda.

## **19. Validation of certain transfers.**

(1) The title of any person to a security for which he or she has given value on a transfer of the security, and the title of all persons claiming through or under that person, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of this Act relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

(2) Without prejudice to subsection (1), the Minister may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the competent authority, and the acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

## **20. Application of Part IV to secondary securities.**

(1) This Part of this Act shall apply, with such modifications, if any, as may be prescribed, in relation to any such document as is mentioned in subsection (2), as if the document created, and were the certificate of title to, a security, hereafter in this Act referred to as a “secondary security”.

(2) The documents referred to in subsection (1) are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities (but not including a receipt by an authorised depository for any certificate of title deposited in pursuance of this Part of this Act), and such other documents conferring, or containing evidence of, rights as may be prescribed.

## **21. Interpretation of Part IV.**

- (1) In this Part of this Act—
  - (a) “register” includes any book, file or index in which securities are registered;

- (b) “registered” includes inscribed;
- (c) “registered in Uganda” and “registered outside Uganda” mean respectively, registered in a register in, and registered in a register outside, Uganda;
- (d) “security which is registered in Uganda otherwise than in a subsidiary register” means a security which either— (i) is registered in Uganda and is not, and cannot without the necessity for an entry in the register in Uganda become, registered outside; or (ii) is registered both in Uganda and outside but on a transfer cannot, without the necessity for an entry in the register in Uganda, become registered outside in the name of the transferee; and.

(2) For the purposes of any provision of this Part of this Act prohibiting the transfer of securities, a person shall be deemed to transfer a security if he or she executes any instrument of transfer of the security, whether effective or not, and shall be deemed to transfer it at the place where he or she executes the instrument.

(3) References in this Part of this Act to the person holding a certificate of title or coupon shall be construed as references to the person having physical custody of the certificate of title or coupon; except that where the certificate of title or coupon is deposited with any person in a locked or sealed receptacle from which he or she is not entitled to remove it without the authority of some other person, that other person shall be deemed for the purposes of this provision to have the physical custody of the certificate of title or coupon.

- (4) In this Part of this Act, “holder”—
  - (a) in relation to a security transferable by means of a bearer certificate or to a coupon, includes the person holding the certificate or coupon; and
  - (b) in relation to a security which is registered in the name of a deceased person, or of any person who, by reason of bankruptcy, unsoundness of mind or any other disability is incapable of transferring the security, means the personal representative, trustee in bankruptcy or other person entitled to transfer the security.
- (5) The holder of a security or coupon shall be deemed for the

purposes of this Part of this Act to be a nominee in respect of it if, as respects the exercise of any rights in respect of it, he or she is not entitled to exercise those rights except in accordance with instructions given by some other person, and references in this Part of this Act to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions, either directly or through the agency of one or more persons, as to the exercise of any rights in respect of the security or coupon and is not in so doing himself or herself under a duty to comply with instructions given by some other person; but—

- (a) a person shall not by reason only that he or she has a controlling interest in a body corporate be deemed for the purposes of this subsection to be entitled to give instructions to that body corporate as to the exercise of rights in respect of any security or coupon of which it is the holder; and
- (b) a person shall not be deemed to hold a security or coupon as a nominee by reason only that he or she holds it as trustee if he or she is entitled to transfer the security or coupon without permission from any other person.

(6) A certificate of title shall not for the purposes of this Part of this Act be treated as in the custody of an authorised depository if either—

- (a) the depository has no notice of the nature of the certificate; or
- (b) the certificate is deposited with him or her in a locked or sealed receptacle from which he or she is not entitled to remove it without the authority of some other person.

(7) Where a certificate of title outside Uganda is by this Part of this Act required to be kept in the custody of an authorised depository, it shall be deemed to be in the custody of an authorised depository if—

- (a) by his or her direction or with his or her assent it is in the custody of some other person who holds it on behalf of and to the order of the authorised depository; and
- (b) the certificate is not deposited with that other person in a locked or sealed receptacle from which he or she is not entitled to remove it without the authority of a person other than himself or herself,

and where a certificate of title is by virtue of this subsection deemed to be in the custody of an authorised depository, references in this Part of this Act to the depository parting with the certificate or a coupon belonging to it shall be construed as references to his or her permitting the person having the actual custody of it to part with it otherwise than to the depository, and references

to his or her destroying the certificate or such a coupon shall be construed as references to his or her permitting it to be destroyed.

PART V—IMPORT AND EXPORT.

**22. Restrictions on import.**

- (1) The importation of—
  - (a) any notes of a class which are or have at any time been legal tender in East Africa or any part of East Africa;
  - (b) any foreign currency as defined by section 2(4)(a); and
  - (c) any certificate of title to any security, including any certificate which has been cancelled, and any document certifying the destruction, loss or cancellation of any certificate of title to a security,

is prohibited except with the permission of the Minister.

(2) In this section, “note” includes part of a note and “security” includes a secondary security.

**23. General restrictions on export.**

- (1) The exportation of—
  - (a) any notes of a class which are or have at any time been legal tender in East Africa or any part of East Africa or any other territory;
  - (b) any postal orders;
  - (c) any gold;
  - (d) any of the following documents, including any such document which has been cancelled—
    - (i) any certificate of title to a security and any coupon; (ii) any policy of assurance; (iii) any bill of exchange or promissory note expressed in terms of a currency other than that of a scheduled territory and payable otherwise than within the scheduled territories; and
    - (iv) any document to which section 5 applies not issued by an authorised dealer or in pursuance of a permission granted by the Minister, and any document certifying the destruction, loss or cancellation of any of the documents aforesaid; and
  - (e) any such articles exported on the person of a traveller or in a

traveller's baggage as may be prescribed, is prohibited except with the permission of the Minister.

(2) In this section, "note" includes part of a note, "security" includes a secondary security and "coupon" shall be construed in accordance with the meaning of "security".

#### **24. Amount of goods to be exported and payments.**

(1) The exportation of goods of any class or description from Uganda to a destination in any such territory as may be prescribed is prohibited, except with the permission of the Minister.

- (2) The Minister may—
- (a) fix the kind and amount of goods that may be exported to any prescribed territory at any one given time and may require the exporter to observe such conditions as he or she may think fit;
  - (b) require that payment for the goods be made to a person resident in Uganda in such manner as he or she may prescribe in relation to goods of that class or description exported to a destination in that territory and the time within which the payment has to be made; and
  - (c) require that the amount of the payment that has to be made is such that it represents a return for the goods which is in all the circumstances satisfactory in the national interest.

#### **25. Obligation to import, account for foreign currency received, etc.**

(1) A person who holds an import licence and is allocated foreign currency shall, within six months after he or she is allocated the foreign currency—

- (a) import the goods for which the currency was allocated; and
- (b) account for the currency to the satisfaction of the Bank of Uganda in accordance with the terms and conditions upon which it was allocated.

(2) A person holding an export licence shall account for the foreign exchange realised as a result of the export to the satisfaction of the Bank of Uganda within six months after obtaining the licence.

- (3) A person who—

- (a) being a holder of an import licence—
    - (i) fails to import the goods or account for the foreign currency received in accordance with subsection (1); (ii) imports goods in quantities less than those specified in the licence; (iii) fraudulently imports goods of a cheaper quality than that specified in the licence;
  - (b) on application for an export licence states a selling price which is less than the actual selling price;
  - (c) being a holder of an export licence— (i) exports goods in quantities exceeding those specified in the licence; (ii) fails to bring back the foreign currency realised as a result of the export or the equivalent in goods or a combination of such foreign currency and goods; or (iii) fails to account for the foreign currency in accordance with subsection (2); or
  - (d) being a holder of an import or export licence, in any other way, fraudulently does any act or omits to do any act which is calculated to earn him or her foreign currency in contravention of this Act,
- commits an offence.

(4) A person who commits an offence under this section is liable on conviction to imprisonment for a period not exceeding five years and in the case of an offence under subsection (3)(a)(i), is, in addition, liable to pay a fine of ten times the equivalent of the foreign currency received, converted in Uganda shillings.

(5) Where a company is convicted of an offence under this section, every director, secretary or other person responsible for the management of that company holding office at the time of the commission of the offence shall be deemed to have committed the like offence and is liable to the same punishment provided in subsection (4) unless he or she proves that he or she exercised due diligence to prevent its commission or that the offence was committed without his or her knowledge.

(6) A person or company convicted under subsection (4) and (5) shall have his or her or its licence cancelled and shall not be allocated any more foreign exchange.



(7) The Minister may exempt a person or company convicted under subsection (4) or (5) from the operation of subsection (6).

(8) A person who aids or abets the commission of an offence under this section is liable on conviction to the same punishment as the principal offender.

#### PART VI—MISCELLANEOUS.

### **26. Duty to collect certain debts.**

(1) Except with the permission of the Minister, no person resident in Uganda who has a right, whether present or future and whether vested or contingent, to receive any foreign currency, or to receive from a person resident outside the scheduled territories a payment in East African shillings, shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with or is preparatory to any transaction securing—

- (a) that the receipt by him or her of the whole or part of that currency or, as the case may be, of that payment in East African shillings, is delayed; or
- (b) that the currency or payment ceases, in whole or in part, to be receivable by him or her.

(2) Nothing in subsection (1) shall, unless the Minister otherwise directs—

- (a) impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment of the debt at an earlier time than is customary in the course of that trade or business; or
- (b) prohibit any transfer to a person resident in Uganda and not elsewhere of any right to receive any specified currency or payment in East African shillings.

(3) Where a person has contravened subsection (1) in relation to any foreign currency or payment in East African shillings, the Minister may give to him or her or to any other person who appears to the Minister to be in a position to give effect to the directions, being a person in or resident in Uganda, such directions as appear to the Minister to be expedient for the purpose of obtaining or expediting the receipt of the currency or payment in question, and, without prejudice to the generality of the preceding provisions

of this subsection, may direct that there shall be assigned to the Minister, or to such person as may be specified in the directions, the right to receive the currency or payment or enforce any security for the receipt of it.

**27. Duty not to delay sale or importation of goods.**

- (1) Where—
  - (a) any permission or consent has been granted under this Act, or under any corresponding provision of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be sold outside the scheduled territories;
  - (b) any statement or declaration has been made under any provision of this Act or any such corresponding provision as aforesaid that any goods are to be sold outside the scheduled territories; or
  - (c) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be sold outside the scheduled territories,

then, except with the permission of the Minister, no person resident in Uganda who is entitled to sell or procure the sale of the goods shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with or is preparatory to any transaction securing—

- (i) that the sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade; or (ii) that, on the sale, any payment made for the goods is not made in the manner indicated by the condition, statement or declaration, as the case may be.

- (2) Where—
  - (a) any permission or consent has been granted under this Act, or under any corresponding provisions of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported from outside the scheduled territories into any part of the scheduled territories; or
  - (b) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be so imported,

then, except with the permission of the Minister, no person resident in Uganda who is entitled to procure the importation of the goods shall do, or refrain from doing, any act with intent to secure that the importation of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade.

(3) Where in any such case as is specified in subsection (1)(a), (b) or (c) or (2)(a) or (b)—

(a) the goods have not been sold or imported as indicated by the condition, statement or declaration within the time indicated by it or, if no time is indicated, a reasonable time, or, in either case, within such further time as may be allowed by the Minister; or

(b) it appears to the Minister that the goods cannot be sold or imported as indicated by the condition, statement or declaration, the Minister may give to any person resident in Uganda who appears to the Minister to be in a position to give effect to them such directions as appear to the Minister to him to be expedient as to the manner in which the goods are to be dealt with.

(4) Without prejudice to the generality of subsection (3), the power conferred by it on the Minister to give directions shall extend to the giving of directions that the goods shall be assigned to the Minister or to a person specified in the directions.

(5) The powers conferred by subsections (3) and (4) in relation to any goods shall extend to the giving of directions with respect to any goods produced or manufactured from them, and, where goods to be sold outside the scheduled territories or to be imported were to be produced or manufactured from other goods, to the giving of directions with respect to those other goods and any goods produced or manufactured from those other goods.

## **28. Property obtained by infringement of Act.**

(1) Where a person—

(a) has made any payment which is prohibited by this Act; or

(b) being bound under this Act to offer or cause to be offered any foreign currency to an authorised dealer, has otherwise disposed of that currency,

the Minister may direct the person to sell or procure the sale of any property which he or she is entitled to sell or of which he or she is entitled to procure

the sale, being property which represents, whether directly or indirectly, that payment or that foreign currency, as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom and the terms on which the property is to be sold.

(2) Without prejudice to the generality of subsection (1), the power conferred by it on the Minister to give directions shall extend to the giving of directions that the property shall be assigned to the Minister or to a person specified in the directions.

## **29. Provisions supplemental to preceding provisions of Part VI.**

(1) Where, under the preceding provisions of this Part of this Act, the Minister has power to give directions that any right to receive any currency or payment in East African shillings or to enforce any security for the receipt of the currency or payment, or that any goods, or any other property shall be assigned to the Minister, the Minister shall also have power to direct that the right, goods or property shall vest in the Minister, and it or they shall vest in the Minister accordingly free from any mortgage, pledge or charge, and the Minister may deal with it or them as he or she thinks fit.

(2) Where, in pursuance of directions under the preceding provisions of this Part of this Act, any right, goods or property is or are assigned to the Minister or to a person specified in the directions, or any right, goods or property vests or vest in the Minister in pursuance of directions given under subsection (1), the Minister shall pay the net sum recovered by him or her in respect of the right, goods or property to the person making the assignment or, in the case of any right, goods or property vested in the Minister under subsection (1), to the person who, but for the directions, would be entitled to the right, goods or property.

## **30. Transfer of annuities, policies, etc.**

(1) Except with the permission of the Minister, no person resident in Uganda shall transfer to a person resident outside the scheduled territories, or who is to be a nominee for a person resident outside the scheduled territories, any right to the sums assured by any policy of assurance, so, however, that where the person liable for the sums so assured makes any payment of the sums to a person resident in the scheduled territories and not elsewhere, or makes, with the permission of the Minister, any payment of the sums to any other person—

- (a) he or she shall not be bound to inquire as to the residence of any person other than the person to whom, and, if it is not the same person, the person to whose order, the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him or her from his or her liability under the policy, notwithstanding that the payment is made to or to the order of a person who was not entitled to it otherwise than by virtue of a transfer prohibited by this subsection.

(2) Section 19(2) and (3) shall apply in relation to any transfer prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(3) In this section, “nominee” has, in relation to any policy, annuity or insurance, the same meaning as it has in Part IV of this Act in relation to a security.

### **31. Settlements.**

(1) Except with the permission of the Minister, no person resident in Uganda shall settle any property, otherwise than by will, so as to confer an interest in the property on a person who, at the time of the settlement, is resident outside the scheduled territories, or shall exercise, otherwise than by will, any power of appointment, whether created by will or otherwise, in favour of a person who, at the time of the exercise of the power, is resident outside the scheduled territories.

(2) A settlement or exercise of a power of appointment shall not be invalid by reason that it is prohibited by this section, except so far as it purports to confer any interest on any person who, at the time of the settlement or the exercise of the power, is resident outside the scheduled territories.

(3) Section 19(2) and (3) shall apply in relation to a settlement or the exercise of a power of appointment prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

- (4) For the purpose of this section—
  - (a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement by which the property becomes subject to a trust, or, in the case

- of a resettlement, to a different trust; and
- (b) a person shall be deemed to have an interest in property if he or she has any beneficial interest in it, whether present or future, and whether vested or contingent, or falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable; and
- (c) “will” includes any testamentary disposition.

(5) No person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in this section.

### **32. Companies.**

(1) Where there is served on any person resident in Uganda a notice in writing that the Minister wishes any such requirements as are hereafter mentioned to be complied with by any such body corporate as is specified in the Second Schedule to this Act (hereafter in this subsection referred to as a “foreign company”), and that person can, by doing or refraining from doing any act—

- (a) cause the foreign company to comply with any of the requirements;
- (b) remove any obstacle to the foreign company complying with any of the requirements; or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Minister, that person shall do, or, as the case may be, refrain from doing, that act.

(2) The requirements with respect to which the notice specified in subsection (1) may be given are as follows, that the foreign company shall—

- (a) furnish to the Minister such particulars as to its assets and business as may be mentioned in the notice;
- (b) sell or procure the sale to an authorised dealer of any gold or foreign currency mentioned in the notice, being gold or foreign currency which it is entitled to sell or of which it is entitled to procure the sale;
- (c) declare and pay such dividend as may be mentioned in the notice;
- (d) realise any of its assets mentioned in the notice in such manner as may be so mentioned;

(e) refrain from selling, transferring, or doing anything which affects its rights or powers in relation to, any such securities as may be mentioned in the notice.

(3) Except with the permission of the Minister, no person resident in Uganda shall do any act by which a body corporate which is by any means controlled, whether directly or indirectly, by persons resident in Uganda ceases to be controlled by persons resident in Uganda; except that this subsection shall not prohibit any person from selling any securities authorised to be dealt in on any recognised stock exchange in Uganda if the sale takes place in pursuance of an agreement entered into in the ordinary course of business on that exchange.

(4) No person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in subsection (3).

(5) Except with the permission of the Minister, no person resident in Uganda shall lend any money or securities to any body corporate resident in the scheduled territories which is by any means controlled, whether directly or indirectly, by persons resident outside the scheduled territories; except that this subsection shall not apply where the lender after making such inquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the body corporate is controlled as aforesaid.

(6) No person resident in the scheduled territories shall in Uganda do any act which involves, is in association with or is preparatory to any such transaction outside Uganda as is referred to in subsection (5).

(7) For the purposes of this section and of the Second Schedule to this Act, persons resident in Uganda or outside the scheduled territories shall be deemed to control a body corporate notwithstanding that other persons are associated with them in the control of it if they can together override those other persons.

(8) In this section, “security” includes a secondary security.

PART VII—SUPPLEMENTAL.

**33. Exemptions.**

Any provision of this Act imposing any obligation or prohibition shall have effect subject to such exemptions as may be granted by the Minister by statutory order, and any such exemption may be either absolute or conditional.

**34. Blocked accounts.**

Where—

- (a) under any provision contained in Part III of this Act, the permission of the Minister is required for the making of a payment or the placing of any sum to the credit of any person resident outside the scheduled territories; or
- (b) any payment falls to be made by an authorised dealer on the sale of any gold or foreign currency by any foreign company within the meaning of section 32(1), being a sale made to comply with any requirement notified under that subsection,

the Minister may direct that the sum payable or to be credited shall be paid or credited to a blocked account only, and, where such a direction is given, the provisions of the Third Schedule to this Act shall have effect in relation to the payment or crediting of the sum.

**35. Contracts, legal proceedings, etc.**

(1) It shall be an implied condition in any contract that, where, by virtue of this Act, the permission or consent of the Minister is at the time of the contract required for the performance of any term of the contract, that term shall not be performed except insofar as the permission or consent is given or is not required; except that this subsection shall not apply insofar as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in spite of the provisions of this Act or for any other reason.

(2) Notwithstanding anything in the Chattels Transfer Act, neither the provisions of this Act, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without the permission of the Minister under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.



(3) The provisions of the Fourth Schedule to this Act shall have effect with respect to legal proceedings, arbitrations, bankruptcy proceedings, the administration of the estates of deceased persons, the winding up of companies, and proceedings under deeds of arrangement or trust deeds for the benefit of creditors.

### **36. Enforcement and administration.**

(1) The provisions of the Fifth Schedule to this Act shall have effect for the purpose of the enforcement of this Act.

(2) Persons belonging to the following classes—

(a) bankers, authorised dealers, authorised depositaries;

(b) person to whom any powers of the competent authority under this Act are delegated;

(c) persons who with the permission of the competent authority are in possession of documents which would, but for the permission, have to be in the custody of an authorised depositary;

(d) persons concerned with the keeping of any register in Uganda; and

(e) persons entrusted with the payment of capital monies, dividends or interest in Uganda, shall comply with such

directions as may be given to them respectively by the Minister, being—

(f) in the case of any such persons, directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provision of this Act; or

(g) in the case of authorised dealers, such directions as aforesaid or directions as to the terms on which they are to accept gold or foreign currency or directions requiring them to offer their gold or foreign currency for sale to the Minister on such terms as may be specified in any such directions.

### **37. Application to Government.**

This Act shall bind the Government and shall apply to transactions by a Government department or other person acting on behalf of the Government, and the competent authority shall not, by virtue of any contract made by it or on its behalf in relation to any securities, under any obligation to grant any permission under Part IV of this Act or any exemption from the provisions

of that Part.

### **38. Minister's orders.**

The Minister may by statutory order make such transitional provisions as appear to the Minister necessary or expedient in consequence of the exercise by him or her of any other power to make orders under this Act.

### **39. Other powers.**

- (1) Any permission, consent or authority granted under this Act—
  - (a) may be either general or special;
  - (b) may be revoked by the competent authority;
  - (c) may be absolute or conditional;
  - (d) may be limited so as to expire on a specified date, unless renewed; and
  - (e) shall be published in such a way as, in the opinion of the competent authority, to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in his or her opinion publication is not necessary for that purpose.

- (2) Any directions given under this Act—
  - (a) may be either general or special;
  - (b) may be revoked or varied by subsequent directions; and
  - (c) shall be given to such persons and in such manner as the competent authority thinks appropriate, and if so given shall be valid for all purposes.

(3) Notwithstanding subsection (2)(c), a person shall not by virtue of any direction given by the competent authority under this Act be convicted of an offence against this Act, unless the direction was served on him or her or he or she knew, or avoided getting to know, of the giving of it; but where reasonable steps were taken for the purpose of bringing the purport of the direction to his or her notice, it shall be for him or her to show that he or she neither knew nor avoided getting to know of the giving thereof.

(4) The competent authority may, to such extent and subject to such restrictions and conditions as he or she may think proper, delegate or authorise the delegation of any of his or her powers (other than any power to make statutory orders or to give authority to apply for a search warrant) to any person, or class or description of persons, approved by him or her, and

references in this Act shall be construed accordingly.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the competent authority, and purporting to be signed on his or her behalf, shall be evidence of the facts stated in the document.

#### **40. Financial provisions.**

Any expenses incurred under or by virtue of this Act by any Government department shall be paid out of monies provided by Parliament, and any sums received under or by virtue of this Act by any Government department shall be paid into the Consolidated Fund.

#### **41. Branches.**

(1) The Minister may by statutory order or direction provide that for such of the purposes of this Act as may be specified in the order or direction—

- (a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;
- (b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business shall be treated as a payment to that other branch; and
- (c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the branches of the business as may be determined in accordance with the order or direction,

and any such order or direction which makes, for any of the purposes of Part IV of this Act, such provision as is mentioned in paragraph (c) of this subsection may contain provisions declaring the circumstances in which a branch is to be treated as a nominee for any other branch.

(2) Any reference in subsection (1) to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Subsections (1) and (2) shall apply in relation to any body of persons, whether corporate or unincorporated, carrying on any activity,

whether for the purpose of profit or not, as they apply in relation to a business.

**42. Persons leaving the scheduled territories.**

Where a person resident in Uganda leaves the scheduled territories, the Minister may, before, at or after the time he or she leaves the scheduled territories, direct that, for such period as may be specified in the direction, payments by him or her or on his or her behalf and to him or her or to his or her credit and transactions in or in relation to securities or secondary securities in which he or she is in any way concerned shall, whether or not he or she continues to be resident in Uganda, be subject to such restrictions as may be specified in the direction.

**43. Determination of residence.**

(1) For the purposes of this Act, a personal representative of a deceased person shall, unless the Minister otherwise directs, be treated as resident in the territory where the deceased person was resident for the purposes in question at the time of his or her death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his or her capacity as such.

(2) The Minister may give directions declaring that for all or any of the purposes of this Act a person is to be treated as resident or not resident in such territories as may be specified in the directions.

PART VIII—SPECIAL PROVISIONS.

**44. Acquisition by Minister of certain securities.**

- (1) The Minister may by statutory order direct—
  - (a) that, subject to any exemptions for which provision may be made by the order, no person shall, except with permission granted by or on behalf of the Minister, sell, transfer or do anything which involves the creation of a charge on, or affects his or her rights or powers in relation to, securities of any such class as may be specified in the order, being a class of securities which, in the opinion of the Minister, are likely to be marketable outside Uganda; and
  - (b) that the owner of any securities of the class specified in the order

shall, in such manner and within such period as may be specified in the order, make a return to the Minister giving such particulars with respect to those securities as may be so specified.

(2) For the purposes of subsection (1), a person who mortgages or pledges a security shall be deemed by the mortgage or pledge to create a charge on the security.

(3) At any time while a statutory order made under subsection (1) with respect to securities of any class is in force, the Minister, if he or she is of opinion that it is expedient so to do for the purpose of strengthening the financial position of Uganda, may, by a statutory order made generally with respect to any specified securities of that class, or by directions given with respect to any securities of that class of which any particular person is the owner, transfer to himself or herself the securities to which the order or directions relates or relate, at a price specified in the order or directions being a price which, in the opinion of the Minister, is not less than the market value of the securities on the date of the making of the order or the giving of the directions; except that where the Minister has by an order made under this subsection transferred to himself or herself securities in respect of which returns had before the date of the making of that order been made to the Minister under an order made under subsection (1), then, if by an order or directions subsequently made or given under this subsection the Minister transfers to himself or herself securities which would have been transferred to him or her under the former order if such a return as aforesaid had been made before that date, the minimum price at which the securities may be transferred shall be the price specified in the former order subject to such reduction as the Minister thinks fit in respect of any dividend or interest payable since the date of the making of that order, or a price which in the opinion of the Minister is the market value of the securities on the date of the making or giving of the subsequent order or directions, whichever is the less.

(4) Where any statutory order is made, or any directions given, under subsection (3) with respect to any securities—

- (a) those securities shall forthwith vest in the Minister free from any mortgage, pledge or charge, and the Minister may deal with the securities as he or she thinks fit;
- (b) the owner of any of those securities, and any person who is responsible for keeping any register or book in which any of those securities is registered or inscribed or who is otherwise concerned with the registration or inscription of any of those

securities, shall do all such things as are necessary or as the Minister may direct to be done for the purpose of securing that the security and any document of title relating to it will be delivered to the Minister or to such person as the Minister may direct, and, in the case of any registered or inscribed security, that the security will be registered or inscribed in the name of the Minister or such person as the Minister may direct.

(5) The duty to deliver any security under subsection (4) shall include a duty to do all such things as are necessary to secure that any dividends or interest on that security becoming payable on or after the date of the making of the statutory order or the giving of the directions will be paid to the Minister, and where, in the case of any security payable to bearer which is delivered in pursuance of subsection (4), any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable for it shall be made as the Minister thinks fit; but where the price specified in the order or directions in relation to any securities is ex any dividend or ex any interest, this subsection shall not apply to that dividend or interest or to any coupon representing it.

(6) A certificate signed by any person authorised in that behalf by the Minister that any specified securities are securities transferred to the Minister under this section shall be treated by all persons responsible for keeping any registers or books in which the securities are registered or inscribed, or who are otherwise concerned with the registration or inscription of those securities, as conclusive evidence that the securities have been so transferred.

(7) Where, by virtue of subsection (4)(a), any security has become vested in the Minister, then, at any time before the steps required by subsection (4)(b) to be taken in relation to that security have been taken, the Minister may, by a declaration made in writing by him or her on his or her behalf, divest himself or herself of the security; and thereupon the statutory order or directions in consequence of which the security so became vested in the Minister shall be deemed, for all purposes, not to have been made or given with respect to that security.

(8) For the purposes of this section, “security” does not include a life assurance policy or other contract entered into with an assurance company for securing the payment in the future of any capital sum or sums or of an annuity.

**45. Power of Minister to direct sale of certain securities.**

Where the Minister has by a statutory order made under section 44(3) transferred to himself or herself securities in respect of which returns had before the date of the making of that order been made to the Minister under an order made under section 44(1), he or she may give directions to the owner of any security which would have been transferred to him or her under the order if such a return as aforesaid had been made before that date requiring him or her to take such steps as may be specified in the directions to sell, or to procure the sale of, the security.

**46. Custody and disposition of documents of title to securities.**

The Minister may give such directions as to the custody and disposition of documents of title relating to securities, or relating to any class or description of securities specified in the direction, as appear to the Minister to be expedient.

**47. Power of Minister to prohibit action on certain orders as to gold, etc.**

(1) Where the Minister is satisfied that owing to the changes in the external or internal position of any country or territory action is being, or is likely to be, taken to the detriment of the economic position of Uganda, the Minister may give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out, except with permission granted by or on behalf of the Minister, of any order given by or on behalf of the government of that country or territory or any person resident in that country or territory at the time when the directions were given or at any later time while the directions are in force, insofar as the order—

- (a) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
- (b) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held.

(2) Where any directions are given under this section with respect to any country or territory, a branch in that country or territory of any business, whether carried on by a body corporate or otherwise, shall, for the purposes of this section, be treated in all respects as if the branch were a body

corporate resident in that country or territory.

## **SCHEDULES**

### *First Schedule.*

s. 2(5).

#### **The scheduled territories.**

Uganda

### *Second Schedule.*

s. 32 .

#### **Foreign companies.**

1. The bodies corporate in question are bodies corporate not incorporated under the law of Uganda in the case of which any of the following conditions is fulfilled—

- (a) that the body corporate is by any means controlled (whether directly or indirectly) by persons resident in Uganda;
- (b) that more than one-half of the sums which, on a liquidation of the body corporate, would be receivable by holders of share or loan capital would be receivable directly or indirectly by or for the benefit of persons resident in Uganda;
- (c) that more than one-half of the assets which, on a liquidation of the body corporate, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of persons resident in Uganda; or
- (d) that more than one-half— (i) of the interest payable on its loans and loan capital, if any; (ii) of the dividends payable on its preference share capital, if any; or (iii) of the dividends payable on its share capital, if any, not being preference share capital, is receivable, directly or indirectly, by or for the benefit of persons resident in Uganda.

2. Where the identity of the persons by whom or for whose benefit



any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a person resident in Uganda of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purposes of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of persons resident in Uganda.

*Third Schedule.*

s. 34.

**Blocked accounts.**

1. In this Schedule, “a blocked account” means an account opened as a blocked account at an office or branch in Uganda in favour of any person by a banker authorised by the Minister to open blocked accounts, and “the banker” means, in relation to any person, a banker who opens a blocked account in favour of that person.

2. Where a direction is given that a payment is to be made to a blocked account only, then, subject to paragraph 3—

- (a) the manner in which the payment may be made shall be either—
  - (i) to the banker, with a direction that it is to be credited to a blocked account of that person which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words “blocked account of” (naming the person in question) or words to the same effect; or (ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words “payable only to blocked account of payee” or words to the same effect; and
- (b) the sum collected shall be credited by the banker to a blocked account of that person.

3. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part IV of this Act, be invested instead in the purchase for that person of any such investments as may be prescribed for the purposes of paragraph 4(a).

4. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Minister; except that subject to compliance with the requirements of Part IV of this Act—

- (a) the whole or any part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and
- (b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

5. Where a person in whose name a blocked account is standing becomes bankrupt in Uganda or dies, the banker may, notwithstanding anything in paragraph 4 of this Schedule, transfer the account to the name of the trustee in bankruptcy or personal representative, but no other change shall, except with the permission of the Minister, be made in the name in which the account stands; and where any such change is made, whether or not the permission of the Minister is necessary for the change, the account shall remain a blocked account notwithstanding the change, and provisions of this Schedule shall apply accordingly.

6. Where—

- (a) a sum is due from any person to any other person but the Minister directs that it shall be paid or credited to a blocked account only; and
- (b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last-mentioned person is under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the Minister shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due; except that in the case of a sum due under a contract, this paragraph shall not apply insofar as it is shown to be inconsistent with the intention of the parties that it should apply.

#### *Fourth Schedule.*

s. 35.

#### **Legal proceedings, etc.**

1. The provisions of Part III of this Act shall apply to sums required to be paid by any judgment or order of any court or by any award as they

apply in relation to other sums, and it shall be implied in any judgment or order of any court in Uganda, and in any award given under the law of Uganda, that any sum required to be paid by the judgment, order or award, whether as a debt, as damages or otherwise, to which the provisions apply shall not be paid except with the permission of the Minister.

2. Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in Uganda, but the provisions of Part III of this Act shall apply to the payment of any sum out of court, whether under an order of the court or otherwise, to or for the credit of any person resident outside the scheduled territories.

3. Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court—

- (a) enabling any person who is required by any judgment, order or award to pay any sum, if he or she apprehends that the payment of that sum is unlawful under this Act except with the permission of the Minister, to pay that sum into court;
- (b) declaring that payment of a sum into court by virtue of subparagraph (a), together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules, shall, to the extent of the payment, be a good discharge to the person making the payment; and
- (c) so regulating the process of execution which may issue in respect of any sum required to be paid by any judgment, order or award as to secure that, unless it is shown, in such a manner as may be prescribed by the rules, that the permission of the Minister for the payment of the sum is not required under this Act or has been given without conditions, the proceeds of the execution will be paid into court, and, so far as is necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the sheriff or other officer to whom any such writ or other similar document is directed,

may be made, as respects the High Court, or any other court, by such authority as may be designated in that behalf by the Chief Justice; except that—

- (i) the form of any bankruptcy notice shall be such as may be prescribed by the Minister; and (ii) nothing in this paragraph shall affect the provisions of any legislation which requires rules of court for inferior courts to have the concurrence of the rulemaking authority for the

## High Court.

4. (1) In any proceedings in a prescribed court and in any arbitration proceedings, a claim for the recovery of any debt shall not be defeated by reason only of the debt not being payable without the permission of the Minister and of that permission not having been given or having been revoked.

(2) No court shall be prescribed for the purpose of this paragraph unless the Minister is satisfied that adequate provision has been made for it by rules of court for the purposes specified under paragraph 3.

5. (1) In any bankruptcy, in the winding up of any company or in the administration of the estate of any deceased person (being a bankruptcy, winding up or administration carried on under the law of Uganda), a claim for a sum not payable without the permission of the Minister shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if it had been given and had not been revoked; but nothing in this subparagraph shall be construed as affecting the application of the provisions of Part III of this Act to payments by any trustee, liquidator, personal representative or other person in any such bankruptcy, winding up or administration.

(2) The provisions of this Act restricting the making of settlements shall not apply to any deed of arrangement made for the benefit of creditors generally, and the provisions of subparagraph (1) of this paragraph shall apply in relation to proceedings under any deed of arrangement as they apply in relation to proceedings in bankruptcy.

6. A debt for the payment of which the permission of the Minister is required under this Act shall, if in other respects, it complies with the requirements of section 5(1) of the Bankruptcy Act, be allowed to be a good petitioning creditor's debt, notwithstanding the requirement, if and to the extent that the debt can be satisfied either by a payment into court or by a payment to a blocked account.

**Enforcement.**

Part I—General provisions as to evidence and information.

1. (1) Without prejudice to any other provisions of this Act, the Minister may give to any person in or resident in Uganda directions requiring him or her, within such time and in such manner as may be specified in the directions, to furnish to the Minister, or to any person designated in the directions as a person authorised to require it, any information in his or her possession or control which the Minister or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act.

(2) A person required by any directions given under subparagraph (1) of this paragraph to furnish information shall also produce such books, accounts or other documents (hereafter in this Part of this Schedule referred to as “documents”) in his or her possession or control as may be required for the purpose of that subparagraph by the Minister or by the person authorised to require the information, as the case may be.

(3) Nothing in subparagraph (1) or (2) of this paragraph shall be taken to require any person who has acted as advocate for any person to disclose any privileged communication made to him or her in that capacity.

(4) Where a person is convicted for failing to give information or produce documents when required so to do under this paragraph, the court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2. (1) If a magistrate is satisfied by information on oath given by a person authorised by the Minister to act for the purposes of this paragraph either—

- (a) that there is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under

paragraph 1 and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft, he or she may grant a search warrant authorising any police officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he or she has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any article found in the premises or in the vehicle, vessel or aircraft which he or she has reasonable ground for believing to be evidence of the commission of any offence against this Act or any documents which he or she has reasonable ground for believing ought to have been produced under subparagraph (1) of this paragraph; but no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person has any power to enter any premises, he or she may use such force as is reasonably necessary for the purpose of exercising that power.

3. (1) Any article coming into the possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of this Act or otherwise) which the authority has reasonable ground for believing to be evidence of the commission of an offence against this Act may be retained for three months or, if within that period there are commenced proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, until the final determination of those proceedings.

(2) For the purposes of this paragraph, any person to whom any powers of the competent authority under this Act are delegated or on whom any functions are conferred by or by virtue of this Act, including any police officer, shall be deemed to be an executive authority.

(3) For the purposes of this paragraph, any proceedings shall be deemed not to have been finally determined so long as there is pending any

appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(4) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation to it.

4. No person in or resident in Uganda shall—
  - (a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any documents;
  - (b) in furnishing any information for any of the purposes of this Act, make any statement which he or she knows to be false in a material particular, or recklessly make any statement which is false in a material particular;
  - (c) obstruct any person in the exercise of any powers conferred on him or her by virtue of this Part of this Schedule.

#### Part II—General provisions as to offences.

5. (1) Any person in or resident in Uganda who contravenes any restriction or requirement imposed by or under this Act, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirement, commits an offence punishable under this Part of this Schedule; except that an offence punishable by virtue of Part III of this Schedule shall not be punishable under this Part of this Schedule.

(2) Where an offence punishable under this Part of this Schedule has been committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he or she proves that the contravention was committed without his or her consent or connivance and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the nature of his or her functions in that capacity and to all the circumstances.

- (3) Any person who commits an offence punishable under this Part

of this Schedule is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand shillings, or to both such imprisonment and such fine; except that—

- (a) the limitation of the amount of the fine shall not apply in the case of a body corporate;
- (b) where the offence is concerned with any currency, any security, any gold, any goods or any other property, the court may, if it thinks fit so to do, order the currency, security, gold, goods or other property to be forfeited;
- (c) where the offence is concerned with any currency, any security, any payment, any gold, any goods or any other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required to do so under Part I of this Schedule, a larger fine may be imposed not exceeding three times the amount or value of the currency, security, payment, gold, goods or property.

6. (1) No proceedings for an offence punishable under this Part of this Schedule shall be instituted, except by or with the consent of the Director of Public Prosecutions; but this subparagraph shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

(2) Proceedings against any person in respect of an offence punishable under this Part of this Schedule may be taken before the appropriate court in Uganda having jurisdiction in the place where that person is for the time being.

(3) Any proceedings which may be taken against any person in respect of an offence punishable under this Part of this Schedule may, notwithstanding anything to the contrary in any law, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Minister to justify the proceedings comes to the knowledge of the Minister, whichever period last expires, or, where the person in question was outside Uganda at the date last mentioned, within twelve months from the date on which he or she first arrives in Uganda thereafter.

(4) For the purposes of this paragraph, a certificate of the Minister as to the date on which such evidence as aforesaid came to the knowledge of the



Minister shall be conclusive evidence of the date.

### Part III—Import and export.

7. The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to this Act, apply in relation to anything prohibited to be imported or exported by any of the provisions of Part V of this Act except with the permission of the Minister as they apply in relation to goods prohibited to be imported or exported by or under any of the enactments, and any reference in those enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of Part V of this Act except with the permission of the Minister.

8. Any declaration required to be given under Part V of this Act shall, for the purposes of the East African Customs and Transfer Tax Management Act, be deemed to be a declaration in a matter relating to customs.

9. If anything prohibited to be exported by any provision of Part V of this Act is exported in contravention of the provision, or is brought to a quay or other place, or waterborne, for the purpose of being so exported, the exporter or his or her agent is liable to the same penalty as that to which a person is liable for an offence to which the East African Customs and Transfer Tax Management Act applies.

10. Without prejudice to any of the preceding provisions of this Part of this Schedule, any person who, on any occasion, is about to leave Uganda or arrives in Uganda (which person is hereafter in this paragraph referred to as “the traveller”) shall, if on that occasion he or she is required so to do by an officer of customs or an immigration officer—

- (a) declare whether or not he or she has with him or her anything prohibited to be imported or exported by any of the provisions of Part V of the Act except with the permission of the Minister; and
- (b) produce any such thing as aforesaid which he or she has with him,

and the officer may examine or search any article which the traveller has with him or her for the purpose of ascertaining whether he or she is conveying or has in his or her possession any such thing, and, if the officer has reasonable grounds for suspecting that the traveller has about his or her person any such thing, search him or her, and may seize anything produced as aforesaid or

found upon such examination or search as aforesaid as to which the officer has reasonable ground for suspecting that it is prohibited to be imported or exported by any of the provisions of Part V of this Act except with permission of the Minister; but no female shall be searched in pursuance of this paragraph except by a female.

11. Notwithstanding the provisions of any East African Community Act or any other written law, where any currency is seized pursuant to paragraph 10 of this Schedule, the Minister may direct that the currency shall be dealt with in such manner as the Minister may deem fit.

12. Paragraph 5(2) of this Schedule shall apply also to offences punishable by virtue of this Part of this Schedule.

**History:** Cap. 158; Act 9/1965; S.I. 111/1965; S.I.68/1970; Decree 18/1972; Statute 2/1990.

#### **Cross References**

Bankruptcy Act, Cap. 67. Chattels

Transfer Act, Cap. 70. Companies

Act, Cap. 110.

East African Customs and Transfer Tax Management Act, Laws of the Community, 1970 Revision, Cap. 27.