

ACTS SUPPLEMENT

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Act 11

Excise Duty Act

2014

THE EXCISE DUTY ACT, 2014

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THE EXCISE DUTY ACT, 2014

An Act to consolidate and amend the law relating to excise duty and to provide for related matters.

DATE OF ASSENT: 19th October, 2014.

Date of Commencement: 1st July, 2014.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY**1. Commencement.**

This Act shall be deemed to have come into force on 1st July, 2014.

2. Interpretation.

In this Act, unless the context otherwise requires—

“aircraft” includes every description of craft used in aerial navigation;

“assessment” means—

- (a) the ascertainment of excise duty under this Act; or
- (b) the ascertainment of the amount of interest and any other amount payable by a person under this Act;
- (c) a decision of the Commissioner which, under this Act, is subject to objection and appeal;

“Authority” means the Uganda Revenue Authority established by the Uganda Revenue Authority Act;

“beer” includes ale, porter, and any other description of beer and any liquor which is made or sold as a description of, or substitute for, beer and which contains more than two per cent of proof spirit but does not include—

- (a) liquor as defined in the law relating to liquor; or
- (b) any kind of beer prescribed by regulations;

“cigar” means a cigar, cheroot, or cigarillo, prepared from tobacco;

“cigarette” means a cigarette prepared from tobacco and includes any form of tip and the paper;

“Commissioner” means the Commissioner General appointed under the Uganda Revenue Authority Act;

“distiller” means a manufacturer of spirits by distillation of a fermented liquor or enguli or by any other process;

“distillery” means a distiller’s factory;

“distiller’s warehouse” means a place of security provided by a distiller and approved by the Commissioner under this Act;

“document” includes magnetic tapes, disks and microfilms;

“enguli” means a spirituous liquor including a drink containing liquor, which is conveyed into a receiver in a distillery entered under this Act as an enguli receiver;

“excisable goods” means goods manufactured in Uganda and imported into Uganda and specified in Schedule 2 but does not include goods exempt from duty;

“excisable services” means the services specified in Schedule 2;

“excise duty” means a duty imposed under this Act;

“export” means to take or cause to be taken out of Uganda;

“goods exempt from duty” means the goods specified in Schedule 3;

“import” as used in relation to goods has the meaning assigned to it in the Value Added Tax Act;

“importer” as used in relation to goods has the meaning assigned to it in the Value Added Tax Act”

“manufacture” includes the production of excisable goods or any intermediate or uncompleted process in the production of excisable goods or the rectifying or denaturing of spirits;

“materials” means the goods from which excisable goods are capable of being manufactured and any residue from the process of manufacture;

“officer” includes a person other than a labourer employed in the service of the Uganda Revenue Authority and whose right or duty it is to require the performance of any act in this Act;

“own use” in relation to services means applying the services for non-business use;

“owner” in respect of any excisable goods, materials, aircraft, vessel, vehicle, plant, or other thing, includes a person who is or holds himself or herself out to be the owner, manufacturer, agent or the person in possession of, or beneficially interested in, or having control of, or power of disposition over, such goods, materials, aircraft, vessel, vehicle, plant, or other thing;

“plant” includes utensils, presses, machinery, mills, implements, appliances and fittings;

“premises” includes a building, house, room or place;

- “registered person” means a person registered to manufacture excisable goods, import excisable goods or provide excisable services under this Act;
- “rectifier” means a person who redistills spirits removed from a spirits receiver for the purpose of purifying or adding flavour but does not include the redistillation of enguli;
- “return” means a return of excise duty;
- “specially denatured spirits” means spirits denatured in accordance with a formula prescribed by regulations made under this Act for specially denatured spirits;
- “spirits” means spirits of any description and includes all liquor mixed with spirits and all mixtures and compounds or preparations made with spirits but does not include denatured spirits or enguli;
- “sugar” includes a saccharine substance, extract, or syrup, rice, flaked maize, any other description of corn which in the opinion of the Commissioner is prepared in a manner similar to flaked maize and any other material capable of being used in brewing except malt, corn, hops, hop concentrate, or hop oil;
- “supply” as used in relation to services has the meaning assigned to it in the Value Added Tax Act;
- “telecommunications services” means a service for the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, or other electromagnetic systems and includes the related transfer or assignment of the right to use capacity for such transmission, emission, or reception the provision of access to global or local information networks, but does not exclude a private network for the exclusive use of the person;

“tribunal” means the tax appeals tribunal established by the Tax Appeals Tribunal Act;

“value added services” means content, products or services offered in the telecom sector via the mobile platform and includes short messaging service and multimedia messaging service which afford the user flexibility in accessing other services including mobile betting, games, paying for services, products or promotions but does not include standard voice calls, peer to peer short messaging service and multimedia messaging service, fax transmission, internet, mobile money transactions and games promoted by a value added service provider licensed by the National Lotteries Board;

“value added tax” means value added tax imposed under the Value Added Tax Act;

“wash” means the fermented liquor from which spirits are produced by distillation;

“wine” means liquor of a strength not exceeding fifty degrees of proof which is made from fruit and sugar and which fruit or sugar mixed with any other material and which had undergone a process of fermentation in its manufacture and includes mead.

3. Associate.

(1) For the purposes of this Act, where a person who is not an employee acts in accordance with the directions, requests, suggestions or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions or wishes are communicated to the first-mentioned person, both persons are treated as associates of each other.

(2) Without limiting the general effect of subsection (1), the following are treated as an associate of a person—

- (a) a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other person;
- (b) a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions or wishes of the other person;
- (c) a partnership in which the person is a partner where the person, either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the rights to income or capital of the partnership;
- (d) the trustee of a trust under which the person, or an associate under another application of this section, benefits or may benefit;
- (e) a company in which the person, either alone or together with an associate under another application of this section, controls fifty percent or more of the voting power in the company either directly or through one or more interposed companies, partnerships or trusts;
- (f) where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the rights to income or capital of the partnership;
- (g) where the person is the trustee of a trust, any other person who benefits or may benefit under the trust; or
- (h) where the person is a company—

- (i) a person who, either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships or trusts; or
- (j) another company in which the person referred to in subparagraph (i), either alone or together with an associate or associates under another application of this section, controls fifty percent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships or trusts.

PART II—IMPOSITION, LIABILITY AND PAYMENT OF EXCISE DUTY

4. Imposition of excise duty.

(1) Subject to this Act, the excisable goods and excisable services specified in Schedule 2 shall be chargeable with the excise duty specified in that Schedule.

(2) Unless otherwise provided in this Act excise duty—

- (a) in the case of an excisable service, is to be paid by the person providing the service;
- (b) in the case of a manufactured excisable good, is to be paid by the person manufacturing the excisable good; and
- (c) in the case of an imported excisable good, is to be paid by the person importing the excisable good.

(3) A manufacturer of an excisable good becomes liable to pay excise duty on that manufactured excisable good when the manufactured good is removed from the manufacturer's premises.

(4) A person providing an excisable service becomes liable to pay excise duty on that service on the date of provision of the service.

(5) An importer of excisable goods shall pay excise duty at the time of import.

PART III—LICENSING OF MANUFACTURERS, IMPORTERS AND PROVIDERS OF EXCISABLE GOODS AND SERVICES.

5. Licence for premises.

(1) For the purpose of facilitating the administration of excise duty a registered person shall apply for a licence for premises in which the manufacture, provision or dealing in excisable goods or excisable services takes place.

(2) The application shall be in the form prescribed by the Commissioner.

(3) Within one month after receiving the application under subsection (1), the Commissioner may grant or refuse the application.

(4) The Commissioner may require the applicant to meet specified conditions before licensing the premises of the applicant.

(5) The Commissioner may grant or renew a license, with or without conditions.

(6) Where the Commissioner refuses to license premises, the Commissioner shall give reasons for the refusal.

(7) Where the Commissioner licenses premises under this section, the Commissioner shall, on payment of the prescribed fee by the applicant, issue to the applicant a license.

(8) The certificate of registration shall be in a form prescribed by the Commissioner.

(9) The Commissioner shall establish and maintain a register containing the relevant details of all premises licensed under this section.

(10) A licence issued under this section is valid for twelve months from the date of issue.

(11) A registered person may apply to the Commissioner, in the approved form and prescribed manner, for renewal of a licence issued under this section.

(12) An application for renewal of a licence under subsection (5) must be made before the expiry date of the licence or within such further time as the Commissioner may allow and be accompanied by payment of the prescribed fee for renewals.

(13) The Commissioner must cancel a licence issued under this section if satisfied that the premises no longer meet the conditions for the grant of the licence.

(14) A registered person shall not use the licensed premises for a purpose other than that the purpose for which the premises were licensed.

PART IV—CONTROL OF EXCISABLE GOODS

6. Provision of facilities for excise control.

(1) The Commissioner may for the purpose of ensuring the proper performance of the provisions of this Act require an officer to be stationed on the licensed premises of a registered person under this Act.

(2) The Commissioner may, for the purposes of subsection (1), require the registered person to provide and maintain, to the satisfaction of the Commissioner, suitable office accommodation and equipment in the licensed premises.

(3) A registered person shall provide and maintain at the licensed premises storing excisable goods, scales and weights, lights, ladders, and other equipment, as may be necessary to enable an officer to take account of, or check by weight, gauge, or measure, all excisable goods or materials in the licenced premises.

7. Entry.

(1) A registered person shall, before commencing manufacture of excisable goods, make entry in the prescribed manner of each building, room, place, and item of plant in the licensed premises, which the registered person proposes to use in the manufacture, preparation for sale, or storage, of materials or excisable goods.

(2) An entry under subsection (1) shall specify the purpose for which a building, room, place or item of plant, is to be used and, unless the Commissioner otherwise permits, the mark by which it is to be distinguished.

(3) The Commissioner may, by notice in writing to the registered person, require a new entry to be made by the registered person within one month of the date of the notice.

(4) A registered person shall not, in the course of manufacture, preparation, sale or storage, of any materials or excisable goods—

- (a) make use of any building, room, place, or item of plant, in relation to which entry is required under this section unless there is in force a valid entry;
- (b) make use of a building, room, place, or item of plant, for any purpose other than that for which it was entered;
- (c) effect, without the prior permission of the Commissioner, an alteration to any building, room, place, or item of plant.

(5) A registered person who contravenes subsection (5) commits an offence and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding seventy two currency points or both.

(6) Where a person is convicted under subsection (5), the court shall order the forfeiture of any excisable goods, materials or plant in respect of which the offence has been committed.

8. Storage of excisable goods after manufacture.

(1) All manufactured excisable goods shall, after the process of manufacture has been completed, be immediately removed to a room to be known as the “stock room”.

(2) The stock room shall be within the licensed premises.

(3) The stock room shall not be used for any purpose other than that of storing manufactured excisable goods after they have been manufactured.

(4) All manufactured excisable goods kept in the stock room shall be stored in a manner that facilitates the taking of a full account of all the goods.

(5) A registered person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years and the court convicting the offender shall forfeit the excisable goods to the State.

(6) A stock book shall be kept in the prescribed form and shall be available for inspection by the Commissioner.

(7) The Commissioner may take copies of any entry in the stock book.

9. Deficiency or excess in stock.

(1) Where, upon the Commissioner taking stock of the manufactured excisable goods in the licensed premises of a registered person—

- (a) the registered person fails to account to the Commissioner for any excisable goods manufactured by him or her, the excise duty on those manufactured excisable goods shall immediately become due and payable;
- (b) any excisable goods are found in excess of the quantity which, according to the stock book of the registered person must be in the stockroom, those goods shall be forfeited to the State.

(2) A registered person—

- (a) who fails to account to the Commissioner for any excisable goods manufactured by the registered person; or
- (b) in whose licensed premises excisable goods are found in excess of the quantity which, according to the stock book, should be in the licensed premises,

unless the registered person explains the deficiencies or excess to the satisfaction of the Commissioner, the registered person commits an offence, and is liable on conviction to a fine not exceeding seventy two currency points or imprisonment not exceeding three years or both.

PART V—PAYMENT OF EXCISE DUTY, RETURNS, ASSESSMENTS AND
APPEALS

10. Payment of excise duty.

(1) A person liable to pay excise duty shall pay the duty on the date the person files a return with the Commissioner, or shall, in the case of an assessment, pay the excise duty within forty five days after receipt of the notice of assessment.

(2) Where excisable goods on which excise duty has been paid are converted into other excisable goods liable to excise duty, the converted excisable goods shall be liable only to the difference between the excise duty on the converted goods and the excise duty originally paid before the conversion.

11. Application of information technology.

Subject to conditions the Commissioner may prescribe, the formalities or procedures under this Act which may be carried out by use of information technology.

12. Refunds.

(1) A person liable to pay excise duty may apply to the Commissioner for a refund of any excise duty paid in error or in excess of the excise duty assessed or due.

(2) An application for a refund under this section shall be made to the Commissioner in the form and manner prescribed by the Commissioner

(3) Where the Commissioner is satisfied that excise duty has been overpaid, the Commissioner shall—

- (a) apply the excess in reduction of any other duty due from the person liable to pay excise duty; and
- (b) at the written option of the person liable to pay excise duty, apply the balance of the excess, if any, in reduction of any outstanding liability of the person liable to pay excise duty in regard to other taxes not in dispute.

(4) In this section “any other duty” means a duty other than excise duty.

(5) Where the Commissioner is required to refund an amount of excise duty to a person under this Act, the Commissioner shall pay simple interest on the amount of the refund at the rate of two percent per month commencing thirty days after the date the application for the refund and ending on the last day on which a refund is made.

(6) Notwithstanding subsection (4), a person liable to excise duty who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the tribunal or the High Court, or submitted to the Commissioner all necessary and satisfactory information required in relation to the refund in question, whichever is the later.

(7) The Commissioner shall, within thirty days after making a decision on a refund application under subsection (1), serve on the person applying for the refund a notice in writing of the decision.

(8) A person dissatisfied with a decision referred to in subsection (5) may challenge the decision under the objection and appeal procedure in this Act.

13. Liability to duty on re- importation.

Where a remission or refund of excise duty has been granted in respect of excisable goods or excisable services which have been exported and those excisable goods or excisable services are subsequently unloaded in Uganda for home consumption those excisable goods or excisable services are liable to excise duty in force at the time of the unloading.

14. Excisable goods or excisable services granted remission liable to duty on disposal.

(1) Subject to this Act, a person who has been granted a remission or refund in respect of excisable goods or excisable services or is in possession of excisable goods for which a remission

or refund has been granted, shall not subsequently deal with those excisable goods or supply those excisable services in a manner inconsistent with the purpose for which the remission or refund was granted.

(2) A person who deals with excisable goods or supplies excisable services in a manner inconsistent with the purpose for which the remission or refund was granted is liable to pay the excise duty which would have been paid if the remission or refund had not been granted.

(3) Where excisable goods to which subsection (1) applies are sold or disposed of without payment of the excise duty to which they are liable, the excisable goods shall be forfeited to the State.

(4) A person who knowingly disposes of or knowingly acquires excisable goods or knowingly provides or knowingly receives excisable services, to which subsection (1) applies without the duty on the goods or services having been paid commits an offence and is liable, on conviction, to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

PART VI—MISCELLANEOUS

15. Prices quoted to include excise duty.

The price advertised or quoted for an excisable good or service shall include excise duty and the advertisement or quotation shall state that the price includes excise duty.

16. Regulations.

(1) The Minister may, by statutory instrument, make regulations to better carry into effect the provisions of this Act.

(2) Without limiting the general effect of subsection (1), regulations made under this section may—

- (a) provide for the fees to be paid for a licence issued under this Act;
- (b) provide for the form of the returns to be made by a registered person;
- (c) provide for the securing and collection of excise duty on spirits;
- (d) prescribe the maximum and minimum strength of a wort, wash or spirits;
- (e) regulate the remission of excise duty including the remission of excise duty on spirits;
- (f) regulate the receipt, storage, warehousing, removal and delivery of spirits prior to the payment of excise duty.

(3) Regulations under subsection (1) may provide that a person who contravenes a provision of the regulations commits an offence and is liable on conviction to a fine not exceeding seventy two currency points or both.

17. Power of Minister to amend Schedule.

The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1.

18. Repeal and savings.

(1) The East African Excise management Act, 1970 and the Excise Tariff Act, Cap. 338 are repealed.

(2) Notwithstanding subsection (1),

- (a) all excise duty due in respect of a transaction that took place before the commencement of this Act shall be due and payable as if the repealed Act were still in force but in case of a default the person shall be dealt with under this Act;

- (b) all appointments made under the repealed legislation and subsisting at the date of commencement of this Act are taken to be appointments made under this Act;

- (c) all forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

SCHEDULE 1

Section 2

CURRENCY POINT

One currency point is equivalent to twenty thousand shillings

SCHEDULE 2

Section 3,3A, 3AA, 3B

PART I—EXCISE DUTY IN RESPECT OF EXCISABLE GOODS AND SERVICES

No.	Item	Excise Duty/ Rate of excise duty
1.	Cigarettes	
(a)	Soft cap	Ushs. 35,000 per 1000 sticks
(b)	Hinge lid	Ushs. 69,000 per 1000 sticks
(c)	Cigars, cheroots, cigarillos containing tobacco	160%
(d)	Smoking tobacco, whether or not containing tobacco substitutes in any proportion	160%
(e)	Homogenised or reconstituted tobacco	160%
(f)	Other	160%
2.	Beer	
(a)	Malt beer	60%
(b)	Whose local raw material content, excluding water, is at least 75% by weight of its constituent	20%
(c)	Beer produced from barley grown and malted in Uganda	40%
3.	Spirits	
(a)	Made from locally produced raw materials	60%
(b)	Undenatured spirits	UShs. 4000 per litre or 140% whichever is higher
(c)	Other	70%
4.	Wine	
(a)	Made from locally produced raw materials	20%
(b)	Other wines	70%
5.	Non-alcoholic beverages, excluding natural fruit juice drinks and/or vegetable juice drinks containing not less than 10% by mass of standardized fruit and/or vegetable juice	13%

6.	Mineral water, bottled water and other processed water purposely for drinking	10%
7.	Cement	Ushs. 500 per 50 kgs
8.	Fuel	
(a)	Motor spirit (gasoline)	Ushs. 950/- per litre
(b)	Gas oil (automotive, light, amber for high speed engine)	Ushs. 630/- per litre
(c)	Other gas oils	Ushs. 630/- per litre
(d)	Gas oil for thermal power generation to national grid	Nil
(e)	Illuminating kerosene	Ushs. 200 per litre
(f)	Jet A1 and aviation fuel	Ushs. 630/- per litre
(g)	Jet A1 and aviation fuel imported by registered airlines, companies with designated storage facilities or with contracts to supply airlines	Nil
9.	Cane or beet sugar and chemically pure sucrose in solid form	Ushs. 50 per kg
10.	Cane or beet sugar for industrial use	0%
11.	Sacks and bags of polymers of ethylene and other plastics under its HS codes 3923.21.00 and 3923.29.00 except vacuum packaging bags for food, juices, tea and coffee	120%
12.	Cosmetics and perfumes	10%
13.	Telecommunication services	
(a)	Value added services	20%
(b)	Incoming international call services	USD \$0.09 per minute
(c)	Money transfer or withdrawal services including transfers and withdraw services by the operators licensed or permitted to provide communications or money transfer or withdrawal but not including transfer and withdraw services provided by Banks	10% of the fees charged

(d)	Airtime or talktime	
	(i) Mobile cellular devices	12%
	(ii) Landlines and public pay phones	5%
14.	Ledger fees, ATM fees, withdrawal fees and periodic charges and other transaction and nontransaction charges excluding loan related charges periodically charged by financial institutions	10% of the fees charged

PART II—CALCULATION OF EXCISE DUTY PAYABLE IN RESPECT OF EXCISABLE GOODS AND SERVICES WHOSE EXCISE DUTY IS EXPRESSED IN PERCENTAGES

1. Calculation of excisable duty payable.

The excise duty payable by a person in respect of excisable goods or services whose excise duty is expressed as percentages shall be calculated using the following formula-

$$A \times B$$

Where,

A is the value of the excisable goods or the excisable service; and

B is the rate of excise duty applicable to the goods or service.

2. Determination of value of excisable goods and services.

(1) The value of an excisable good shall be the normal ex-factory price of the good exclusive of any tax on that good.

(2) The normal ex-factory price of the good shall include raw material costs, manufacturing costs, labour costs, profit margin, bank charges and interest and all other costs, charges and expenses incidental to the factory, production and sale.

(3) The value of an excisable service shall be the price paid or payable by the consumer of that service excluding value added tax chargeable under the Value Added Tax Act and excise duty chargeable under this Act.

(4) In the case of non-arm's length transactions, the normal ex-factory price shall be the price at which the transaction would have occurred in the ordinary course of business between the person liable to excise duty and an independent person dealing at arm's length and, in cases where the price cannot be determined, the price shall, subject to this Act, be decided by the Commissioner.

(5) A sale in the open market between a manufacturer and a buyer independent of each other presupposes—

- (a) that the price is the sole consideration;
- (b) that the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the manufacturer or any person associated in business with him and the buyer; and
- (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods or services will accrue either directly or indirectly to the manufacturer or any person associated with him.

(6) Notwithstanding this Act, where the Commissioner is satisfied that an arrangement has been entered into or carried out where—

- (a) a person has obtained an excise duty benefit in connection with the arrangement; and
- (b) having regard to the substance of the arrangement, it is concluded that the person, or one of the persons, who entered into or carried out the arrangement did so for the sole or dominant purpose of enabling the person to obtain the excise duty benefit,

the Commissioner may determine the liability of the person who has obtained the excise duty benefit as if the arrangement had not been entered into or carried out, or in a manner as in the circumstances the Commissioner considers appropriate for the prevention or reduction of the excise duty benefit.

(7) In this section—

- (a) “arrangement” includes an agreement, promise, or undertaking whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings, and a plan, proposal, course of action, or course of conduct; and
- (b) “excise duty benefit” includes—
 - (i) a reduction in the liability of a person to pay excise duty;
 - (ii) an increase in an entitlement of a person to a credit or refund;
or
 - (iii) any other avoidance or postponement of liability for the payment of excise duty.

(8) The value of an imported excisable good is the sum of the value of the good ascertained for the purposes of import duty under the laws relating to customs; and the amount of import duty payable on that good.

(9) The value of an excisable service is the amount exclusive of any tax and duty, paid or payable by the final consumer in consideration for the service.

(10) Where no amount is paid in consideration for the excisable service under subsection (9) or where there is an application of the excisable service to own use by the person providing the service, the value of the excisable service shall be the market value of the excisable service.

(11) The taxable value of money transfer services by cellular service providers, money transfer agencies and other financial service providers shall be the fees charged for a particular money transfer service transaction.

SCHEDULE 3

Section 2

GOODS EXEMPT FROM EXCISE DUTY

The goods exempt from excise duty are imported goods which are exempt from import duty under the Fifth Schedule to the East African Customs Management Act, 2004

Cross References

East African Customs Management Act, 2004

Excise Tariff Act, Cap. 338

Liquor Act, Cap. 93

Magistrates Court Act, Cap. 16

Tax Appeals Tribunal Act, Cap. 345

Uganda Revenue Authority Act, Cap. 96

