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LAND ARBITRATION TRIBUNAL RULES, 2003

[Cap. 280, Sub. Leg., L.N. 211/2003.]

1. Citation

These Rules may be cited as the Land Arbitration Tribunal Rules, 2003.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**Chairman**” means the chairman of the Tribunal appointed under section 147(2)(a);

“**memorandum**” means a memorandum of objection presented under rule 3;

“**objection**” means an objection submitted to the Tribunal in pursuance of section 18B(2);

“**objector**” means a person who has submitted an objection to the notice of rent revision under section 18B(2) or a person who raises any other matter in dispute arising under section 147(1) through an advocate or a duly authorised agent;

“**Secretary**” means the Secretary to the Tribunal appointed under section 147(4).

3. Form and time for lodging an objection

(1) An objection or dispute shall be entered by presentation of a memorandum of objection with three copies thereof, together with the prescribed fee, to the Secretary.

(2) The memorandum shall set out concisely, under distinct heads and numbered consecutively, the grounds of objection without argument or narrative.

(3) The memorandum shall be signed by the objector, if the objector is an individual, or by the director, if the objector is a company.

(4) The memorandum shall be presented within thirty days after the date on which the objector gives notice of an objection in writing to the Commissioner pursuant to section 18B(2).

(5) Where the Tribunal is satisfied that owing to sickness or other reasonable cause, the objector was prevented from presenting a memorandum within the given period and that there was no unreasonable delay on his part, the Tribunal may extend that period notwithstanding that the period had expired.

4. Statement of facts of objector

Each copy of a memorandum shall be accompanied by—

- (a) a copy of the notice of rent revision issued by the Commissioner;
- (b) a copy of the notice of objection;
- (c) a valuation report from a registered and practising valuer; and
- (d) a statement signed by the objector, setting out precisely all the facts on which the objection is based and referring specifically to documentary or other evidence which it is proposed to adduce at the hearing of the objection, and to which shall be annexed a copy of each document or extract from a document upon which the objector proposes to rely on as evidence at the hearing of the objection.

5. Service of memorandum of objection

Within forty-eight hours after the presentation of a memorandum of objection to the Secretary, a copy thereof and the statement of facts of the objector and the documents annexed thereto shall be served by the objector upon the Commissioner.

6. Statement of facts of Commissioner

(1) The Commissioner shall respond to the facts of the objector within twenty-one (21) days after the service thereof upon him under rule 5, by filing with the Secretary his statement of facts together with three copies thereof.

(2) Each copy of a statement shall be accompanied by—

- (a) a copy of the notice of rent revision;
- (b) a copy of the notice of objection; and
- (c) a statement signed by the Commissioner, setting out precisely all the facts on which the statement is based and referring specifically to documentary or other evidence which it is proposed to adduce at the hearing, and to which shall be annexed a copy of each document or extract from a document upon which the Commissioner proposes to rely on as evidence.

(3) Within forty-eight hours after the presentation of a statement of facts pursuant to paragraph (1), the Commissioner shall also serve a copy thereof together with copies of any documents annexed thereto upon the objector.

7. Notice of place of hearing

(1) As soon as it may be convenient after receipt of the memorandum of objection, the Secretary shall notify the Chairman thereof.

(2) The Chairman shall fix a time, date and place for a meeting of the Tribunal for the purpose of hearing the objection and the Secretary shall cause a notice thereof to be served upon the objector and the Commissioner.

(3) The Secretary shall supply each member of the Tribunal with a copy of the notice of hearing and all documents received by the Secretary from the parties to the objection.

(4) Unless the parties to the objection otherwise agree, each party shall be entitled to not less than ten days' notice of the time, date and place fixed for the hearing of the objection.

8. Procedure at hearing of objection

At the hearing of an objection, the following procedure shall be observed—

- (a) the Commissioner shall be entitled to be present or be represented;
- (b) the objector shall state the grounds of his objection, and may support them by any relevant evidence; but save with the consent of the Tribunal and upon such terms as it may determine, the objector may not, at the hearing, rely on a ground of objection other than a ground stated in the memorandum of objection and may not adduce evidence of facts or documents unless those facts have been referred to and copies of those documents have been annexed to the statement of facts of the objector;
- (c) at the conclusion of the statement, and evidence on behalf of the objector, the Commissioner may make submissions, supported by relevant evidence, and paragraph (b) shall *mutatis mutandis* apply to the evidence of facts and documents to be adduced by the Commissioner;
- (d) the objector shall be entitled to reply but may not raise a new issue or argument;

- (e) the Chairman or a member of the Tribunal may, at any stage or the hearing, ask any questions of the objector or the Commissioner or a witness examined at the hearing which he/she considers to be relevant to the determination of the objection;
- (f) a witness called and examined by either party may be cross-examined by the other party to the objection;
- (g) the Tribunal may call and examine witnesses, and a witness called and examined by the Tribunal may be cross-examined by either party to the objection;
- (h) where the Tribunal considers it desirable for the purpose of avoiding expense or delay or any other special reason so to do, it may receive evidence by affidavit and administer interrogatories and require the person to whom the interrogatories are administered to make a full and true reply to the interrogatories within the time specified by the Tribunal;
- (i) in its determination of any matter, the Tribunal may take into consideration any evidence which it considers relevant to the subject of an objection before it, notwithstanding that the evidence would not otherwise be admissible under the law relating to evidence;
- (j) the Tribunal may adjourn the hearing of the objection for the production of any further evidence or for other good cause, as it considers necessary, on such terms as it may determine;
- (k) the Tribunal shall consider and reach its decision according to law;
- (l) the decision of the Tribunal shall be on the basis of a majority vote and shall be in writing, dated and signed by the Chairman and the members of the Tribunal who participated in the decision;
- (m) the Secretary shall record the proceedings of the Tribunal and include that record, together with a copy of the decision, in a document to be certified and signed by the Chairman as a true and correct record of the proceedings and decision;
- (n) the Secretary shall forward a certified copy of the document described in subparagraph (k) to each party;
- (o) a copy certified under paragraph (k) shall be conclusive evidence of the decision and proceedings of the Tribunal;
- (p) any interested party may be represented before the Tribunal by an advocate or by any other person whom the Tribunal may, in its discretion, admit to be heard on behalf of the party.

9. Copies of documents admissible

Save where the Tribunal in any particular case otherwise directs or where a party does not object, copies of documents shall be admissible in evidence, but the Tribunal may, at any time, direct that the originals shall be produced notwithstanding that a copy has already been admitted in evidence.

10. Fees and costs

Where the grounds of objection are held by the Tribunal to be frivolous, the Tribunal may order the objector to pay as costs to the Commissioner a sum not exceeding fifty thousand shillings.

11. Powers of Tribunal

(1) On the hearing of an objection, the Tribunal shall have all the powers of a subordinate court of the first class to summon witnesses, to take evidence upon oath or affirmation and to call for the production of books and other documents.

(2) The Tribunal shall have powers to award the costs of any proceedings before it and to direct that costs shall be taxed in accordance with any scale prescribed for suits in the High Court or to award a specific sum as costs.

(3) All summons, notices or other documents issued under the hand of the Chairman of the Tribunal shall be deemed to be issued by the Tribunal.

12. Enforcement

(1) Where the Tribunal awards costs in any objection, it shall, on application by the person to whom the costs are awarded, issue a certificate stating the amount of the costs.

(2) Every certificate issued under section (1) may be filed in the High Court by the person in whose favour the costs have been awarded and, upon being so filed, shall be deemed to be a decree of the High Court and may be executed as such:

Provided that an order for costs against the Government shall not be enforced save in the manner provided for by the Government Proceedings Act (Cap. 40).

13. Rules

In matters of procedure not governed by these Rules, the Tribunal may adopt the Civil Procedure Rules made under the Civil Procedure Act (Cap. 21).

14. Stay of suit

Where in any suit for the recovery of any money or amount payable under this Act, the Court is satisfied that any party to the suit has filed an objection to the Tribunal under section 18B(2) on any matter affecting any of the issues involved in the suit, the Court shall, on such conditions as it may think fit, stay the proceedings in the suit pending the determination of the objection.
