

CHAPTER 167

THE FOREIGN EXCHANGE ACT

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CHAPTER 167

THE FOREIGN EXCHANGE ACT

Commencement: 13 November, 2004

An Act to provide for the regulation of foreign exchange in Uganda; to provide for the regulation of exchange of foreign currencies in Uganda and the making of international payments and transfers of foreign exchange and for related matters.

PART I—INTERPRETATION

1. Interpretation

In this Act, unless the context otherwise requires—

“bank” has the meaning assigned to it in the Financial Institutions Act; “business” means either one or both of the following—

- (a) a series of two or more transactions;
- (b) a transaction or transactions in excess of an amount prescribed by regulations;

“currency” means the currency of Uganda or foreign currency; “currency of Uganda” means

- (a) bank notes and coins issued by the Bank of Uganda; and
- (b) any right to receive such bank notes or coins in respect of any balance at a financial institution located within or outside Uganda;

“currency point” has the value assigned to it in the Schedule to this Act; “designated resident enterprise” means a person holding a licence issued by the Bank of Uganda to engage in the activities specified in section 3;

“financial institution” has the meaning assigned to it in the Financial Institutions Act;

“foreign currency” means a currency other than the legal tender of Uganda;

“foreign exchange” includes—

- (a) bank notes, coins or electronic units of payment in any currency other than the currency of Uganda which are or have been legal tender outside Uganda;

- (b) financial instruments denominated in foreign currency; and
- (c) any right to receive such bank notes or coins in respect of any balance at a financial institution located within or outside Uganda;

“foreign exchange bureau” means a person holding a licence issued by the Bank of Uganda to engage in the activities specified in section 3(2);

“foreign exchange business” means the business of physical or virtual buying and selling of foreign currency;

“Governor” means the Governor of the Bank of Uganda;

“licensee” means a person licensed in accordance with this Act and regulations made under this Act to transact in foreign exchange business or money remittance business;

“Minister” means the Minister responsible for finance;

“money remittance business” means the business of foreign currency transfers consisting of the acceptance of moneys for the purpose of transmitting the moneys to persons resident in Uganda or another country;

“non-resident” means any person other than a resident;

“payment” means a transfer of currency or traveller’s cheques made for the purpose of—

- (a) discharging a liability;
- (b) making a gift or donation; or
- (c) creating a balance at a financial institution that can be drawn upon;

“person” includes any company or association or body of persons corporate or unincorporated;

“prescribed authority” means a court, a police officer or other public officer or a security agency of the State or any person authorised by any such agency; and includes any person on whom any functions are conferred by or under this Act;

“resident” means—

- (a) an individual who is ordinarily resident in Uganda for one year or more;
- (b) the Government of Uganda and any of its diplomatic representations located outside Uganda;
- (c) a company, firm or enterprise whose principal place of business or centre of control and management is located in Uganda;

(d) a branch of a company, firm or other enterprise located within Uganda whose principal place of business is located outside Uganda; and

(e) a corporation, firm or enterprise incorporated or formed under the laws of Uganda, except that “resident” does not include a foreign diplomatic representation or an accredited official of such a representation located within Uganda, an office of an organisation established by international treaty located within Uganda, or a branch of a company, firm or enterprise located outside Uganda whose principal place of business is located in Uganda;

“security” means a share, stock, bond or note, other than a cheque or traveller’s cheque or a debenture denominated in the currency of Uganda or in foreign currency;

“traveller’s cheque” means an instrument issued by a bank or similar institution which is intended to enable the person to whom it is issued to obtain bank notes or coins in the currency of Uganda or in foreign currency from another person on the credit of the issuer.

PART II—AUTHORITY OF BANK OF UGANDA AND LICENSING

2. Authority of Bank of Uganda

(1) The Bank of Uganda shall be the regulatory authority for the purposes of giving effect to this Act.

(2) The Bank of Uganda, may require any person resident or conducting business in Uganda, whether or not that person is carrying on business licensed under this Act, to furnish details of any or all of his or her foreign exchange transactions or provide returns in a format prescribed by the Bank of Uganda, giving details of that person’s foreign exchange transactions.

(3) The Bank of Uganda may, to such extent and subject to such conditions as it may think proper, delegate to any person or class of persons the performance of any of the powers conferred upon the Bank of Uganda under this Act, other than the powers set out in section 9.

(4) Subject to the provisions of this Act, the Governor shall be responsible for the implementation of this Act and may do all such things as may be necessary for the proper carrying out of the objectives of this Act.

(5) In the exercise of the powers conferred on the Governor by subsection (4), the Governor may issue guidelines, manuals, and circulars and may request for information for ensuring the execution of the provisions of this Act and the regulations made under this Act.

3. Licensing

(1) Except as permitted by an Act of Parliament, no person shall engage in the business of dealing in foreign exchange without a licence issued under this Act.

(2) The Bank of Uganda may, for a fee of fifty currency points, issue a licence under this Act to any person to engage in the business of dealing in foreign exchange.

(3) The Bank of Uganda may, by statutory instrument, in consultation with the Minister, revise the fee prescribed under subsection (2).

(4) The minimum paid up share capital to carry out foreign exchange business shall be two thousand five hundred currency points.

(5) The minimum paid up share capital to carry out money remittance business shall be ten thousand currency points.

(6) The Governor may, by statutory instrument, in consultation with the Minister, revise the minimum capital requirements for foreign exchange business and money remittance business.

(7) The Bank of Uganda may issue a licence to a person to engage in the business of buying and selling bank notes, coins and traveller's cheques in foreign currency or such activities as may be specified by the Bank of Uganda.

(8) A licence issued under this section shall remain valid, unless suspended or revoked by the Bank of Uganda.

(9) The Bank of Uganda may, when issuing a licence under this section, impose such conditions or restrictions on the licence as the Bank of Uganda considers appropriate.

(10) Notwithstanding any other law, only a body incorporated under the Companies Act or under any other Act of Parliament, with a minimum of two shareholders, shall qualify for a licence under this section.

4. On-going capital requirements

(1) The minimum capital fund for foreign exchange business and money remittance business, unimpaired by losses, shall not be less than the minimum capital required under section 3(4) and 3(5) respectively.

(2) Where a foreign exchange business or money remittance business is undercapitalised, the Bank of Uganda shall immediately take the following actions—

- (a) require the directors to submit a written explanation detailing the causes of the undercapitalisation and the measures being taken by the foreign exchange business or money remittance business to rectify the undercapitalisation;
- (b) where the foreign exchange business or money remittance business remains undercapitalised for two consecutive quarters, the Bank of Uganda shall order the shareholders or directors of the foreign exchange business or money remittance business to recapitalise the foreign exchange business or money remittance business within a period not exceeding one hundred eighty calendar days from the date on which the order is received by the foreign exchange bureau or money remittance business; and
- (c) where the shareholders or directors fail to recapitalise the foreign exchange business or money remittance business within the time prescribed under paragraph (b), the Bank of Uganda shall revoke the licence of the foreign exchange business or money remittance business.

(3) For the purposes of this section, an undercapitalised foreign exchange bureau or money remittance business is one which does not comply with the capital requirements prescribed in section 3(4) and 3(5).

5. Suspension and revocation of licence

(1) The Bank of Uganda may revoke or suspend a licence, if it has reasonable cause to believe that the licence holder has infringed the provisions of this Act or any regulations made under this Act.

(2) Subject to subsection (1), the Bank of Uganda may at any time suspend, vary any condition or restriction or impose further conditions or restrictions upon a licence that has been issued under section 3.

(3) Subject to subsection (1), the Bank of Uganda may revoke a licence that has been issued under section 3 if it finds that the licence holder—

- (a) has not commenced the operations permitted under the licence within three months after the date of issue of the licence;
- (b) has, in the course of its application for the issue, extension, or renewal of a licence under section 3 failed to disclose to the Bank of Uganda material information of which the licence holder was aware, or should, with the exercise of such diligence as could reasonably have been expected in the circumstances, have been aware;
- (c) has provided information material to the application which is found to be untrue or false;
- (d) has contravened any provision of this Act or any regulation, permission, instruction or direction issued under this Act;
- (e) has, since the issue of the licence, ceased to qualify for the licence;
- (f) is guilty of malpractice or irregularity in the management of its affairs; or
- (g) is placed under liquidation or receivership or is adjudged bankrupt.

(4) Where the Bank of Uganda has made a finding under subsection (3), the Bank of Uganda may, instead of revoking the licence, suspend the licence for a specific period or impose conditions or restrictions on the licence.

(5) Except where the circumstances render it impossible to do so, before the Bank of Uganda suspends or revokes a licence or imposes further conditions or restrictions in respect of a licence under this section, the Bank of Uganda shall give the holder of the licence fourteen days to show cause why the proposed action should not be taken.

6. Appeals

(1) A person aggrieved by a decision of the Bank of Uganda under section 3 or 5 may appeal to the High Court against the decision of the Bank of Uganda within thirty days after being notified of the decision, and the High Court may confirm or set aside the decision.

(2) On an appeal under subsection (1), the question for determination by the High Court shall be whether, for reasons stated by the appellant, the decision appealed against was unlawful or not justified by the evidence on which it was based.

(3) Where the High Court sets aside a decision of the Bank of Uganda under subsection (1), the High Court shall direct the Bank of Uganda to reconsider its decision.

7. Restrictions on importation and exportation of bank notes, coins, travellers cheques and securities

The Bank of Uganda may, by regulations, impose restrictions on the importation into or exportation from Uganda of bank notes, coins, traveller's cheques and securities denominated in the currency of Uganda or in foreign currency.

PART III—RESTRICTIONS ON CARRYING ON FOREIGN EXCHANGE BUSINESS

8. Foreign exchange business and international payments

(1) Except with the prior permission of the Bank of Uganda, no person shall engage in foreign exchange business.

(2) All payments in foreign currency within Uganda, to or from Uganda, between residents and non-residents or between non-residents, shall be made through an entity licensed by the Bank of Uganda.

(3) Every transfer of foreign exchange to or from Uganda shall be made through a person licensed to carry out money remittance business.

(4) Where the Bank of Uganda has reason to believe that an offence is about to be or has been committed, the Bank of Uganda may require a bank to obtain the permission of the Bank of Uganda before executing any payment referred to in subsection (2), and the permission shall be granted solely on the basis of a determination by the Bank of Uganda that the payment is consistent with the laws of Uganda.

(5) The Bank of Uganda may, by statutory instrument, make regulations prescribing information to be provided to the Bank of Uganda by a person licensed to carry out foreign exchange business or foreign exchange transfers, residents and non-residents in connection with the conclusion of any transaction involving foreign currency, the maintenance of bank accounts in Uganda or outside Uganda, and the settling of any payment by a resident or non-resident.

(6) The Bank of Uganda may, by statutory instrument, in consultation with the Minister, prescribe the conditions for carrying out the business of foreign exchange transfers.

9. Imposition of temporary restrictions

(1) Where the Governor is satisfied that Uganda has experienced a severe deterioration in its balance of payments that makes necessary the temporary imposition of exchange controls beyond those provided for in section 7, the Governor may, in consultation with the Minister, make regulations restricting—

- (a) in Uganda, payments between residents and non-residents or between non-residents;
- (b) payments to or from Uganda;
- (c) in Uganda, the acquisition, holding, and use in Uganda of foreign currency or traveller's cheques in foreign currency by persons;
- (d) the acquisition, holding and use in Uganda of foreign currency or traveller's cheques in foreign currency by residents; and
- (e) the rate at which the purchase and sale of foreign exchange may take place in Uganda.

(2) Subject to subsection (1), regulations made under this section shall remain in force for a period not exceeding three months; except that, with the written consent of the Minister, the Bank of Uganda may extend the period of operation of the regulations for a further period not exceeding three months, and, thereafter, for such further period as may be authorised by Parliament by resolution.

(3) If the period of operation of any regulations extended under subsection (2) expires when Parliament is not in session, the Bank of Uganda may extend the period of operation until the twenty-eighth day following the commencement of the next session of Parliament.

(4) The Governor shall, within fourteen days after any regulations are made under subsection (1), cause to be published in the *Gazette* the reasons justifying any restrictions imposed under subsection (1).

PART IV—ENFORCEMENT OF COMPLIANCE

10. Provision of information

(1) The Bank of Uganda may, in writing, give to any resident or to any person 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 Bank of Uganda, 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 Bank of Uganda or the person authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of the provisions of this Act.

(2) A person required by any directions under subsection (1) to furnish information which is stored in a computer or any other electronic media shall also produce such books, accounts or other documents in his or her possession or control as may be required for that purpose by the Bank of Uganda or by the person authorised to require the information.

(3) Where a person is convicted for failing to give information or produce any document when required to do so under this section, 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 to produce the document.

(4) Any information or document obtained under this section is admissible in evidence in a prosecution for an offence under this Act of any person from whom it was obtained or of any body corporate for which that person at the time of the commission of the offence was or was purporting to act as director, general manager, secretary or other similar officer of the body corporate.

11. Search and seizure

(1) If court is satisfied by information given under oath by a person authorised by the Bank of Uganda to act for the purpose of this section, either—

- (a) that an offence under 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 document which ought to have been produced under section 10 and has not been produced is to be found at any premises or in any vehicle, vessel or aircraft referred to in paragraph (a),
- the court may issue a search warrant authorising a police officer, together with any other person named in the warrant and any other police officers, to enter the premises specified in the information or any premises upon which the vehicle, vessel or aircraft specified may be, at any time within one month from the date of the warrant, and to search the premises, or the vehicle, vessel or aircraft.

(2) A person authorised by a warrant issued under subsection (1) to search any premises or any vehicle, vessel or aircraft may

- (a) search any person who is found in, or who the authorised person has reasonable ground to believe has recently left or is about to enter, those premises or that vehicle, vessel or aircraft; and
- (b) seize any property found on that person or on the premises or in the vehicle, vessel or aircraft, which he or she has reasonable ground for believing to be evidence of, or to have been used in connection with the commission of an offence under this Act or any documents which he or she has reasonable ground to believe ought to have been produced under this section.

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

(4) Where there is reasonable ground for suspecting that a person has committed an offence under this Act, a police officer may seize any property in that person's possession or under his or her control which appears to the police officer to be evidence of, or to have been used in connection with, the commission of the offence.

12. Notice

(1) Where any property has been seized under section 11, the person effecting the seizure shall, within one month after the seizure, give notice in writing of the seizure and the reasons for the seizure to the owner.

(2) The giving of notice shall not be required under subsection (1) where—

- (a) the property was seized in the presence of the owner;
- (b) the owner of the property cannot be identified; or
- (c) a person is, within one month after the seizure, charged with the offence by reason of which the property has been seized.

(3) Where any property has come into the possession of a prescribed authority under section 11, and a period of one month has elapsed from—

- (a) the date of seizure; or
 - (b) the date of notice if the notice has been given under subsection (1),
- the property shall, by order of court, be forfeited to the State unless, within that period, the owner has claimed the property by giving notice in writing to the Bank of Uganda.

(4) Where the Bank of Uganda has received a notice of claim under subsection (3), and a period of two months has elapsed from the date of receipt of the notice, the property shall be released to the owner unless, within that period, the Bank of Uganda has either—

- (a) by notice in writing to the owner, required the owner to institute proceedings in a court for the recovery of the property; or
- (b) instituted proceedings in a court for the forfeiture of the property.

(5) Where the Bank of Uganda has given an owner notice to institute proceedings under subsection (4) and a period of two months has elapsed from the date of receipt of the notice by the owner, the property shall, by order of court, be forfeited to the State unless, within that period, the owner has instituted the proceedings.

13. Recovery or forfeiture

(1) Where proceedings for the recovery or forfeiture of property have been instituted in a court under section 12, the court may order the property

to be forfeited to the State if the court finds that the property was used in connection with the commission of an offence under this Act.

(2) Where any property has come into the possession of a prescribed authority, whether in consequence of the seizure of the property under this section or otherwise, the liability of the property to forfeiture shall not be affected by the fact that the owner of the property was in no way concerned with the act or omission which rendered the property liable to forfeiture.

- (3) Where any property is forfeited under this section—
- (a) the forfeiture shall be deemed to have taken effect at the time when the liability to forfeiture arose; and
 - (b) the forfeiture shall, subject to any appeal in any proceedings which resulted in the forfeiture, be final and no application or proceedings for restitution or in detinue by any person, shall lie.

14. Retention of seized property

(1) Notwithstanding any other provision of this Act, where property has come into the possession of a prescribed authority, whether in consequence of the seizure of the property under this Act or otherwise, and the prescribed authority is satisfied that there is reasonable ground for suspecting the property to be evidence of the commission of an offence under this Act, the prescribed authority may retain the property for a period of twelve months from the date it came into its possession and, if any person is, within that period, prosecuted for an offence under this Act in which the property is or can properly be adduced in evidence, the property shall be retained until the prosecution has been determined.

(2) For the purposes of subsection (1), a person to whom any powers of the Bank of Uganda under this Act are delegated or on whom any functions are conferred by or under this Act, including a police officer, shall be deemed to be a prescribed authority for the purposes of the definition of that expression in section 1.

(3) For the purposes of subsection (1), proceedings shall be deemed not to have been finally determined so long as there is pending an appeal in the matter; and an appeal in that matter shall be deemed to be pending during the ordinary time within which an appeal may be lodged, and if an appeal is duly lodged, it shall be deemed to be pending until it is determined or withdrawn.

(4) The powers conferred by this section in relation to any property shall be in addition to, and not in derogation from, any powers otherwise exercisable in relation to that property.

15. Furnishing of information

(1) Every licensee under this Act shall furnish to the Bank of Uganda, at such times and in such form as the Bank of Uganda may prescribe, all information and data relating to their operations in Uganda, including periodic returns.

(2) A licensee that, without reasonable cause, fails to comply with subsection (1) or that submits inaccurate information or returns, shall pay an administrative penalty as may be levied by the Bank of Uganda.

(3) An administrative penalty levied on a licensee under subsection (2) shall not exceed one thousand currency points and shall be used by the Bank of Uganda to offset supervision costs and such moneys shall be retained by the Bank of Uganda.

16. Compliance with reporting requirements under the Anti-Money Laundering Act

A licensee under this Act shall comply with the reporting requirements under the Anti-Money Laundering Act.

PART V—MISCELLANEOUS

17. General prohibitions

No person in Uganda shall, with intent to evade any provision of this Act—

- (a) destroy, mutilate, deface or remove any document;
- (b) make any declaration which is false in any material particular;
- (c) 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;
- (d) counterfeit or in any way falsify any document or knowingly use a document which is counterfeit or false; or

- (e) obstruct any person in the exercise of any powers conferred upon him or her by or under this Act.

18. Offences

- (1) Any person who—
 - (a) engages in the business of dealing in foreign exchange without a licence issued under section 3;
 - (b) contravenes any restriction imposed under section 3;
 - (c) contravenes any restriction imposed under section 7;
 - (d) fails to provide information required under section 10;
 - (e) contravenes section 17,

commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding two years, or both.

(2) Where a person is convicted of an offence under subsection (1) and the offence is concerned with any property, the court shall order the property to be forfeited to the State unless it sees good reason not to do so.

(3) Where a body corporate commits an offence under this Act or under regulations made under this Act, any director, general manager, secretary or other similar officer of the body corporate or other person purporting to act in any such capacity, shall also be taken to have committed the offence if any act or omission of that person is proved to have given rise to the contravention which constituted the offence.

(4) A person shall not be taken to have committed an offence under subsection (3) if he or she proves that the contravention was committed without his or her consent or connivance and that he or she exercised all due diligence to prevent the commission of the offence, having regard to all circumstances.

19. Administrative penalties

The Bank of Uganda may, by statutory instrument, prescribe and levy administrative penalties on licensees for the contravention of this Act or regulations made under this Act.

20. Regulations

(1) The Bank of Uganda may, by statutory instrument, make regulations generally for the purpose of carrying out the provisions of this Act.

(2) Without limiting the general effect of subsection (1), the Bank of Uganda may make regulations relating to—

- (a) licence fees;
- (b) security deposits;
- (c) minimum and ongoing capital requirements for licensees;
- (d) reporting requirements; and
- (e) anything required or authorised by the Act to be prescribed by regulations.

(3) Regulations made under this section may prescribe, for any contravention of the regulations—

- (a) a fine not exceeding one thousand currency points or imprisonment not exceeding two years, or both;
- (b) an additional fine not exceeding five currency points in respect of each day on which the contravention continues; or
- (c) the requirement that the court convicting the offender shall forfeit to the State any property in connection with which the contravention was committed.

(4) Statutory instruments made under this Act shall be laid before Parliament by the Minister within a period of thirty days.

(5) Where a statutory instrument is not laid before Parliament in accordance with subsection (4), the statutory instrument shall automatically lapse.

21. Power to amend Schedule

The Minister may, by statutory instrument, with the approval of Cabinet, amend the Schedule to this Act.

22. Precedence of Act

This Act shall take precedence over all other existing legislation relating to foreign exchange and any contradiction in any other law is modified to the extent of the contradiction.

23. Non-application of Act to financial institutions

For the avoidance of doubt, this Act does not apply to a financial institution licensed under the Financial Institutions Act to conduct financial institutions business in Uganda.

24. Compliance by foreign exchange bureau or money remittance business

A foreign exchange bureau or money remittance business in existence on the 25th day of August, 2023 shall—

- (a) within sixty days from the 25th day of August, 2023, comply with sections 15 and 16; and
- (b) within one hundred eighty days after the 25th day of August, 2023, comply with the requirements of section 3(4) and (5).

SCHEDULE

Sections 1, 21

Currency Point

A currency point is equivalent to twenty thousand shillings.

History: Act 5/2004; Act 18/2023

Cross References

Anti-Money Laundering Act, Cap.
118 Companies Act, Cap. 106
Financial Institutions Act, Cap. 57