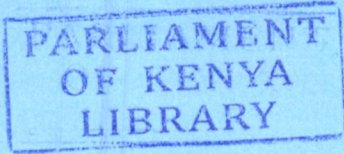


REPUBLIC OF KENYA

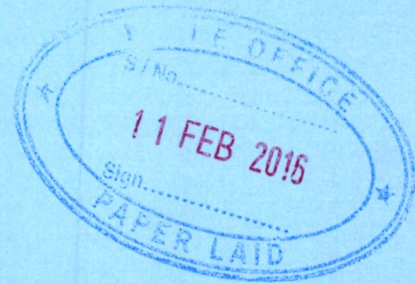


Paper laid
By the Hon Aden
Duale - Leader of
Majority on Thurs
11/2/2016
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KENYA NATIONAL AUDIT OFFICE



REPORT



OF

THE AUDITOR-GENERAL

ON

**THE FINANCIAL STATEMENTS OF
INFORMATION AND COMMUNICATIONS
TECHNOLOGY AUTHORITY**

**FOR THE YEAR ENDED
30 JUNE 2015**



SPECIAL ISSUE

1431

Kenya Gazette Supplement No. 179

23rd October, 2015

(Legislative Supplement No. 75)

LEGAL NOTICE NO. 221

THE EXPORT PROCESSING ZONES ACT

(Cap. 517)

DECLARATION OF EXPORT PROCESSING ZONE

IN EXERCISE of the powers conferred by section 15 (1) of the Export Processing Zones Act, the Cabinet Secretary for Industrialization and Enterprise Development declares the land specified in the Schedule hereto to be an Export Processing Zone.

SCHEDULE

All that piece of land being Land Reference No. MN/IV/952 measuring approximately 2.428 hectares or thereabout situated in Mtwapa, Kilifi County.

Dated the 8th October, 2015.

ADAN MOHAMED,
*Cabinet Secretary,
Industrialization and Enterprise Development.*

LEGAL NOTICE NO. 222

THE EXPORT PROCESSING ZONES ACT

(Cap. 517)

DECLARATION OF EXPORT PROCESSING ZONE

IN EXERCISE of the powers conferred by section 15 (1) of the Export Processing Zones Act, the Cabinet Secretary for Industrialization and Enterprise Development declares the parcels of land specified in the Schedule to be an Export Processing Zone.

SCHEDULE

All that piece of land being a portion of title No. No. 23399 measuring approximately 0.798 hectare or thereabouts situated in Naivasha Municipality, Nakuru County.

Dated the 8th October, 2015.

ADAN MOHAMED,
*Cabinet Secretary,
Industrialization and Enterprise Development.*



LEGAL NOTICE NO. 225

THE WITNESS PROTECTION RULES, 2015

ARRANGEMENT OF RULES

1. Short title and commencement
2. Interpretation
3. Application of Rules
4. Protection of witnesses
5. Protection measures
6. Duration of protective measure
7. Variation of a protective order
8. Public hearing
9. Closed or *in camera* hearing
10. Testimony by means of audio or video link technology
11. Qualifications for evidence of audio and video recorded interview
12. Video recorded evidence-in-chief
13. Evidence through an intermediary
14. Protecting the identity of a witness
15. Record of proceedings and record of evidence
16. Prohibition of publication of certain information relating to the proceedings
17. Application to Court

THE WITNESS PROTECTION ACT

(No. 16 of 2006)

IN EXERCISE of powers conferred by section 36 (2) of the Witness Protection Act, the Chief Justice makes the following Rules—

THE WITNESS PROTECTION RULES, 2015

1. These rules may be cited as the Witness Protection Rules, 2015 and shall come into operation thirty (30) days after publication in the *Gazette*.

Short title and commencement.

2. In these rules, unless otherwise the context requires—

Interpretation.

“Act” means the Witness Protection Act;

“Agency” means the Witness Protection Agency established by Section 3A of the Witness Protection Act;

“appropriate person” means any court official or any other person at the court point and the remote point who is required to be, or may be, present at the proceedings, including the presiding officer, the prosecutor, the accused, the accused’s advocate, technical assistance, police officer, court clerk, any witness and members of the public who are entitled to be present;

“audio-link” means a live telephone link between the court point and the remote point which are both equipped with facilities which will enable audio communication between all appropriate persons at the court point and the remote point;

“audio-visual link” means a live television link between the court point and the remote point which are both equipped with facilities which will enable all appropriate persons at the court point and the remote point to follow the proceedings and see and hear all the appropriate persons;

“child” means a person who has not attained the age of eighteen years;

“Court” means a court of competent jurisdiction;

“court point” means the court room, or other place where the court having jurisdiction is sitting;

“intermediary” means a person appointed by the Court on account of their experience or expertise to assist the witness or vulnerable witness to give their evidence in Court and may include a parent, relative, doctor, psychologist, counselor, guardian, children officer, probation officer or social worker;

“intimidated witness” means anyone suffering from fear or distress in relation to testifying in a case before Court, or commission or Tribunal, or anyone whose quality of testimony is likely to be diminished by fear or distress in connection with testifying;

“police officer” has the same meaning assigned to it under the National Police Service Act, 2011;

“protection officer” means a person appointed as such under section 3N(1) of the Witness Protection Act;

No. 11A of 2011.

“publication” has the same meaning assigned to it under the Interpretation and General Provisions Act;

“redaction” means the removal of any identifying information from a document; Cap. 2.

“Registrar” means a registrar of the relevant court;

“remote point” means the room or place at the designated place where the accused person or the witness, appearing through audio-visual link is located;

“Rules” means the Witness Protection Rules, 2015;

“threatened witness” means a witness who fears that a threat which is express or implied of an intention to inflict harm, pain or misery will be carried out in circumstances in which a reasonable person would fear that the threat would be carried out;

“Tribunal” means the Witness Protection Appeals Tribunal established under section 3U of the Witness Protection Act, or other tribunal of competent jurisdiction;

“vulnerable witness” includes a child, person with mental disability or learning disability, physical disorder or disability, people likely to suffer fear or distress in giving evidence because of their own circumstances or those relating to the case and persons who are vulnerable depending on the nature of the crime; and

“protection order” means an order of the Court directing protection of a witness.

3. These Rules shall apply to the proceedings with respect to a protected witness in accordance with section 36(2) of the Witness Protection Act. Application of
Rules
No. 16 of 2006

4. (1) The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of witnesses by having regard to all relevant factors, including age, gender, health and nature of the crime. Protection of
witnesses

(2) The Court shall, on its own motion or upon application made by the Agency or the prosecution make appropriate orders for the protection of a witness.

(3) The Court may make a protection order if it is satisfied that—

- (a) the person before the Court or named in the application is a witness;
- (b) the person was a witness to, or has knowledge of an offence and is, or has been a witness in criminal proceedings relating to the offence;
- (c) the person was or is a witness in any other proceeding;
- (d) the person is a person who, because of their relationship to, or association with, a person to whom subparagraph (a), (b) and (c) applies, may require protection or other assistance;
- (e) the life or safety of the person may be endangered as a result of being a witness;

- (f) the protection measures alone or in combination shall most likely maximize and improve the quality of the eligible witness's evidence in the circumstance of the case;
- (g) a memorandum of understanding has been entered into by the witness in accordance with section 7 of the Act.

(4) In determining whether the protection order should be granted, the Court shall take into account all the circumstances of the case, the eligibility criteria set out in this rule, and whether or not the protection order in question is likely to inhibit the evidence being effectively tested by any party to the proceedings or is not contrary to the interest of justice.

(5) The Court shall hold *in camera* proceedings to determine whether to make the protection order.

(6) Where the Court refuses to give an order for the protection of a witness, it shall record its reasoning for the refusal.

5. (1) The Court may make a protection order for any or a combination of the following appropriate measures to facilitate the testimony of a protected witness—

Protection
measures

- (a) measures to prevent disclosure to the public or media of the identity or whereabouts of a witness, or of persons related to or associated with a witness by such means, including—
 - (i) expunging identifying information from the Court's public records;
 - (ii) redacting identifying information from the materials, statements and information disclosed to the accused or their advocate;
 - (iii) giving testimony through image or voice distortion or alteration devices or behind a screen;
 - (iv) assigning a pseudonym;
 - (v) closed session in accordance with rules on closed sessions;
 - (vi) prohibiting any party in the proceedings from disclosing any information to a third party of the protected witness; or
 - (vii) assigning a separate waiting room for a witness.
- (b) measures to allow production of evidence in the physical absence of the witnesses, including—
 - (i) using audio-visual technology, in particular, video conferencing and closed circuit television;
 - (ii) video recording evidence-in-chief and interviews; or
 - (iii) using the sound media or a live link;
- (c) measures that aid in the giving of evidence, including—

- (i) using communication aids;
- (ii) giving evidence through an intermediary;
- (iii) changing the trial venue, or hearing date;
- (iv) hearing a case on a day to day basis until completion; or
- (v) permitting the expedited testimony of a protected witness where it is necessary in circumstance of the case to meet the ends of justice.

(2) Any measure allowed by the Court for the protection of a witness shall not prejudice the rights of an accused person to fair trial.

(3) The Registrar shall make available facilities and equipment to protect the safety, physical and psychological well-being, dignity and privacy of witnesses as ordered by the Court.

6. A measure ordered by the Court in respect of a witness in any proceedings before the trial Court shall last throughout the trial, or such period as maybe determined by the Court.

Duration of protective measure

7. (1) The Court may on its own motion, or on application by either party, apply for the protection order to be varied or discharged.

Variation of a protective order

(2) Before the Court makes an order under sub-rule (1), a party shall show that there has been a significant change of circumstances of the witness since—

- (a) the Court made the order; or
- (b) an application for it to be varied was last made.

(3) The Court shall state, in open court, its reasons for giving, varying or discharging a protection order or rejecting such an application.

8. A hearing shall be held in open court, in the presence of the accused, or the accused's advocate and the public unless otherwise provided for in these rules.

Public hearing

9. (1) The Court may exclude a person, the press or public from all, or part of proceedings and order the proceedings to be held *in camera* for the following reasons—

Closed or *in-camera* hearing

- (a) protecting the rights of the accused or a witness;
- (b) public order or morality;
- (c) safety, security, privacy or non-disclosure of the identity of a witness as provided for in rule 4;
- (d) maintaining the dignity and decorum of the proceedings;
- (e) protecting the interests of justice; or
- (f) security of the State.

(2) In any proceedings pending before the Court, the Court may, at the request of the Agency, or the prosecutor direct that any person whose presence is not necessary at the proceedings, or any person, or

class of persons mentioned in the request shall not be present at the proceedings.

(3) Despite sub-rule (2), judgment shall be delivered and sentence passed in open court if the Court is of the opinion that the identity of the person concerned shall not be revealed.

(4) Where a witness before the Court is a child, the Court may on its own motion, direct that no person, other than a parent, or guardian or a person in *loco parentis* shall be present at the proceedings unless the person's presence is necessary in connection with the proceedings, or is authorized by the Court.

(5) An application under this subrule may be made orally, or in writing and shall be heard *in camera*.

(6) The Court shall make public the reasons for its orders.

10. (1) Where it is in the interest of justice to do so, a trial court may, by an order on application of the Agency or the prosecution, dispense with the attendance of a witness whether resident in Kenya or outside the country, whose evidence is necessary but whose attendance cannot be secured without undue delay, expense or convenience.

Testimony by
means of audio or
video link
technology

(2) The evidence referred to in sub-rule (1) may be given through video-link.

(3) An application for the taking of such evidence through video-link technology shall be heard *in camera* and shall indicate—

- (a) the whereabouts of that person whose evidence is sought;
- (b) the date and place at which the evidence is to be taken;
- (c) a statement of the matter on which the person is to be examined; and
- (d) the circumstances justifying the taking or the giving of such evidence through video link.

(3) The Court may allow a witness to give oral evidence by means of audio or video technology.

(4) Despite sub-rule (3), the technology shall permit the witness to be examined by the prosecutor, the defence, or by the Court, at the time that witness testifies.

(4) The Registrar shall ensure that the venue chosen for the conduct of the audio or video link testimony is conducive to—

- (a) the giving of evidence;
- (b) the safety, physical and psychological well-being of the witness; and
- (c) the dignity and privacy of the witnesses.

(5) For evidence given under this rule to be admissible, it must satisfy the provisions of rule 11.

11. (1) The Court shall ensure that audio and video recording meet the technical requirements set out in sub-rule (2) for purposes of proceedings by way of audio-visual link.

Qualifications for
evidence of audio
and video
recorded
interview

(2) The court point and the remote point must be equipped with facilities that enable appropriate persons—

(a) at the court point to see and hear a person appearing before the court or making submissions, or any other appropriate person at the remote point and to follow the proceedings; and

(b) at the remote point to see and hear all appropriate persons at the court point and to follow the proceedings.

(3) The Court may, subject to sub-rule (4) below, direct that a matter is adjourned to the next court day in the event of—

(a) an interruption of an audio-visual link;

(b) an audio-visual link being of poor quality which, in the Court's opinion, is not in the interest of justice to continue the proceedings by way of audio-visual link; or

(c) any equipment malfunctioning.

(4) The Court may, in order to ensure a fair trial, give directions in any case as it may deem necessary.

(5) The directions referred to in sub-rule (4) shall not be inconsistent with these Rules.

12. (1) The prosecution or the defence may apply to the Court for leave to admit into evidence video recorded evidence-in-chief.

Video recorded
evidence-in-chief

(2) The Court may allow the introduction of previously recorded audio or video evidence of a witness, or the transcript or other documented evidence of such testimony—

(a) if the witness who gave the previously recorded evidence is not present before the Court, both the prosecution and the defence had the opportunity to examine the witness during the recording; or

(b) if the witness who gave the previously recorded testimony is present before the Court, does not object to the submission of the previously recorded testimony and the prosecution, the defence and the Court have the opportunity to examine the witness during the proceedings.

13. (1) Whenever proceedings are pending before any Court and it appears to the Court that it would expose any witness to undue mental stress, or suffering if the witness testifies at the proceedings, the Court shall, on its own motion or upon an application and subject to sub-rule (4), appoint a competent person as an intermediary in order to enable the witness give evidence through that intermediary.

Evidence through
an intermediary

(2) No examination, cross examination or re-examination of any witness in respect of whom a Court has appointed an intermediary under subsection (1), except examination by the Court, shall take place in any manner other than through the intermediary.

(3) An intermediary shall, if the Court so directs, convey the general purport of any question to the relevant witness.

(4) An intermediary shall accompany a witness when that witness is testifying in Court.

(5) When an intermediary accompanies a witness who is testifying in Court, the intermediary shall remain visible to the Court except when the Court makes an order that prevents the intermediary from being visible to the Court, or any other person present before the Court.

(6) An intermediary shall swear or affirm to the Court that the intermediary shall—

- (a) assist the witness to the best of the intermediary's ability; and
- (b) not interfere with the witnesses, or the evidence of the witness.

(7) In performing the functions of an intermediary, an intermediary may—

- (a) accompany, stand or sit near the witness;
- (b) give the witness the physical or psychological support that the witness may require;
- (c) stand, or sit in the full view of the witness; or
- (d) draw the attention of the Court if the witness is in distress.

(8) An intermediary shall not instruct a witness regarding the giving of evidence.

(9) In the interest of justice and for the protection of a witness, the Court may direct that an intermediary—

- (a) shall not do any act in relation to a witness; or
- (b) shall take such action in relation to a witness as the Court may require.

(10) Where the Court appoints an intermediary for a witness, it shall inform an accused person, in writing, and shall give the accused person an opportunity to be heard regarding the appointment of the intermediary.

(11) If a Court appoints an intermediary under sub-rule (1), the Court may direct that the relevant witness shall give evidence at any place—

- (a) that is informally arranged to set the witness at ease;
- (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
- (c) which enables the Court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through electronic or other media, that intermediary as well as that witness during their testimony.

(12) The Court shall provide reasons for refusing any application, or request by the prosecution for the appointment of an intermediary.

(13) An intermediary appointed by the Court in terms of sub-rule (1) shall be summoned to appear in Court on a specified date and at a specified place and time to act as an intermediary.

(14) If, at the commencement of, or at any stage before the completion of the proceedings concerned, an intermediary appointed by the Court—

- (a) is for any reason absent;
- (b) becomes unable to act as an intermediary in the opinion of the Court; or
- (c) dies,

the Court may, in the interest of justice and after due consideration of the arguments put forward by the accused or the accused's advocate and the prosecution—

- (a) postpone the proceedings in order to obtain the intermediary's presence;
- (b) summon the intermediary to appear before the Court to provide a reason for being absent;
- (c) revoke the appointment of the intermediary and appoint another intermediary; or
- (d) revoke the appointment of the intermediary and order that the proceedings continue in the absence of an intermediary.

(15) The Court shall immediately give reasons for any direction, or order referred to in sub-rule 14 (d) which reasons shall be entered into the record of the proceedings.

14. (1) The Agency may apply to the High Court *ex parte*, for an order for any document necessary—

- (a) to allow a witness to establish a new identity; or
- (b) to restore a protected person's former identity.

(2) The application shall be made in writing and shall be heard *in camera*.

(3) The Court shall make the order upon the Agency satisfying the requirements of rule 4 of these rules.

(4) The Court may make an order authorizing a specified person to—

- (a) make a new entry in the register of births or register of marriages in respect of the witness;
- (b) make a new entry in a register of deaths in respect of the witness, or a relative by blood or marriage of the witness; or
- (c) issue in the witness's new identity a document of a kind previously issued to the witness.

15. (1) The Registrar shall cause to be made and preserved a full and accurate record of evidence of all proceedings, including audio recordings, transcripts and, when required by the Court, video recordings.

Protecting the
identity of a
witness

Record of
proceedings and
record of
evidence

(2) The Court, after giving due considerations to any matter relating to witness protection, may order the disclosure of all, or part of the record of closed proceedings when the reasons for ordering its non-disclosure no longer exist.

(3) The Registrar shall retain and preserve all physical evidence produced during the proceedings subject to any practice direction, or any other order which a court may at any time make with respect to the control or disposition of physical evidence offered during the proceedings before the Court.

(4) Photography, video recording or audio recording of the trial, otherwise than by the Registrar may be authorized by the Court.

16. (1) Where the Court under these Rules or on any ground referred to in rule 9 directs that the public, the press or any class of persons shall not be present at any proceedings, or part of the proceedings, the Court may direct that no information relating to the proceedings, or part of the proceedings held behind closed doors shall be published in any manner.

Prohibition of publication of certain information relating to the proceedings

(2) A direction by the Court under sub-rule (1) shall not prevent—

- (a) the publication of information of the name and personal particulars of the accused;
- (b) the charge preferred;
- (c) the plea;
- (d) the verdict; and
- (e) the sentence,

unless the Court is of the opinion that the publication of any part of such information might defeat the object of its direction under rule 4 in which event the Court may direct that such information shall not be published.

(3) No person shall publish any information which reveals, or may reveal the identity of an accused person under the age of eighteen years.

(4) Despite sub-rule (3), the Court, or the Registrar may authorize the publication of information as the Court or the Registrar may find necessary if the publication would in their opinion be just and equitable in the interest of any particular person.

(5) No prohibition or direction under this rule shall apply with reference to the publication in the form of a bona fide law report of—

- (a) information for the purpose of reporting any question of law relating to the proceedings in question; or
- (b) a decision or ruling given by a Court on such question if the report does not mention—
 - (i) the name of the person charged;

- (ii) the person against whom, or in connection with whom the offence in question was alleged to have been committed;
- (iii) any witness at the proceedings; or
- (iv) the place where the offence in question was alleged to have been committed.

17. (1) An application to Court under these Rules shall be made by the Agency, the prosecution, the investigating officer or any other investigative agency in the proceedings.

Application to Court

(2) An application to Court may be made orally or in writing at the discretion of the Court.

(3) An application may be made to the Court at any time during the trial.

(4) A written application under these Rules shall be made by notice of motion.

(5) An application under these Rules shall specify the special measure sought and the reasons for the application.

Dated the 6th October, 2015.

WILLY MUTUNGA,
Chief Justice and President of the Supreme Court.

LEGAL NOTICE NO. 226

THE TAX APPEALS TRIBUNAL ACT

(No. 40 of 2013)

IN EXERCISE of the powers conferred by section 32 (2) of the Tax Appeals Tribunal Act, 2013, the Chief Justice makes the following Rules—

THE TAX APPEALS TRIBUNAL (APPEALS TO THE HIGH COURT) RULES, 2015.

1. These Rules may be cited as the Tax Appeals Tribunal (Appeals to the High Court) Rules, 2015.

Citation.

2. In these Rules, unless the context otherwise requires—

Interpretation.

“address for service” means a place of residence or a place of business or last known address;

“appeal” means an appeal to the High Court under section 32 of the Act;

“Registrar” means the Registrar of the High Court;

3. The appellant shall, within thirty days, after the date of service of a notice of appeal under section 32(1), file a memorandum of appeal with the Registrar and serve a copy on the respondent.

Time for filing of memorandum of appeal

4. The Court may extend the time specified in rule 3 if the Court is satisfied that, owing to absence from Kenya, sickness, or other reasonable cause, the appellant was unable to file the memorandum of

Extension of time for filing memorandum of appeal.

appeal within that period and that there has been no unreasonable delay on the part of the appellant.

5. A memorandum of appeal shall—

- (a) be signed by the appellant;
- (b) contain an address of service of the appellant;
- (c) set out concisely under consecutively numbered distinct heads, the grounds of appeal without any arguments or narrative;
- (d) contain an index of all documents supporting the appeal with number of pages at which they appear; and
- (e) accompanied by a copy of the decision of the Tribunal and the notice of appeal.

Memorandum of appeal.

6. (1) After the memorandum of appeal and the supporting documents have been filed, the Registrar shall stamp the memorandum of appeal and the documents filed, and number and enter the Appeal, as a Tax Appeal, in the register of tax appeals.

Filing of memorandum of appeal and other documents.

(2) Upon entry of an appeal in the register of tax appeals, the Registrar shall ensure that, in respect of all documents relating to the appeal, the words "Tax Appeal" and the number of that appeal are included in the title of the appeal wherever the title occurs.

(3) The Registrar shall establish and maintain a register for tax appeals

7. (1) An appeal shall abate in any case where any filing fees due have not been paid in full within fourteen days from the date of notifying the appellant of the total amount of the fees payable by him.

Abatement of appeal.

(2) Where an appellant is notified by post, the appellant shall be deemed, until the contrary is proved, to have received the notification at the time at which the letter would be delivered in the ordinary course of post.

8. The respondent shall file a statement of facts with the Registrar within thirty days of service upon him of the copy of memorandum of appeal by the appellant, during office hours.

Filing of statement of facts.

9. (1) The statement of facts filed under rule 8 shall—

- (a) be, signed by the respondent;
- (b) giving an address for service of the respondent;
- (c) set out precisely the respondent's response to the memorandum of appeal and refer specifically to documentary evidence or other evidence which the respondent proposes to adduce at the hearing of the appeal.

Response and extension of time.

(2) The documentary evidence referred to in paragraph (1)(c) shall be annexed to the response.

(3) The Court may extend the period specified in rule 8 if it is satisfied that, owing to any reasonable cause, the respondent was unable to file the statement of facts and documentary evidence within that period and there was unreasonable delay on the respondent's part.

10. (1) Unless the parties otherwise agree, the Registrar shall give fifteen days' notice, in writing, to the parties of the date and place fixed for the hearing of the appeal.

Notice to parties to appear for hearing.

(2) The Court shall at the hearing of the appeal, hear the appellant and his witnesses first and the respondent shall be given an opportunity to cross examine the witness, if any.

(3) At the close of the case of the appellant, the evidence of the respondent shall be heard, and the appellant shall be given the opportunity to cross examine each witnesses followed by re-examination by the respondent after which the parties may make oral or written submissions.

11. (1) Where on the day fixed, or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called out for hearing, the Court may dismiss the appeal.

Reasons for dismissing appeal.

(2) Where it is proved to the satisfaction of the Court, that owing to absence of the appellant from Kenya, sickness, or other reasonable cause, the appellant was unable to attend the hearing of the appeal on the day and at the time fixed for that purpose, the Court may postpone the hearing for such reasonable time as it considers necessary.

(3) Where the appellant appears and the respondent does not appear, the Court may proceed to hear the appeal ex parte.

12. Where an appeal is dismissed under rule 11(1), the appellant may apply to the Court for the reinstatement of the appeal, and the Court shall, where it is proved that the appellant was unable to appear for the hearing of the appeal due to any reasonable cause, readmit the appeal on such terms as it considers fit.

Reinstatement of appeal.

13. Where an appeal is heard ex parte, the respondent may apply to the Court for the rehearing of the appeal and the Court shall, where satisfied that the respondent was unable to appear for the hearing of the appeal due to any reasonable cause, rehear the appeal on such terms as it considers fit.

Rehearing of appeal.

14. The appellant shall not, except by leave of the Court and upon such terms as the Court may determine, rely on a ground other than a ground stated in the memorandum of appeal.

Limitations on grounds to rely on.

15. The Court may, at the time of hearing of an appeal, admit other documentary or oral evidence not contained in the statement of facts of the appellant or respondent should it consider it necessary for determination of the appeal.

Admission of other evidence.

16. Save where the Court in a particular case otherwise directs copies of documents shall be admissible in evidence, but the Court may at any time direct that the original be produced notwithstanding that a copy has already been admitted in evidence.

Admissibility of evidence.

17. (1) Ancillary applications to the Court, if not made at the time of hearing, shall be made by notice of motion and titled in the matter of the tax appeal, supported by affidavit.

Ancillary applications.

(2) If no appeal has been filed, the motion shall be titled in the matter of the intended tax appeal.

18. Where a decree following the decision of the Court does not specify the amount of tax payable under the assessment as determined by the Court, the Commissioner shall for the purpose of the execution of that decree,—

Where a court decrees does not specify tax payable.

- (a) where the decision of the Court results in an amendment to the assessment filed with the Registrar, certify an amended assessment and serve it on the person assessed; or
- (b) where the decision does not result in an amendment to the assessment, file with the Registrar a statement signed by himself setting out the amount of tax payable under the notice of assessment served or the amended notice, as the case may be,

and the decree shall have effect as if it were a decree for the payment of the amount of tax set out in the notice or statement, as the case may be.

19. The scale of fees for the time being in force in civil matters in the Court shall apply in respect of filing fees and to all subsequent acts, applications or proceedings, in relation to the appeal.

Fees.

20. The rules determining procedure in civil suits before the Court, to the extent to which those rules are not inconsistent with the Act or these Rules, shall apply to the tax appeal as if it were a civil suit.

Civil procedures to apply.

21. A person aggrieved by the decision of the Court may appeal to the Court of Appeal within fourteen days.

Appeal to the Court of appeal.

WILLY MUTUNGA,
Chief Justice.

LEGAL NOTICE NO. 227

THE TAX APPEALS TRIBUNAL ACT

(No. 40 of 2013)

IN EXERCISE of the powers conferred by section 24(2) of the Tax Appeals Tribunal Act, 2013, the Chief Justice makes the following Rules:—

THE TAX APPEALS TRIBUNAL (PROCEDURE) RULES, 2015

1. These Rules may be cited as the Tax Appeals Tribunals (Procedure) Rules, 2015.

Citation.

2. In these Rules, unless the context otherwise requires—

Interpretation.

“Act” means the Tax Appeals Tribunals Act, 2013;

No. 40 of 2013.

“appeal” has the meaning assigned to it under section 2 of the Act;

**EXPLANATORY MEMORANDUM TO THE WITNESS
PROTECTION RULES 2015**

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PART I

1. **Name of the Statutory Instrument:** The Witness Protection Rules 2015.
Name of the Parent Act: The Witness Protection Act, 2006
Enacted Pursuant to: Section 36(2) of the Witness Protection Act, 2006
Name of the Ministry/Department: The Judiciary
Gazetted on October 23rd, 2015.
Tabled on November 24th, 2015

PART II

2. The Purpose of the Witness Protection Rules 2015

The purpose of these Regulations is to:-

- (i) Provide guidelines to regulate proceedings where protected witnesses are concerned.
- (ii) Provide guidance to Courts on evidence and procedure to be observed by all parties to judicial proceedings, to ensure that witnesses and victims of offences not only testify in an environment that secures their rights to fair hearing, without fear of reprisals but also ensure that justice is done.

3. The Legislative Context

The Constitution of Kenya under Article 50(8) provides for the protection of witness and vulnerable persons. The Constitution recognizes Witness Protection as a fundamental human right in Article 48 on access to justice.

Article 50(7) on the need to protect witnesses and victims and Article 50(8) on the right to protect witnesses and victims and article 50(8) on the right to protect witnesses or vulnerable persons. The provisions of the Constitution are further expounded in Article 2(5) and 2(6) which states that any treaty ratified by Kenya shall form part of the law of Kenya.

4. Policy Background

The Witness Protection Agency is a body corporate established under the Kenya Witness Protection Act, 2006. The object and purpose of the Agency is to provide special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their cooperation with prosecution and other law enforcement agencies. Witness protection includes judicial protection measures, which regulate proceedings where protected witnesses are concerned. In that spirit, Section 36(2) of the Act provides that the Chief Justice may make Rules of Court as may be necessary for giving effect to the Act. For effective implementation of the Act, therefore, there is a compelling need to have clearly set out Rules of Court on evidence and procedure to be observed by all parties to judicial proceedings, to ensure that witnesses and victims of offences not only testify in an environment that secures their rights to fair hearing, but also ensure that justice is done. The Witness Protection Rules 2015 are, therefore, necessary for the proper implementation of the Witness Protection Act by the Judiciary.

5. Diverse Consultations

Extensive consultations were done while preparing the Witness Protection Rules of Court with key stakeholders and their input taken into account before finalization of these Rules. Externally, consultations and discussions were held with the officials of the International Criminal Tribunal for Rwanda (ICTR) based in Arusha, Tanzania and also with the Judge President of the High Court in Cape Town south Africa. Internally, some of the key stakeholders consulted are the

Kenya Law Reform Commission, the Judiciary, National Council on Administration of Justice, Office of the Attorney General and department of justice, Director of Public Prosecution, the Law Society of Kenya, the Kenya National Commission on Human Rights, the National Gender and Equality Commission, International Commission of Jurists and FIDA Kenya.

6. Guidance

The Witness Protection Agency in collaboration with the Judiciary will sensitize stakeholders including Magistrates, Judges, Office of the Director of Public Prosecutions, Investigative agencies and the general public, on the Witness Protection Rules 2015 and the duties bestowed upon each party under the regulation and how best to discharge them so as to achieve the objects of the Witness Protection Regulations 2015.

7. Impact Assessment

An impact assessment has not been prepared for this statutory instrument. However, it is expected that the Witness Protection Rules 2015 will result in proper and effective implementation of the Witness Protection Act by the Judiciary.

8. Judiciary and Witness Protection Agency Contact Persons:

The contact person Hon. Moses Wanjala, Resident Magistrate, Office of the Chief Justice, Tel. No. 0720 805461, email: mosese.wanjala@judiciary.go.ke.

Dated this^{24th}.....day of ~~NOVEMBER~~.....2015.



**DR. WILLY MUTUNGA, D. Jur, SC, EGH, SEGH,
CHIEF JUSTICE/PRESIDENT, SUPREME COURT OF KENYA**

THE EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)

46. OPERATING LEASE RENTALS

The group has entered into operating lease agreements for leasing of most of its depots. These leases have an average life of between 12 months to 36 months with a renewal option on expiry of the contract.

Future minimum rentals payable under non-cancellable operating leases as at 30 June are as follows:

	2015 KShs'000	2014 KShs'000
Within 1 year	25,758	13,425
Later than 1 year but not later than 2 years	24,761	11,783
	<u>50,519</u>	<u>25,208</u>
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47. COUNTRY OF INCORPORATION

The company is incorporated and domiciled in Kenya under the Companies Act and is listed on the Nairobi Securities Exchange.

48. CURRENCY

These financial statements are presented in thousands of Kenya Shillings (KShs '000).

49. EVENTS AFTER THE REPORTING DATE

No material events or circumstances have arisen between the reporting date and the date of this report.

