L.N. 10 of 1990

DUTY ON DOCUMENTS ACT, 1981

(ACT NO. XXXI OF 1981)

Appeals (Board of Special Commissioners for Duty on Documents) Rules, 1990

IN exercise of the powers conferred by sections 22 and 66 of the Duty on Documents Act, 1981, the Minister of Finance has made the following regulations:—

Citation.

1. These regulations may be cited as the Appeals (Board of Special Commissioners for Duty on Documents) Rules, 1990.

Interpretation.

2. (1) In these rules, "the Act" means the Duty on Documents Act, 1981.

(2) Words and phrases used in these regulations shall have the same meaning as is assigned to them in the Act.

Convening of Board.

3. The Board shall be convened by the Chairman as from time to time required.

Abstention by and challenge of members. Cap. 12.

4. (1) The Chairman and any member of the Board may abstain from sitting or may be challenged for any of the causes mentioned in section 734 of the Code of Organization and Civil Procedure.

(2) Any question regarding a cause of abstention or challenge, and any question regarding procedure, shall be decided by the Chairman of the Board.

Decisions by Board.

5. (1) Save as otherwise provided in these rules, the decisions of the Board shall be taken by a majority vote.

(2) The decisions of the Board shall be in writing and shall be signed by the Chairman, and the original shall be kept in the Registry of the Board together with the complete record of the proceedings of each appeal.

Secretary to the Board.

6. (1) The Minister shall appoint a Secretary to the Board and such other Officers as may be necessary from time to time and shall determine their duties.

(2) The Secretary of the Board shall have, *mutatis mutandis*, all such powers and duties as are by the Code of Organization and Civil Procedure vested in or imposed on the Registrar of the Superior Courts.

Evidence and proof.

7. (1) For the purpose of—

(a) the hearing and examination of evidence and of enforcing the attendance of witnesses,

(b) the production of books or other documentary evidence,

(c) the appointment of legal or technical referees,

the Board shall have all such powers as are vested by the Code of Organization and Civil Procedure in the Civil Court, First Hall.

(2) Where in the case of any appeal the Board desires to conduct an inspection of any property comprised in the relative document, the Board may direct that such inspection be carried out by any one or more of its members.

(3) In the case of immovable property whose value is disputed in an appeal before the Board, a valuation by an architect and civil engineer exhibited by either party shall, when confirmed under oath, constitute sufficient evidence regarding such value unless the other party exhibits in contestation thereof a valuation by another architect and civil engineer, likewise confirmed under oath.

Order at sittings of the Board.

8. For the purpose of keeping good order during the hearing of appeals, the Board shall be vested with all such powers as are vested by the Code of Organization and Civil Procedure in the Court of Magistrates and, for this purpose, the said powers shall include the use of personnel and officers assigned to such Court.

Place of sittings and Registry of Board.

9. (1) The Board shall hold its sittings in one of the halls of the Courts of Magistrates at Valletta.

(2) The Office of the Death and other Duties Branch of the Department of Inland Revenue shall be the Registry of the Board, and therein shall be deposited and kept, the records of the Board.

Signing and service of notices, etc.

10. (1) Any notice, warrant or order issued by the Board shall be signed by the Chairman and counter-signed by the Secretary of the Board.

(2) The provisions of section 70 of the Act shall apply to the service of notices, warrants or orders issued by the Board.

Appeals to Board.

11. (1) An appeal shall be made by an application in Form A set out in the Schedule hereto, and shall be signed by the Appellant or his agent.

(2) The application of appeal shall be drawn up and filed with the Secretary in duplicate, one copy of which shall be served through the Secretary on the Commissioner.

(3) The Board may, at any time, allow any amendment to be made in the application for the purpose of making it clearer.

Reply by the Commissioner.

12. When an application of appeal is served on the Commissioner, he shall, not later than eight days after the date of service, file with the Secretary of the Board a reply (in duplicate) stating his reasons for contesting the application, one copy of which shall be served on the appellant.

Hearing of appeals.

13. (1) As soon as may be after the filing of the reply by the Commissioner, or, in default, after the lapse of the time allowed for such filing, the Board shall appoint a day for the hearing of the appeal.

(2) Notice of the day and time appointed for the hearing of the appeal shall be given to the appellant and the Commissioner in Form B set out in the Schedule hereto.

(3) The appellant or his agent may be assisted during the hearing of the appeal by a legal practitioner or by an accountant.

(4) The notice to be given to any person to appear before the Board to give evidence and/or to produce books or other documents shall be in the Form C set out in the Schedule hereto.

Fees and Costs.

14. (1) No fees shall be levied by the Board in connection with proceedings before it except travelling expenses (if any) incurred for service.

(2) The fee payable to any member of the legal profession assisting an appellant or his agent before the Board shall be taxed on the amount of tax in contestation in accordance with Tariff E of Schedule A annexed to the Code of Organization and Civil Procedure and the fee payable to any referee appointed under the provisions of sub-paragraph (c) of paragraph (1) of rule 7 hereof shall be taxed in accordance with Tariff G of the said Schedule.

(3) The costs of the proceedings shall be borne by the parties, or by any of them, as the Board may direct.

(4) Neither of the parties can recover from the other in connection with proceedings before the Board any amount in respect of costs in excess of fees taxed in accordance with these rules.

Procedure.

15. Save as otherwise expressely provided by these rules, the Board shall regulate its own procedure.

Declaration on oath.

16. The declaration on oath to be made and subscribed under subsection (3) of section 66 of the Act by the Chairman and by members of the Board of Special Commissioners, and by their subsitutes, appointed in virtue of subsection (1) of the said section, shall be as set out in Form D in the Schedule hereto.

SCHEDULE

FORM A

Case No. .....

DUTY ON DOCUMENTS ACT, 1981

Application of Appeal to the Board of Special Commissioners

(Section 67)

Name and address of appellant:
and of his agent, if any:—

To the Secretary of the Board
of Special Commissioners.

The appellant respectfully sheweth:—

That by Notice of Assessment dated the ..... issued by the Commissioner of Inland Revenue (hereinafter referred to as "the Commissioner"), the appellant has been informed that the amount of duty payable

by .....

in respect of .....

is Lm .....

That by Notice of Objection dated the ..... the appellant applied to the Commissioner for a revision of the said Assessment on the following grounds:—

.....

.....

.....

That by Notice of Refusal dated the ..... the Commissioner informed the appellant that he refused to amend the said Assessment as desired and that the duty payable by .....
is Lm .....

That the grounds upon which the Commissioner gave his refusal are as shown in a decision, copy of which is annexed hereto.

That, in the submission of appellant, the said grounds are not valid for the following reasons:—

.....

.....

Wherefore the appellant prays that the aforesaid Assessment be emended in the following sense, viz:—

.....

.....

.....

.....

Signature of the appellant or of his agent

Filed by .... on the .....

.....

Signature of the Secretary of the Board of Special Commissioners

FORM B

Case No. .....

DUTY ON DOCUMENTS ACT, 1981

Notice of the Day and Time for the Hearing of an Appeal before the Board of Special Commissioners

(Section 67)

To: .....

.....

The Board of Special Commissioners will hear on ..... the ..... at ..... the appeal entered by ..... against the assessment of duty made upon ..... in respect of .....

Date .....

.....

Chairman of the Board of Special Commissioners

.....

Secretary of the Board of Special Commissioners

FORM C

Case No. .....

DUTY ON DOCUMENTS ACT, 1981

Notice to a person, to give evidence and/or to produce books, etc, before the Board of Special Commissioners

(Section 66 (6))

To: .....

You are hereby required to attend before the Board of Special Commissioners on the ..... at ..... in order to give evidence in an appeal made by ..... concerning the assessment of duty made upon .....

in respect of .....

and/or to produce .....

.....

.....

being books or documents in your custody or under your control relating to the said document.

Failure to attend as hereby required will expose you to the sanctions prescribed by law.

Date .....

.....
Charman of the Board of Special Commissioners

.....
Secretary of the Board of Special Commissioners

FORM D

DUTY ON DOCUMENTS ACT, 1981

Declaration for the purposes of section 66 (3)

I .....
do swear that I will faithfully perform the duties of Special Commissioner for the purpose of the Duty on Documents Act, 1981 (Act No. XXXI of 1981) without favour or partiality and in accordance with the law, and that I will not in any case give counsel or advice to any person in regard to any matter relating to Duty on Documents, or to any matter already brought or to be brought before the Board of Special Commissioners.

Signature .....

Declared on oath before the Court of Appeal, this ..... day of .....

Registrar.

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