

**THE REPUBLIC OF UGANDA
IN THE INSURANCE APPEALS TRIBUNAL AT KAMPALA
APPLICATION NO.2 OF 2025
(ARISING FROM THE DECISION OF THE INSURANCE REGULATORY AUTHORITY OF UGANDA
VIDE: IRAB/COMP.174/10/23)**

OPPORTUNITY BANK UGANDA LIMITED=====APPLICANT

-VERSUS-

NIC GENERAL INSURANCE COMPANY LIMITED ===== RESPONDENT

1.0 BRIEF FACTS

1. This dispute arises out of a complaint lodged by the Respondent against the Applicant in 2023 for the recovery of outstanding insurance premiums for the years 2014 to 2020. The Applicant and Respondent had an arrangement under which the Respondent collected premiums from customers, while the Applicant provided policy covers. However, disagreements later arose regarding the payment and settlement of premiums.
2. On 21st December 2023, the IRA directed the Applicant to pay undisputed premiums for the years 2019 and 2020, including interest, and ordered both parties to reconcile the outstanding premiums for 2014 to 2018. A joint reconciliation confirmed the outstanding premium amount of UGX 25,394,000/-. The Applicant, however, contended that it had only received UGX 4,530,945/- through customer account debits and had not received direct premium payments from customers.
3. The IRA issued its decision on 21st November 2024, directing the Applicant to pay the agreed outstanding premiums. The Applicant then sought a review of the decision on 28th November 2024, but the IRA rejected the request for review on 11th December 2024, and the rejection was communicated via email on 16th January 2025. The Applicant filed an appeal before this Tribunal on 4th February 2025, arguing that the appeal was filed within the prescribed time, starting from the date the decision was communicated to it.

2.0 BACKGROUND OF THE APPLICATION

4. In 2023, NIC General Insurance Company Limited (NIC) lodged a complaint with the Insurance Regulatory Authority against Opportunity Bank for the recovery of outstanding insurance premiums for the periods of 2014 to 2020. Prior to 2019, the Applicant (Opportunity Bank) and the Respondent (NIC General Insurance Company Limited) had an implicit arrangement involving mutually shared customers, wherein the Respondent typically received premiums from customers and, in return, provided policy covers through the Applicant. However, disputes later arose regarding the collection and settlement of these premiums.

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5. On 30th October 2023, the Insurance Regulatory Authority summoned the Applicant to a meeting under reference NIC General v. Opportunity Bank IRAB/COMP.174/10/23 to address concerns regarding unpaid premiums for the years 2014, 2015, 2016, 2017, and 2018, among others. The Respondent initially claimed that the outstanding premiums amounted to UGX 25,394,004 (Uganda Shillings Twenty-Five Million Three Hundred Ninety-Four Thousand Four Uganda Shillings Only).
6. On 21st December 2023, the Insurance Regulatory Authority directed the Applicant to pay the undisputed premiums for 2019 and 2020, with an interest of 9.5% per annum. The same directive required the parties to conduct a joint reconciliation to ascertain the outstanding premiums for 2014 to 2018.
7. Following this directive, the parties undertook a reconciliation exercise. The reconciliation report, submitted to the Insurance Regulatory Authority, reflected UGX 25,394,000/- as the agreed outstanding premium for the period. However, the Applicant maintained that it had only received UGX 4,530,945 (Uganda Shillings Four Million, Five Hundred Thirty Thousand, Nine Hundred Forty-Five Uganda Shillings Only) through debiting customers' accounts. The Applicant contended that it never received direct premium payments from customers. On 5th November 2024, the parties confirmed the contents of the joint reconciliation report to the Insurance Regulatory Authority. Based on this confirmation, the Authority issued its decision on 21st November 2024, directing Opportunity Bank to pay UGX 25,394,000/- per the reconciliation report.
8. On 28th November 2024, the Applicant applied to the Insurance Regulatory Authority for a review of its decision. However, the Authority rejected the request through a letter dated 11th December 2024. The Authority also communicated this rejection via email on 16th January 2025.
9. Subsequently, on 27th January 2025, the Applicant wrote to the Authority requesting the record of proceedings from the hearing held on 5th November 2024. In response, the Insurance Regulatory Authority provided a copy of the proceedings to the Applicant in February 2025. Despite the Applicant's contention that it had not received the full amount of the disputed premiums, the Authority upheld its decision requiring the Applicant to pay UGX 25,394,000/-.
10. Upon receipt of the above-mentioned email, the Applicant further expressed its contestation regarding the upheld directive and subsequently lodged an appeal before this Honorable Tribunal on the 4th of February, 2025. This sequence of events implies that the Applicant received the decision on the 16th of January, 2025, and formally acknowledged its receipt on the 23rd of January, 2025, as evidenced by the attached email trail dated 23rd January, 2025.

3.0 RESPONDENT'S SUBMISSIONS ON THE PRELIMINARY OBJECTION



11. The counsel for the Respondent presented their arguments before the Insurance Appeals Tribunal, asserting that the appeal lodged by Opportunity Bank Uganda Limited was time-barred and, therefore, incompetent. They began by outlining the background of the dispute, noting that NIC General Insurance Company Limited had initially filed a complaint before the Insurance Regulatory Authority (IRA) to recover outstanding insurance premiums from Opportunity Bank for the years 2014 to 2020. The Insurance Regulatory Authority had, on December 21st, 2023, directed the Applicant to pay undisputed premiums for 2019 and 2020 with an interest rate of 9.5% per annum and required both parties to conduct a joint reconciliation to determine the outstanding amounts for 2014 to 2018.
12. The Respondent's counsel explained that, following this directive, the parties had submitted a joint reconciliation report confirming UGX 25,394,000 as the outstanding premium. The parties had affirmed the contents of this report on November 5, 2024, and the Insurance Regulatory Authority had issued its decision on November 21, 2024, directing Opportunity Bank to pay this sum. Subsequently, on November 28, 2024, the Applicant sought a review of this decision, which the Authority rejected on December 11, 2024. The Respondent's counsel stated that, although Opportunity Bank later requested the record of proceedings on January 27, 2025, and received them in February 2025, the appeal had already been filed outside the legally prescribed timeframe.
13. The Respondent's counsel then addressed the issue of jurisdiction, emphasizing that it is strictly derived from statutory provisions. They cited the case of **Desai v Warsama (1967) EA 351 and Makula International v His Eminence Cardinal Nsubuga (Civil Appeal No. 4 of 1981)** to support the argument that jurisdictional defects render proceedings null and void. Referring to **Section 137(1) of the Insurance Act Cap 192 and Regulation 9(3) of the Insurance Appeals Tribunal Regulations**, they contended that any appeal against the Insurance Regulatory Authority's decision must be filed within 30 days from the date of the decision.
14. In further support of their argument, the Respondent's counsel referred to **Johnson Mugisha & 3 Ors v Kampala Capital City Authority & 2 Ors (HCMA No. 481 of 2008)**, where Justice Stephen Musota had held that statutory time limitations must be strictly observed. The Respondent's counsel submitted that, since the Insurance Regulatory Authority's decision was issued on November 21st 2024, Opportunity Bank was required to file its appeal no later than December 21, 2024. However, since the appeal was filed almost 70 days later, they argued that it was not only incompetent but effectively non-existent.
15. The Respondent's counsel further contended that Opportunity Bank's failure to file within the required timeframe deprived the Tribunal of jurisdiction to entertain the matter. They asserted that the illegality could not be cured by invoking Article 126(2)(e) of the Constitution, which allows courts to administer substantive justice without undue regard to technicalities. They cited **Tororo Cement v Frokina International Ltd (Civil Appeal No. 1 of 2001) and Male Hassan Mabirizi v Attorney**



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General, emphasizing that litigants could not rely on this constitutional provision to rectify fundamental procedural defects.

16. Additionally, the Respondent's counsel pointed out that, if the Applicant had valid reasons for its late filing, the appropriate recourse would have been to seek leave to appeal out of time under Section 96 of the Civil Procedure Act Cap 71. They highlighted that the Applicant had failed to take this necessary procedural step, making the appeal incurably defective. To reinforce this position, they referred to **China Engineering Construction v Buberu General Construction (Civil Appeal No. 23 of 2020)** and **Tight Security Ltd v Chartis Uganda Insurance Company Ltd (Civil Appeal No. 14 of 2014)**, both of which underscored the requirement for leave when filing an appeal out of time.
17. In conclusion, the Respondent's counsel urged the Tribunal to dismiss the appeal for want of jurisdiction, on the basis that it was filed beyond the mandatory 30-day period. They also requested that the Tribunal award costs to the Respondent.

4.0 APPLICANT'S SUBMISSION ON THE PRELIMINARY OBJECTION

18. The counsel for the Applicant argued before the Insurance Appeals Tribunal that the appeal was not time-barred and should therefore be heard on its merits. They began by providing a background to the dispute, explaining that prior to 2019, the Applicant and Respondent had an implicit arrangement concerning mutually shared customers. Under this arrangement, the Respondent typically received insurance premiums directly from customers and, in return, provided the Applicant with policy covers. However, on October 30, 2023, the Insurance Regulatory Authority (IRA) summoned the Applicant for a meeting to address concerns regarding unpaid premiums for the years 2014 to 2018, among others. The Respondent had claimed that the total outstanding premium was UGX 25,394,004.
19. The Applicant's counsel stated that, during these meetings, the Applicant had clearly informed the Authority that it had never received premiums from customers. A reconciliation was conducted, which revealed that, out of the total claimed amount, only UGX 4,530,945 had been received by the Applicant through customer account debits. Despite this, the Authority issued a directive requiring the Applicant to pay UGX 25,394,004. The Applicant subsequently requested a review of this directive on November 28, 2024, but the Authority declined the request via an email sent on January 16, 2025, which contained a letter dated December 11, 2024, upholding the original decision.
20. Addressing the issue of whether the appeal was time-barred, the Applicant's counsel relied on Section 137(1) of the Insurance Act Cap 192 and Regulation 9(3) of the Insurance Appeals Tribunal Regulations SI 2019 No. 48. They pointed out that the law grants an aggrieved party one month from the date a decision is passed to file an appeal before the Tribunal. The counsel referred to **Beiersdorf East Africa Limited & Another v Dembe Trading Enterprises (H.C.C.S No. 0712/2022)**, in which the High Court cited **Misango v Republic [1969] 1 EA 538 (HCT)**, where the



Tanzanian High Court held that a judgment is not considered final until it has been reduced to writing and delivered to the parties in open court.

21. They further emphasized that, in the present case, meetings between the parties and the Authority had been conducted online, and email had been the primary mode of communication. Citing **Joseph Amuyeka & Another v Philip Mwachi Otinga [2006] eKLR**, where the Kenyan High Court held that a decision is deemed effective from the date it is pronounced, the Applicant's counsel argued that the date of communication of the decision should be considered the date it was passed. While the IRA had written its decision on December 11, 2024, the Applicant only received formal communication of the directive on January 16, 2025.
22. The counsel asserted that, based on the legal provisions, the one-month period for filing an appeal should be calculated from the date the decision was effectively communicated, which was January 16, 2025. Given that the Applicant filed its appeal on February 4, 2025, the appeal was well within the prescribed period. They also referred to **Peace Barigye v Rosemary Kizza (CS 0814/2022)**, in which Justice Bernard Namanya upheld the admissibility of email and other electronic communications as valid means of service. The judge further stated that electronic service is effective when there is proof of delivery, which may take the form of an acknowledgment of receipt by the recipient or an automated confirmation of delivery.
23. The Applicant's counsel submitted that, in the email correspondence dated January 16, 2025, the Applicant had followed up on the lack of response to its review request, prompting the IRA to send the decision dated December 11, 2024, via email. The Applicant formally acknowledged receipt on January 23, 2025, as evidenced by an email trail attached to the submissions.
24. In conclusion, the Applicant's counsel maintained that the appeal had been filed within the legally prescribed time. They urged the Tribunal to dismiss the Respondent's preliminary objection and allow the appeal to proceed for determination on its merits.

5.0 RESPONDENT'S REJOINDER SUBMISSIONS IN SUPPORT OF THE PRELIMINARY OBJECTION

25. The counsel for the Respondent contended before the Insurance Appeals Tribunal that the Appellant was effectively asking the Tribunal to overstep its jurisdiction and amend the law concerning appeal timelines, a role that is the exclusive preserve of Parliament. They submitted that allowing such an approach would create legal uncertainty and inconsistency, which the framers of the law had sought to avoid by prescribing strict timelines. Consequently, they urged the Tribunal to uphold the law and dismiss the appeal as time-barred and an abuse of the court process.
26. The Respondent further addressed the issue of whether a party that had already failed in a review application could subsequently lodge an appeal against the same decision. They maintained that this was not permissible, arguing that a review is only available to a party who either does not have a right of appeal or



chooses not to exercise that right. Relying on **Section 82 of the Civil Procedure Act and Order 46 of the Civil Procedure Rules**, the Respondent asserted that an aggrieved party must elect either to apply for a review before the same tribunal or to file an appeal before a superior body, but not both. They emphasized that once a party has chosen one remedy over the other, they cannot later seek to rely on the alternative remedy without adhering to its specific legal requirements.

27. To support their argument, the Respondent cited the High Court of Kenya's decision in **HA v LB (Civil Appeal No. 188 of 2021)**, where it was held that a party cannot simultaneously seek both an appeal and a review of the same decision. In the present case, they pointed out that the Appellant had initially opted to apply for a review of the Authority's decision, as evidenced by their letter dated November 28, 2024. The Authority subsequently rejected the request for review on December 11, 2024. The Respondent contended that the Appellant's decision to seek a review did not interrupt the statutory timeline for filing an appeal. They relied on a strict interpretation of Section 82 of the Civil Procedure Act and **Order 46 Rules 1 and 2 of the Civil Procedure Rules**, which, in their view, prohibited a party from applying for both a review and an appeal regarding the same decree or order.

28. The Respondent further argued that the Appellant had exhausted the review process unsuccessfully and was now attempting to return to the same decision for an appeal, which was improper. Citing **Stephen Nyasani Menge v Rispah Onsase (Miscellaneous Application No. 5 of 2018)**, they highlighted that litigation must come to an end and that a party who has sought a review cannot later attempt to appeal the same decision. The Respondent insisted that if the Appellant was aggrieved by the Authority's rejection of its review request, it should have appealed against that decision instead of attempting to appeal the original decision of November 21, 2024, after the statutory 30-day period had already lapsed. They dismissed the Appellant's arguments regarding the date of receipt of the decision in January 2025, asserting that these were legally irrelevant and should be disregarded.

29. Furthermore, the Respondent criticized the Appellant's conduct, describing it as an attempt to "gamble" with legal processes after failing in the review application. They argued that if the Appellant had genuinely intended to pursue an appeal, the proper course would have been to seek leave to appeal the decision that declined the review, rather than reverting to the original decision after the time for appeal had expired. They characterized the Appellant's actions as those of an uncertain litigant searching for a solution in an unprecedented manner.

30. In conclusion, the Respondent urged the Tribunal to exercise its mandate to prevent unnecessary legal maneuvers and to restore procedural clarity. They maintained that the Appellant's appeal, filed under Application No. 2 of 2024

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(*Opportunity Bank Limited v NIC General Insurance Co Ltd*), was incompetent, incurably defective, and should be struck out with costs

7.0 OBJECTION

8.0 Time-barred Appeal

31. The Respondent asserts that the appeal is time-barred, as it was filed outside the mandatory 30-day period prescribed by Section 137(1) of the Insurance Act and Regulation 9(3) of the Insurance Appeals Tribunal Regulations. The Respondent's counsel contended that the IRA's decision was issued on November 21, 2024, and the Applicant should have filed its appeal no later than December 21, 2024. Since the appeal was filed 70 days after the decision, the Respondent argues that the Tribunal lacks jurisdiction to entertain the appeal.
32. Secondly the Respondent further contended that, if the Applicant had valid reasons for filing the appeal late, it should have sought leave to appeal out of time under Section 96 of the Civil Procedure Act. Since no such leave was sought, the appeal should be dismissed.
33. The Respondent also argued that the Applicant's decision to apply for a review of the IRA's decision precluded it from filing an appeal, as the Applicant had already chosen the review route and could not later appeal the same decision. The Respondent pointed to the prohibition against seeking both review and appeal for the same decision, citing relevant case law.
34. On the other hand, the Applicant's Counsel argued that the appeal was filed within the prescribed time, as the date for calculating the appeal period should be based on the date the decision was communicated to the Applicant, which was 16th January 2025. The Applicant formally acknowledged receipt of the decision on January 23rd 2025, which was within the 30-day period for filing an appeal. The Applicant contended that electronic communication via email should be recognized as a valid service, and the appeal was filed within one month of receiving the decision.
35. The Applicant's counsel emphasized that the Tribunal had jurisdiction to determine the appeal based on the effective date of communication, which they argue was January 16th, 2025. They referred to relevant case law and statutory provisions supporting the position that an appeal should be calculated from the date the decision is communicated.
36. The Applicant's counsel further contended that applying for a review did not preclude them from filing an appeal. They argued that the request for a review of the IRA's decision was a procedural step that did not alter the Applicant's right to appeal the final decision. They maintained that the appeal could proceed independently of the review process.



9.0 ISSUES FOR DETERMINATION

37. The issues for determination are as follows:2

1. *Whether the appeal is time-barred?*

10.0 RESOLUTION OF ISSUES BY THE TRIBUNAL

38. A preliminary objection was aptly described by **Law JA in the case of Mukisa Biscuit Manufacturing Co. Limited Vs. West End Distributors Ltd [1969] page 700** where he said "so far as I am aware, a preliminary objection consists of a point of law which has been pleaded or which arises by clear implications out of the pleadings and which if argued as a preliminary point may dispose off the suit. Examples are an objection to the jurisdiction of court or a plea of limitation"
39. Counsel for the Respondent submitted raises a point of law tthat the appeal lodged by Opportunity Bank Uganda Limited was time-barred and, therefore was incompetent before the Tribunal.
40. Counsel referred us to **Johnson Mugisha & 3 Ors v Kampala Capital City Authority & 2 Ors (HCMA No. 481 of 2008)**, where Justice Stephen Musota had held that statutory time limitations must be strictly observed. It was Counsel's submission that, since the Insurance Regulatory Authority's decision was issued on November 21st 2024, Opportunity Bank was required to file its appeal no later than December 21, 2024. However, since the appeal was filed almost 70 days later, they argued that it was not only incompetent but effectively non-existent.
41. Section 137 of the Insurance Act provides that a person aggrieved by any decision of the Authority may, within one month from the date the decision is communicated by the Authority, appeal to the Tribunal against the decision.
42. The purpose of the timelines given in S. 137 of the Insurance Act 2017 were intended to provide for speedy trial and disposal of insurance disputes expeditiously and should strictly be complied with since delay defeats equity, and denies the parties legitimate expectations (see *Fitzpatrick v. Batger & Co. Ltd [1967] 2 All ER 657*).
43. Upon scrutiny of the preliminary objection and the relevant records, it is discernible that the Respondent initially filed a complaint before the IRA Complaints Bureau, which adjudicated upon the matter and rendered its decision on 21st November 2024.
44. Subsequently, on 28th November 2024, the Applicant opted to seek a review of the said decision, culminating in the Bureau's issuance of a decision on 11th December 2024, which was, however, only officially communicated via email on 16th January 2025.

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45. **Section 82 (a) Civil Procedure Act, Cap. 71** provides that any person considering himself or herself aggrieved
- a) **by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred;** or
 - b) by a decree or order from **which no appeal is allowed by this Act, may apply for a review of judgment to the court which passed the decree or made the order,** and the court may make such order on the decree or order as it thinks fit.

46. **Order 46 (1) of the Civil Procedure Rules, SI- 71-1** provides that;

Any person considering himself or herself aggrieved

- a. By a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
 - b. By a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his or her knowledge or could not be produced by him or her at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason desires to obtain a review of the decree passed or order made against him or her, may apply for a review of judgment to the Court which passed the decree or made the order.
47. From the reading of **Section 82 (a) Civil Procedure Act, Cap. 71** it is quite clear that for one to seek a review it must arise from "**a decree or order from which an appeal is allowed by the Act, but from which no appeal has been preferred;** or from "a decree or order from **which no appeal is allowed by the Act** and the court may make such review order on the decree or order as it thinks fit. By implication this is an either-or situation that you elect not to prefer an appeal even where it is allowed or have no option but to seek a review in circumstances where no appeal is allowed but not both.
48. A party who has not preferred an appeal against a decree or order may nonetheless seek a review of the judgment, notwithstanding the pendency of an appeal by another party, except in instances where the grounds of appeal are common to both the applicant and the appellant, or where the applicant, being a respondent, possesses the opportunity to present before the appellate court the very case upon which the review is sought.
49. In this regard, Guideline 20(1) of the Insurance Complaints Bureau Guidelines, 2022, empowers the Complaints Bureau, either 'suo moto' or upon the application of a party, to review its own decision within one month from the date of its communication. This review is permissible solely on the following grounds:



(a) The existence of a mistake or an error in fact or law apparent on the face of the record; or

(b) The discovery of new or material evidence which, despite the exercise of due diligence, was not within the knowledge of, nor could it have been produced by, the party at the time the decision was rendered.

50. Pursuant to the foregoing, it is evident that the IRA Complaints Bureau is vested with jurisdiction to review its own decisions, and its assumption of such jurisdiction in the present matter was legally justified.

51. The record reflects that IRA issued its decision on **21st November 2024** the Applicant applied for review on **28th November 2024**. In its decision the IRA advised the parties of the right to appeal accordingly. The Applicant decided to pursue a review instead. Although the written decision for the review application was issued on 11th December 2024 it was effectively communicated to the Applicant on 16th January 2025.

52. A careful examination of the appeal documents before the Tribunal reveal that the Applicant's grievances are directed towards the initial decision of the IRA issued on 21st December 2024 rather than the Complaint's Bureau's decision denying the review issued on 16th January 2025. The Applicant's pleadings, suggests that the appeal before this Tribunal fundamentally seeks to impugn the substantive decision rather than challenge the order denying the review.

53. Consequently, once the IRA Complaints Bureau rendered its decision denying the review, the Applicant was precluded from appealing against the substantive decision underlying the initial complaint because the 30 days had lapsed. This is because, as a matter of law and fact, it is impermissible to concurrently pursue both a review and an appeal against the same decision.

54. In light of these facts, it was mandatory that the Applicant to have filed an appeal against the decision of 21st November 2024 no later than 21st December 2024 or, in the alternative, to have applied for enlargement of time to enable it appeal against the substantive decision of the IRA Complaints Bureau before this Tribunal.

55. By opting to seek a review rather than lodging a formal appeal, the Applicant effectively forfeited the right to challenge the substantive determination of the IRA Complaints Bureau. Consequently, the Applicant was only entitled to appeal against the refusal to grant the review, a right that was required to be exercised within one month from the date on which the decision denying the review application was communicated.

56. As such, although the appeal was lodged within the prescribed statutory period for the review decision, the contents of the appeal itself does not satisfy the requisite threshold for an appeal against the review decision. Instead, it constitutes an appeal against the original determination of the IRA given on 21st November 2024, rendering it procedurally incompetent before this Tribunal. Accordingly, the



preliminary objection raised by Counsel for the Respondent is hereby sustained and the application/appeal is equally dismissed for the reason hereinabove explained.

CONCLUSION AND FINAL ORDERS

57. In conclusion, the Tribunal makes the following orders:

1. The Respondent's preliminary objection is sustained
2. The Application is dismissed for procedural incompetence.
3. No order is made as to costs.

58. Any party dissatisfied with this decision may appeal to the High Court within 30(Thirty) days from the date of this Decision.

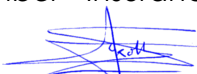
DATED and DELIVERED at KAMPALA on the 26th day of **March 2025.**



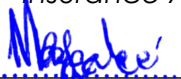
Rita Namakiika Nangono
Chairperson - Insurance Appeals Tribunal



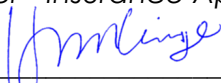
Solome Mayinja Luwaga
Member - Insurance Appeals Tribunal



George Steven Okoth
Member - Insurance Appeals Tribunal



Dr. John Bbale Mayanja
Member - Insurance Appeals Tribunal



Ms. Harriette Nabasirye Paminda Kasirye
Member - Insurance Appeals Tribunal