

**PROCEDURE MANUAL FOR THE SUBMISSION AND HEARING OF AN APPEAL
TO THE ENVIRONMENT APPEALS BOARD**

Commencement of Appeal

1. Submission of an Appeal by person

- a. Any person aggrieved by a decision of the Respondent is eligible to submit an Appeal to the Appeals Board.
- b. The Appeal shall be submitted with the Secretary in prescribed form accompanied with prescribed fee.
- c. The Appeal may be submitted within ninety (90) days after the date on which the decision by the Respondent was given to the appellant.
- d. A person aggrieved may seek to mediate with the authority for a resolution before submitting an appeal to the Appeals Board.

2. Appeals to be signed or marked

- a. Every such appeal shall be signed by the person who submitted the appeals or by a legal representative.
- b. Where the appellant is a body corporate, the notice of appeal shall be signed by any director or other officer or a legal representative authorized by it.
- c. Where the appellant is a partnership, the notice of appeal shall be signed by one of the partners or its legal representative authorized by the partners.
- d. In the case that a person is unable to sign, he shall mark the appeal in the presence of the Secretary who shall certify under his signature that the mark has been affixed in his presence.

3. Particulars of appeals to be registered

- a. On receipt of an appeal the secretary shall enter in the register the names and places of residence of the parties and the nature of the appeal.

- b. On receipt of the appeal, the secretary shall assign a case number to the Appeal in the register of the Appeals board.
- c. Such entries shall be numbered in every year according to the order in which the appeals are received and the suit shall bear the same number.
- d. The Appeals board's decision or final order shall be entered against such appeals.

4. Notification of Appeals

- a. The Secretary shall, within seven (7) days of receipt of the Appeal, provide the Appellant with an acknowledgement of receipt of Appeal on which the serial number of the Appeal is clearly indicated.
- b. The Secretary shall inform the Chairperson of an Appeal within 24 hours of receipt of the appeal from the appellant.

5. Defective notices of appeal

- a. Where the Appeals Board considers that the notice of appeal is materially incomplete, or lacking in clarity, the Appeals Board may make such orders as may be necessary to ensure that the appeal is put in order.
- b. Where the appellant has not remedied the defect pursuant to an order under sub 5(a), the Appeals Board may order that the appeal be dismissed.
- c. Where the notice of appeal is not filled within the time indicated, the appeal may be dismissed.

Issue and Service of Notice of Mention

6. Notice of Mention

- a. When the appeal has been entered in the register, under the direction of the Appeals Board, the Secretary shall sign and issue a notice of Mention to the Ministry of Agriculture, Climate Change and Environment.
- b. The summons shall state the date and the time for the Respondent to appear in the Appeals Board session to answer the appeal.

7. Commencement of proceedings

The notice of mention to appear to an appeal shall be dated on the day on which the appeal was entered and such date shall be the date of commencement of the appeal.

8. Day for appearance of the Authority

- a. The day for the appearance of the Respondent shall be fixed by the secretary in consultation with the chairperson of the Appeals Board so as to allow the Ministry of Agriculture, Climate Change and Environment sufficient time to enable their representative to appear and answer on such day.
- b. The time fixed for the appearance shall not be earlier than seven (7) business days after the service of the Notice of Mention.

9. Mode of service

Service of the Notice of Mention shall be effected by delivering or tendering a copy thereof to the Respondent.

10. Witness

The appellant and the authority shall provide the Appeals Board with the list of witnesses they wish to appear on their behalf at the hearing of the Notice of Mention.

Appearance of parties

11. Parties to appear on date fixed in summons

On the day fixed in the Notice of Mention for the Respondent to appear and answer to the appeal, the parties shall be in attendance at the hearing in person or by their respective advocates or agents.

12. Procedure if neither parties appears

- a. If on the day fixed for the Respondent to appear and answer the appeal, or on any other subsequent day to which the hearing of the appeal is adjourned, when the

case is called on, neither parties appears, the appeal shall then be dismissed unless the Appeals Board for reasons to be recorded, otherwise directs.

- b. When an appeal is dismissed the appellant may bring a fresh appeal, provided that there is a good reason for the non-appearance.
- c. The Secretary, with consultation of the Chairperson, shall submit a new summon for the Respondent to appear to answer the appeal.
- d. If the Respondent fails to appear on the date set for the hearing the Appeals Board may give a judgment in the absence of the Respondent. Notification and a copy of the decision will be sent to the Respondent.
- e. If the Respondent admits the appellant's claim or part thereof, the Appeals Board shall give judgment for the appellant for so much of the claim as is admitted.

13. Statement of the Respondent must be filed with the Secretary

- a. The statement of the Respondent shall be filed with the Secretary, three (3) days before the hearing date of notice of mention and shall form part of the records.
- b. The Respondent shall supply one copy to the appellant or if there is more than one appellant to each appellant, unless the Appeals board directs otherwise.

14. List of Respondents documents

If the authority intends to produce any documentary evidence, he shall annex a list thereof to his statement of defence and shall state where the same may be seen a reasonable time before the hearing.

15. Document not in possession of party

If any document included in the list of documents attached to the appeal or the statement of defence is not in the possession or power of the appellant or the Authority, as the case may be, the appellant or the Authority, shall state, if possible in whose possession it is.

Hearing

16. If Authority admits

If on the day fixed in the notice of mention for the Respondent to appear the Respondent appears and admits the appellants' claim, decision shall be given for the appellant.

17. If claim denied, statement of the Respondent to be filed

- a. If the respondent denies the appellant's claim or any part, thereof, the Appeals Board shall proceed with the hearing.
- b. The Appeals Board may, if it deems fit, give judgment for the appellant for such part of the appeal as is admitted by the Respondent.

18. Procedure at hearing

- a. When the appeal is called on for hearing the appellant shall begin and his advocate if present may, if he so desires, open his case. The evidence for the appellant shall then be adduced.
- b. At the close of the evidence for the appellant, if the appellant failed to make out a case which, in the opinion of the Appeals Board, the Respondent is required to answer, judgement shall be entered for the Respondent.
- c. If the Appeals Board calls upon the Respondent, his advocate, if present may open his case and the evidence for the Respondent shall then be adduced, after which his advocate may address the Appeals Board. The advocate for the appellant may address the Appeals Board in reply.

19. Judgment

When the evidence and the address, if any, have been completed, the Chairperson shall either immediately or at some subsequent time record a brief note of the findings of the Appeals Board on the main points in controversy and of the principal reasons of such findings and shall deliver an oral decision either immediately after the termination of the hearing or at some subsequent time of which notice shall be given to the parties and their advocates, if any.

20. Documents admitted to be marked

Any document admitted in evidence shall be marked by the Chairperson or the Secretary with a distinguishing number or letter and with the title of the cause or matter to which it relates and shall be attached to the record.

21. Documents rejected to be marked for identification at parties' request

Any document tendered in evidence is not admitted and rejected by the Appeals Board, the document shall be similarly marked by the Chairperson or the Secretary for the purpose of identification and as having been rejected and shall be attached to the record, if the party tendering the same requires.

Amendments

22. Amendment of pleadings

The Appeals Board may, at any stage of the proceedings, allow either party to alter or amend his pleadings, in such manner and on such terms as may be just, and all such amendments be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that subject matter shall not be amended so as to convert the appeal of one character into an appeal of another and substantially different character.

23. Clerical error in judgments

Clerical mistakes in decisions or recommendations, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Appeals Board on request.

24. Amendments of errors in proceedings

The Appeals Board may at any time, and on such terms as to costs or otherwise as the Appeal Board may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

Witnesses

25. Witness summonses

Any party in the proceedings may bring any relevant witness to the hearing at their own cost provided that the list of witness was provided at the date set in the Notice of Mention.

26. Evidence of person present in hearing sessions

Any person present in the hearing sessions may be required by the Appeal Board to give evidence or to produce any document then and there in his actual possession or power.

Discontinuance

27. Discontinuance of action by Appellant or Authority

- a. The appellant may, at any time before the statement or defence has been filed, or after it has been filed, before taking other proceeding in that appeal by notice in writing to the Secretary, to wholly discontinue or partially discontinue.
- b. The Appeals Board may, in like manner, and with the like discretion as to terms, upon the application of the respondent, order the whole or any part of his alleged grounds of defence to be withdrawn or struck out.

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