

CARBON PRICING ACT 2018  
(SECTION 76)

CARBON PRICING  
(APPEALS) REGULATIONS 2020

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

Regulation

1. Citation
2. Definitions
3. Responsibilities of Secretary
4. Responsibilities of Registrar

PART 2

PROCEDURE OF APPEAL

*Division 1 — Notice of appeal, defence and reply*

5. Notice of appeal
6. Defective notice of appeal
7. Amendment of notice of appeal
8. Defence
9. Defective defence
10. Amendment of defence
11. Reply
12. Defective reply

*Division 2 — Disposal of appeals, etc.*

13. Summary dismissal of appeals
14. Withdrawal of appeals
15. Consent orders

*Division 3 — Procedures for appeals*

16. No new ground of appeal or defence
17. Directions

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**Regulation**

18. Consolidation
19. Requests for confidential treatment
20. Hearing of appeals
21. Hearing of appeal in absence of member of Appeal Panel
22. Adjournments
23. Hearings to be in camera
24. Notification of decision on appeal
25. Costs
26. Irregularities

**PART 3**

**APPEAL PANEL**

27. Establishment of Appeal Panel
  28. Conflict of interests
  29. Meetings of Appeal Panels
- 

[1 July 2020]

**PART 1**

**PRELIMINARY**

**Citation**

**1.** These Regulations are the Carbon Pricing (Appeals) Regulations 2020.

**Definitions**

**2.** In these Regulations —

“appeal” means an appeal under Part 6 of the Act;

“appeal authority” means the Minister or, where the Minister has established an Appeal Panel to consider and determine the appeal, the Appeal Panel;

“appealable decision” means a decision mentioned in section 34(1) of the Act;

- “authorised representative”, in relation to a party, means the person authorised by the party to represent the party in the appeal, including a legal representative of the party;
- “Chairperson”, in relation to an Appeal Panel, means the Chairperson of the Appeal Panel appointed under section 38(2) of the Act;
- “chief executive”, in relation to an appellant that is a corporation, means any person (by whatever name called) who is —
- (a) in the direct employment of, or acting for or by arrangement with, the corporation; and
  - (b) principally responsible for the management and conduct of the business of the corporation in Singapore;
- “legal representative”, in relation to a party to any appeal, means any advocate and solicitor named in the register of practitioners and having in force a practising certificate issued under the Legal Profession Act 1966, who is retained by the party to represent the party in the appeal;
- “parties”, in relation to an appeal, means the appellant and the Agency, and “party” means either one of them;
- “Presiding Member”, in relation to an Appeal Panel, means —
- (a) the Chairperson; or
  - (b) a member of the Appeal Panel determined by the Chairperson to preside at a meeting of the Appeal Panel or at a hearing of an appeal by the Appeal Panel in the Chairperson’s absence;
- “Registrar” means the Registrar appointed under regulation 4 in relation to an Appeal Panel;
- “Secretary” means the Secretary appointed under regulation 3.

## Responsibilities of Secretary

### 3.—(1) The Minister —

- (a) must appoint any public officer as Secretary to provide any administrative and secretarial support required by the Minister for any appeal; and
- (b) may appoint one or more other public officers as deputy secretaries to assist the Secretary in carrying out the responsibilities of the Secretary under these Regulations.

(2) Without affecting paragraph (1), the Secretary is responsible for —

- (a) the establishment and maintenance of a list of all notices of appeal lodged with the Minister;
- (b) the acceptance, transmission, service and custody of documents in connection with any appeal before the Minister, in accordance with these Regulations;
- (c) the recording of the proceedings of any appeal considered by the Minister in the form required by the Minister;
- (d) the keeping of the records of all appeal proceedings (whether for appeals considered by the Minister or an Appeal Panel);
- (e) the establishment and maintenance of a register of orders, directions and decisions (including the determination) of the appeal authority in relation to any appeal; and
- (f) the certification that any order, direction or decision (including a determination) is an order, a direction or a decision of the appeal authority, as the case may be.

(3) The Secretary must act in accordance with the instructions given by the Minister.

(4) Where the Minister establishes an Appeal Panel to consider and determine an appeal, the Secretary must forward a copy of all documents in the possession of the Secretary relating to the appeal, to the Registrar.

## Responsibilities of Registrar

### 4.—(1) The Minister —

- (a) must appoint a Registrar to provide any administrative and secretarial support required by any Appeal Panel established by the Minister to consider and determine any appeal; and
- (b) may appoint one or more deputy registrars to assist the Registrar in carrying out the responsibilities of the Registrar under these Regulations.

### (2) Without affecting paragraph (1), the Registrar is responsible for —

- (a) the acceptance, transmission, service and custody of documents in connection with any appeal before an Appeal Panel, in accordance with these Regulations; and
- (b) the recording of appeal proceedings before any Appeal Panel in the form required by the Appeal Panel.

(3) The Registrar must act in accordance with the instructions given by any Appeal Panel in relation to any appeal before the Appeal Panel, and may issue circulars or practice directions concerning the procedures and practices for appeal proceedings before any Appeal Panel, including case management conferences and measures to resolve the matter amicably through any alternative dispute resolution process.

(4) Upon the parties being notified of the determination of an Appeal Panel in accordance with regulation 24, the Registrar must forward a copy of the recording mentioned in paragraph (2)(b) (including all documents in the possession of the Registrar relating to the appeal proceedings before the Appeal Panel), to the Secretary for the purposes of regulation 3(2)(d).

## PART 2

## PROCEDURE OF APPEAL

*Division 1 — Notice of appeal, defence and reply***Notice of appeal**

5.—(1) A written notice of appeal mentioned in section 34(2) of the Act must —

- (a) be signed and dated by the chief executive or equivalent of the appellant;
- (b) state —
  - (i) the name and address of the appellant;
  - (ii) the name, phone number and email address of the appellant’s authorised representative for the appeal; and
  - (iii) an address in Singapore for service or to which documents in connection with the appeal may be sent;
- (c) contain —
  - (i) a concise statement of the circumstances under which the appeal arises, and the facts and the issues in the appeal;
  - (ii) the grounds for appealing against the appealable decision of the Agency, identifying in particular —
    - (A) the statutory provision under which the appealable decision was made;
    - (B) the extent (if any) to which the appellant contends that the appealable decision was based on an error of fact or was wrong in law (or both); and
    - (C) the extent (if any) to which the appellant is appealing against the Agency’s exercise of discretion in making the appealable decision;

- (iii) a succinct presentation of the arguments of fact or law (or both) supporting each ground of appeal; and
  - (iv) the relief or directions (if any) sought by the appellant;
- (d) include —
- (i) a copy of the appealable decision; and
  - (ii) any documents supporting the arguments mentioned in sub-paragraph (c)(iii); and
- (e) subject to paragraph (2), be lodged with the Secretary in triplicate.

(2) The Minister may, for circumstances in which it is not possible or practicable for the notice of appeal to be lodged in triplicate, specify any other manner by which the notice of appeal must be lodged.

(3) Subject to regulation 6(2), the Secretary must immediately forward a copy of the notice of appeal to the Agency upon receipt of the notice of appeal.

### **Defective notice of appeal**

- 6.—(1) If the appeal authority considers that a notice of appeal —
- (a) does not satisfy the requirements of regulation 5; or
  - (b) is materially incomplete, unduly prolix or lacking in clarity,

the appeal authority may give directions to the appellant as are necessary to remedy the notice.

(2) The appeal authority may, if the appeal authority considers that the efficient conduct of the appeal proceedings so requires, instruct the Secretary or the Registrar (as the case may be) to defer forwarding a copy of the notice of appeal to the Agency until after the directions given under paragraph (1) have been complied with.

**Amendment of notice of appeal**

7.—(1) The appellant may at any time, with the permission of the appeal authority, amend the appellant’s notice of appeal.

(2) The appeal authority must not grant permission under paragraph (1) to add a new ground of appeal unless the appeal authority is satisfied that —

- (a) the new ground is based on any matter of fact or law which came to light after the notice of appeal was lodged;
- (b) it was not practicable to include the new ground in the notice of appeal; or
- (c) there are exceptional circumstances to do so.

(3) Where the appeal authority grants permission under paragraph (1), the appeal authority may do so on any terms or conditions that the appeal authority thinks fit to impose, and give any further or consequential directions that the appeal authority considers necessary.

**Defence**

8.—(1) The Agency must lodge with the Secretary or the Registrar (as the case may be) a defence within 30 days after the date on which the Agency received a copy of the notice of appeal.

(2) The defence must —

- (a) be signed and dated by the Agency’s authorised representative for the appeal;
- (b) state —
  - (i) the name, phone number and email address of the Agency’s authorised representative; and
  - (ii) an address in Singapore for service or to which documents in connection with the appeal may be sent;
- (c) contain —
  - (i) a succinct presentation of the arguments of fact or law (or both) upon which the Agency will rely; and



- (ii) the relief or directions (if any) sought by the Agency;
- (d) include any documents supporting the arguments mentioned in sub-paragraph (c); and
- (e) subject to paragraph (3), be lodged in triplicate.

(3) The Minister may, for circumstances in which it is not possible or practicable for the defence to be lodged in triplicate, specify any other manner by which the defence must be lodged.

(4) Subject to paragraph (5) and regulation 9(2), the Secretary or the Registrar (as the case may be) must immediately forward a copy of the defence to the appellant upon receipt of the copy of the defence.

(5) Where the Minister has not but intends to establish an Appeal Panel to consider and determine the appeal, the Minister may instruct the Secretary to defer forwarding a copy of the defence to the appellant until after the Appeal Panel is established.

(6) The appeal authority may, on application of the Agency, extend the time limit provided under paragraph (1) for the lodging of the defence.

### **Defective defence**

9.—(1) If the appeal authority considers that a defence —

- (a) does not satisfy the requirements of regulation 8; or
- (b) is materially incomplete, unduly prolix or lacking in clarity,

the appeal authority may give directions to the Agency as are necessary to remedy the defence.

(2) The appeal authority may, if the appeal authority considers that the efficient conduct of the appeal proceedings so requires, instruct the Secretary or the Registrar (as the case may be) to defer forwarding a copy of the defence to the appellant until after the directions given under paragraph (1) have been complied with.

### **Amendment of defence**

10.—(1) The Agency may at any time, with the permission of the appeal authority, amend its defence.

(2) The appeal authority must not grant permission under paragraph (1) unless the appeal authority is satisfied that —

- (a) there exists any matter of fact or law which came to light after the defence was sent to the appeal authority;
- (b) it was not practicable to include in or omit from the defence (as the case may be), the subject matter of the amendment proposed by the Agency; or
- (c) there are exceptional circumstances to do so.

(3) Where the appeal authority grants permission under paragraph (1), the appeal authority may do so on any terms or conditions that the appeal authority thinks fit to impose, and give any further or consequential directions that the appeal authority considers necessary.

## **Reply**

**11.—**(1) The appellant may lodge with the Secretary or the Registrar (as the case may be) a reply within 30 days after the date on which the appellant receives a copy of the defence.

(2) The reply must —

- (a) contain a succinct presentation of the arguments of fact or law (or both) in reply to the defence;
- (b) be signed and dated by the authorised representative of the appellant;
- (c) include any documents supporting the arguments mentioned in sub-paragraph (a); and
- (d) subject to paragraph (3), be lodged in triplicate.

(3) The Minister may, for circumstances in which it is not possible or practicable for the reply to be lodged in triplicate, specify any other manner by which the reply must be lodged.

(4) Subject to paragraph (5) and regulation 12(2), on receipt of the reply, the Secretary or the Registrar (as the case may be) must immediately forward a copy of the reply to the Agency upon receipt of the reply.

(5) Where the Minister has not but intends to establish an Appeal Panel to consider and determine the appeal, the Minister may instruct the Secretary to defer forwarding a copy of the reply to the Agency until after the Appeal Panel is established.

(6) The appeal authority may, on application of the appellant, extend the time limit provided under paragraph (1) for the lodging of the reply.

### **Defective reply**

12.—(1) If the appeal authority considers that a reply —

- (a) does not satisfy the requirements of regulation 11; or
- (b) is materially incomplete, unduly prolix or lacking in clarity,

the appeal authority may give directions to the appellant as are necessary to remedy the reply.

(2) The appeal authority may, if the appeal authority considers that the efficient conduct of the appeal proceedings so requires, instruct the Secretary or the Registrar (as the case may be) to defer forwarding a copy of the reply to the Agency until after the directions given under paragraph (1) have been complied with.

### *Division 2 — Disposal of appeals, etc.*

### **Summary dismissal of appeals**

13.—(1) Without affecting section 36(1) of the Act, an appeal authority may summarily dismiss the appeal and confirm the appealable decision of the Agency if the appellant has, without reasonable excuse, failed to comply with —

- (a) any requirement under these Regulations for the appellant to submit any document or information within the time specified for the submission; or
- (b) any direction given by the appeal authority to the appellant under these Regulations.

(2) Where an appeal authority dismisses an appeal under paragraph (1), the appeal authority may make any appropriate consequential order.

### **Withdrawal of appeals**

**14.**—(1) The appellant may at any time, with the permission of the appeal authority, withdraw the appeal.

(2) Where the appeal authority grants permission under paragraph (1), the appeal authority may —

- (a) do so on any terms or conditions that the appeal authority thinks fit to impose; and
- (b) where the appeal authority is an Appeal Panel, order the appellant to pay any costs of the Agency incurred up to the time the appeal is withdrawn.

### **Consent orders**

**15.**—(1) Without affecting regulation 14, the parties to an appeal may agree on the terms on which to settle all or any part of the appeal, and request the appeal authority to make a consent order.

(2) The request for a consent order is made by sending to the Secretary or the Registrar, as the case may be —

- (a) a draft consent order; and
- (b) a statement signed by the authorised representatives of each of the parties —
  - (i) requesting that an order be made in the terms of the draft consent order; and
  - (ii) explaining the circumstances giving rise to the draft consent order and the relief to be obtained if the order is made.

(3) The appeal authority may, as the appeal authority thinks fit, after hearing the parties —

- (a) make the order in the terms requested;

- (b) invite the parties to vary the terms and make the order in the terms as varied; or
- (c) refuse to make any order.

### *Division 3 — Procedures for appeals*

#### **No new ground of appeal or defence**

**16.** Except with the consent of the appeal authority and on any terms and conditions determined by the appeal authority —

- (a) the appellant may not raise or rely on any new ground of appeal not stated in the appellant’s notice of appeal; and
- (b) the Agency may not raise or rely on any new ground of defence not stated in the Agency’s defence.

#### **Directions**

**17.—(1)** The appeal authority may at any time give directions to secure the just, expeditious and economical conduct of the appeal proceedings and the determination of the appeal.

(2) Without affecting paragraph (1), the directions may relate to one or more of the following:

- (a) the manner in which the appeal proceedings are to be conducted (including any case management conference and any hearing), whether by using any remote communication technology or otherwise;
- (b) the orders sought by the parties, their arguments in the appeal and the points at issue between them that require clarification;
- (c) the points on which the parties have to present further arguments;
- (d) the issues on which the appeal authority requires evidence, the nature of the evidence required, and the manner in which the evidence is to be placed before the appeal authority;

- (e) the appointment and instruction of experts by the parties, and the manner in which expert evidence is to be given;
  - (f) the submission of witness statements or expert reports;
  - (g) the submission of any document or information by any person (whether or not a party) to the appeal authority, and the manner in which the person may attend before the appeal authority to produce the document or provide the information (including by using any remote communication technology);
  - (h) the submission by the appellant or the Agency of one or more core bundles comprising a copy of every document on which the appellant or the Agency (as the case may be) relies, including the written statements of all witnesses of fact and expert witnesses, if any;
  - (i) the disclosure of documents between the parties;
  - (j) the examination or cross examination of witnesses (including by using any remote communication technology);
  - (k) the preparation and exchange of skeletal arguments;
  - (l) the written or oral submissions by parties on any aspect of the appeal proceedings;
  - (m) the abridgement or extension of any time limit;
  - (n) for hearing any person (whether or not a party) on any proposal for a direction concerning any matter in sub-paragraphs (a) to (m).
- (3) Subject to regulation 19, the appeal authority must provide any document or information obtained under paragraph (2)(g) —
- (a) where a party to the appeal provided the document or information, to the other party to the appeal proceedings; and

(b) where a person other than a party to the appeal provided the document or information, to the parties to the appeal, and invite the other party or parties (as the case may be) to make submissions on the document or information.

(4) A case management conference mentioned in paragraph (2)(a) must be held in camera.

(5) A case management conference mentioned in paragraph (2)(a) that is held by an Appeal Panel need not be attended by the Appeal Panel in full, but by the Presiding Member alone.

### **Consolidation**

**18.**—(1) Where 2 or more appeals are pending in relation to the same decision of the Agency, or involve the same or similar issues, the appeal authority may at any time, on the request of a party to any of the appeals or on the appeal authority's own initiative, direct that the appeals or any particular issue or matter raised in the appeals be consolidated, and be heard and decided or determined together.

(2) All the parties to the appeals are entitled to make their submissions on the proposed consolidation before a direction under paragraph (1) is made.

### **Requests for confidential treatment**

**19.**—(1) A request for the confidential treatment of a document or part of a document, or information, submitted in connection with any appeal before the appeal authority must —

- (a) be made in writing by the person who submitted the document or information no later than 14 days after the submission of the document or information;
- (b) where the request relates to part of a document, state the relevant words, figures or passages for which confidentiality is claimed; and
- (c) contain the reasons for the request, and where the request relates to part of a document, the reasons specific to the part.

(2) The person making the request must also submit to the appeal authority, if the person considers it possible to summarise or redact the material in the document or part of the document, or information, a non-confidential version of the document, the part of the document or the information (as the case may be) in a form that can be given to any party to the appeal.

(3) A request for confidential treatment must not be considered if the request does not comply with paragraph (1), unless the appeal authority considers that the circumstances are exceptional.

(4) The appeal authority may grant confidential treatment in relation to any document or part of the document, or information, on any terms and conditions that the appeal authority thinks fit (including changes to the summary or redacting of material in any non-confidential version under paragraph (2)), if the appeal authority is satisfied that the document, the part of the document or the information (as the case may be) contains or is, in the appeal authority's opinion —

- (a) information the disclosure of which would be contrary to the public interest;
- (b) commercial information the disclosure of which may significantly harm the legitimate business interests of the undertaking to which it relates; or
- (c) information relating to the private affairs of an individual the disclosure of which would or may significantly harm the interests of that individual.

(5) In the event of a dispute as to whether confidential treatment should be granted, the appeal authority must decide the matter after considering oral or written submissions from the parties to the appeal, taking into account the matters referred to in paragraph (4).



(6) If the appeal authority grants the confidential treatment, the person making the request for the confidential treatment must, no later than 5 days after the appeal authority's decision —

- (a) in the case where the grant is subject to changes to any non-confidential version submitted under paragraph (2) —
  - (i) make the necessary changes or redactions; and
  - (ii) send the revised non-confidential version to the Secretary or the Registrar, as the case may be; and
- (b) in any other case, send to the Secretary or the Registrar (as the case may be) the non-confidential version submitted under paragraph (2), if any,

and notify the Secretary or the Registrar (as the case may be) that the document, or part of the document, or information has been summarised or redacted.

(7) The appeal authority must not, for the purposes of considering or determining the appeal, rely on any document, or part of a document, or information to which confidential treatment is granted, but may rely on the non-confidential version filed (if any) under paragraph (2) or (6)(a), as the case may be.

### **Hearing of appeals**

**20.**—(1) On the direction of the appeal authority, the Secretary or the Registrar (as the case may be) must fix a date and time for the hearing of the appeal, and the manner in which the hearing is to be conducted (as directed by the appeal authority), and must give 14 days' notice of those matters to the parties to the appeal.

(2) The parties must attend, whether or not by the authorised representative of the parties, at the date and time and in the manner so fixed.

(3) If it is proved to the satisfaction of the appeal authority that, owing to absence, sickness or other reasonable cause, any person is prevented from so attending, the appeal authority may postpone the hearing of the appeal for any reasonable time that the appeal authority thinks necessary.

(4) Where the appeal authority is an Appeal Panel, the Presiding Member presides at each hearing of the appeal being determined by the Appeal Panel.

(5) The onus of proving that any ground of appeal is justified is on the appellant.

(6) Nothing in this regulation requires the Minister as the appeal authority, if the Minister considers appropriate, from deciding an appeal based on written or documentary evidence provided or produced to the Minister without holding any hearing of the appeal.

### **Hearing of appeal in absence of member of Appeal Panel**

**21.**—(1) Despite anything in this Part, if, in the course of any appeal proceedings, or (in the case of a reserved judgment in any appeal) at any time before delivery of the judgment, any member of an Appeal Panel established to consider and determine the appeal resigns or is unable, through illness or any other cause, to continue to consider or to determine the appeal, the remaining members of the Appeal Panel (if 2 or more) must consider and determine the appeal unless the parties to the appeal object.

(2) In paragraph (1), the Appeal Panel remains duly constituted for the purposes of the appeal despite the resignation of a member of the Appeal Panel or the inability of a member to act.

(3) In a case under paragraph (1) —

(a) where there are more than 2 members of the Appeal Panel remaining, the appeal is decided in accordance with the decision of the majority of the remaining members of the Appeal Panel and, if there is an equality of votes, the Presiding Member has a second or casting vote; or

(b) where there are only 2 members of the Appeal Panel remaining, the appeal is decided in accordance with the unanimous decision of both members.

(4) The appeal must be reheard —

(a) if the parties do not consent to the appeal proceedings continuing before the remaining members of the Appeal Panel under paragraph (1); or

- (b) if the appeal is to be considered or determined by only 2 remaining members of the Appeal Panel and they are unable to reach a unanimous decision.

### **Adjournments**

**22.**—(1) The appeal authority may adjourn any hearing of an appeal on any ground in the appeal authority's discretion and may fix a date for a further hearing.

(2) The appeal authority may, on the conclusion of the hearing of an appeal, adjourn for any period for the purpose of considering the appeal.

### **Hearings to be in camera**

**23.**—(1) Subject to paragraphs (2) and (3), all matters in any appeal proceedings must be heard by the appeal authority in camera.

(2) Where the appeal authority is an Appeal Panel and either of the parties to the appeal applies to the Appeal Panel for any matter in the appeal proceedings to be heard by way of a hearing open to the public, the Appeal Panel may direct that the matter to be so heard, even if the other party objects.

(3) Where the Appeal Panel is of the opinion that any appeal proceedings heard in camera ought to be reported, the Appeal Panel may publish or authorise the publication of the facts of the case, the arguments and the decision relating to the appeal without disclosing the name of the appellant concerned.

(4) Where the Minister is of the opinion that any appeal considered and determined by the Minister ought to be reported, the Minister may publish or authorise the publication of the facts of the case, the arguments and the decision relating to the appeal without disclosing the name of the appellant concerned.

### **Notification of decision on appeal**

**24.**—(1) Upon making its determination in accordance with section 36(2) of the Act, the appeal authority must notify the parties to the appeal of the determination and, for this purpose, instruct the Secretary or the Registrar (as the case may be) to give to

the parties a copy of the written determination which is duly signed by the appeal authority.

(2) In addition to paragraph (1), where the appeal authority is an Appeal Panel, the appeal authority may also deliver its determination orally to the parties in its entirety or as a summary, before the Secretary or the Registrar (as the case may be) provides the parties with a copy of the written determination.

(3) For the purpose of paragraph (2), the Presiding Member must make the oral delivery and it is not necessary for the members of the Appeal Panel to reassemble merely for the oral delivery.

(4) Where the Appeal Panel's decision is the decision of a majority, that fact must be stated.

## **Costs**

**25.** An Appeal Panel may award any costs of or incidental to any appeal proceedings before it, and award any expenses including any allowances payable to persons in connection with their attendance before the Appeal Panel.

## **Irregularities**

**26.—**(1) Any irregularity resulting from a failure to comply with any provision of these Regulations before the appeal authority has reached a determination of the appeal does not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the appeal authority, the appeal authority —

- (a) must, if the appeal authority considers that any person may have been prejudiced by the irregularity, give directions to cure or waive the irregularity before reaching a determination on the appeal; and
- (b) may, in any other case, give directions to cure or waive the irregularity before reaching a determination on the appeal.

(3) The following may be corrected at any time by the Minister, or the Presiding Member (as the case may be), by certificate under his or her hand:

- (a) clerical mistakes in any document recording a direction, an order or a decision (including a determination) of the Minister or the Appeal Panel, or any proceedings under these Regulations;
- (b) errors arising in such a document from an accidental slip or omission.

## PART 3

### APPEAL PANEL

#### **Establishment of Appeal Panel**

27.—(1) Where the Minister considers that an appeal ought to be considered and determined by an Appeal Panel, the Minister must instruct the Secretary to notify the parties of the Minister's decision and of the proposed composition of the Appeal Panel.

(2) The Minister must not appoint any member, employee or officer of the Agency as a member of an Appeal Panel.

(3) The parties may submit to the Secretary within 14 days after receipt of the notification mentioned in paragraph (1) —

- (a) the name of any proposed member of the Appeal Panel to whom the appellant or the Agency objects; and
- (b) the reason for such objection.

(4) The Minister must determine whether any reason for any objection to any proposed member under paragraph (3) is valid.

(5) Where the Minister determines under paragraph (4) that any reason for any objection in relation to a proposed member of the Appeal Panel is valid, the Minister may —

- (a) propose another member to the Appeal Panel; or
- (b) establish the Appeal Panel without the proposed member objected to, if there are at least 3 other individuals that are able to comprise the Appeal Panel.

(6) To avoid doubt, paragraphs (2) to (5) apply to a proposed member under paragraph (5)(a).

(7) Where the Minister determines under paragraph (4) that the reason for any objection is not valid, the Minister may reject that objection and inform the appellant and the Agency accordingly.

(8) The Minister's decision in accepting or rejecting any objection is final.

### **Conflict of interests**

**28.**—(1) If an individual who is proposed to be appointed as a member of an Appeal Panel to hear an appeal, or is a member of an Appeal Panel, has or acquires an interest, direct or indirect, in the appeal or any other matter relating to the appeal, the individual must —

- (a) within 48 hours after receiving notice of his or her appointment as a member of an Appeal Panel or becoming aware of the interest (as the case may be), declare to the Minister the nature, character and extent of the interest; and
- (b) immediately refrain from, or cease, taking part in the consideration or discussion of, or voting on any question with respect to, that appeal or other matter.

(2) Upon receiving any declaration under paragraph (1)(a), the Minister may —

- (a) appoint another individual to be a member of the Appeal Panel in substitution of the individual mentioned in paragraph (1); or
- (b) establish the Appeal Panel or allow the Appeal Panel to continue (as the case may be) without the individual mentioned in paragraph (1), if there are at least 3 other individuals remaining to comprise the Appeal Panel.

(3) The Minister must notify the parties and the Appeal Panel whether the Minister proposes to proceed under paragraph (2)(a) or (b).

(4) Where the Minister proposes to proceed under paragraph (2)(a), regulation 27(2) to (5) applies, with the necessary modifications in

relation to the individual proposed to be appointed in substitution, as it applies in relation to a proposed member under that regulation.

(5) An individual is regarded as having an interest in an appeal or other matter relating to an appeal if —

- (a) the individual holds any office or possesses any property where, directly or indirectly, duties or interests conflict with or might be created in conflict with the individual's duties or interests as a member of the Appeal Panel in relation to the consideration of the appeal or matter;
- (b) the individual has a direct or indirect interest in a contract or proposed contract with any party to the appeal or concerning any matter relating to the appeal and the interest conflicts with or could conflict with the proper performance of the individual's duties or interests as a member of the Appeal Panel in relation to the consideration of the appeal or matter; or
- (c) any of the individual's immediate family members —
  - (i) holds any office or possesses any property where, directly or indirectly, duties or interests conflict with or might be created in conflict with the individual's duties or interests as a member of the Appeal Panel in relation to the consideration of the appeal or matter; or
  - (ii) has a direct or indirect interest in a contract or proposed contract with any party to the appeal or concerning any matter relating to the appeal and the interest conflicts with or could conflict with the proper performance of the individual's duties or interests as a member of the Appeal Panel in relation to the consideration of the appeal or matter.

(6) In this regulation, “immediate family members”, in relation to an individual, means a spouse, a child, an adopted child or a stepchild, a sibling or stepsibling, or a parent or step-parent of the member.

## **Meetings of Appeal Panels**

**29.**—(1) Meetings (including hearings) of an Appeal Panel must be presided by the Presiding Member.

(2) All matters coming before an Appeal Panel must be decided by a majority of votes of the members of the Appeal Panel present, and in the event of an equality of votes, the Presiding Member has a second or casting vote.

(3) Subject to the provisions of the Act and these Regulations, the Appeal Panel may regulate its own procedure.