

S.I. 84 of 2022

ENVIRONMENT PROTECTION ACT, 2016

(Act 18 of 2016)

**ENVIRONMENT PROTECTION ACT (APPEALS RULES OF
PROCEDURE) REGULATIONS, 2022**

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Notice of Mention

S.I. 84 of 2022

ENVIRONMENT PROTECTION ACT, 2016

*(Act 18 of 2016)***Environment Protection (Appeals Rules of Procedure)
Regulations, 2022**

In exercise of the powers conferred by section 80 read with section 74(2) of the Environment Protection Act, the Minister responsible for environment matters hereby makes the following regulations —

Citation

1. These Regulations may be cited as the Environment Protection (Appeals Rules of Procedure) Regulations, 2022.

Interpretation

2. In these Regulations —

“Act” means the Environment Protection Act, 2016;

“Appeals Board” means the Appeals Board constituted under section 73 of the Act;

“appellant” means a person having a right to appeal to the Environment Protection Appeals Board under section 59 or 74(1) of the Act or any other laws giving a right of appeal under that Act;

“respondent” means the party against whom the appeal is filed;

“Secretary” means the Secretary to the Appeals Board appointed under regulation 5;

“standard scale” means the standard scale of fines for offences established under the Criminal Offences (Standard Scale of Fines) Act, 2021.

Notice of Appeals

3. Any person aggrieved by a decision made under the Act or any other laws giving a right of appeal under that Act may, appeal to the Appeals Board.

Lodgement of appeals

4.(1) A notice of appeal under regulation 3 shall as far as practicable be made in the form specified in the First Schedule.

(2) The appellant shall, upon filing his or her notice of appeal pay a non-refundable fee as specified in Schedule 2.

(3) The notice under subregulation (1) shall be filed with the Secretary of the Appeals Board.

(4) The Secretary shall register the appeal and deliver the notice of appeal to the Chairperson of the Appeals Board.

(5) The Secretary shall cause a copy of the notice of appeal to be served on the respondent and shall notify the respondent to compile the record and to send a copy of the record to the Appellant.

Secretary to the Appeals Board

5. The Appeals Board shall appoint a Secretary who shall be responsible for —

- (a) ensuring the overall smooth running of the Appeals Board;
- (b) convening the sittings of the Appeals Board after consultation with the Chairperson and members;
- (c) the implementation of decisions made by the Appeals Board; and
- (d) such other duties as the Chairperson may from time to time direct.

Commencement of proceedings

6.(1) The Chairperson shall, upon examination of the appeal cause the Secretary to issue to the parties in the appeal a Notice of Mention in the form specified in Schedule 3.

(2) At the hearing of the mention the parties shall make appropriate disclosure of documents they wish to rely upon at the hearing.

(3) The Secretary shall record the date set for hearing and shall ensure that all parties have notice of the date set for hearing.

Hearings before the Appeals Board

7.(1) At a hearing before the Appeals Board, the Chairperson may take evidence on oath and for that purpose shall administer oaths.

(2) A hearing before the Appeals Board shall be open to the public but, may be heard in private if —

- (a) the circumstances so warrant; or
- (b) the Appeals Board considers it appropriate.

Evidence rules and Natural Justice

8.(1) The rules of evidence which apply in civil cases before the Supreme Court shall apply in all matters before the Appeals Board.

(2) Whilst hearing an appeal, the Appeals Board shall ensure that the rules of Natural Justice are observed.

Arguments or submissions before the Appeals Board

9.(1) Any party to proceedings before the Appeals Board, or the authorised representative of that party shall declare to the Appeals Board at the earliest opportunity whether he or she intends to make oral or written submissions during the course of the proceedings.

(2) Where a party to the proceedings or his or her authorised representatives has chosen to file written submissions, he or she shall

arrange to submit copies thereof to the Secretary of the Appeals Board at least 5 working days before the date fixed for consideration of the matter by the Appeals Board.

Proceedings in absence of a party

10. Where on a date fixed for any particular matter before the Appeals Board, any party to the proceedings who was present when the date was fixed does not appear, the proceedings may be continued in the absence of that party or the Chairperson may issue an Order, Direction or Notice as he or she shall consider appropriate.

Minutes and records of proceedings

11.(1) The Secretary shall keep a record of proceedings at the hearing before the Appeals Board.

Quorum and Decision of the Appeals Board

12.(1) The Appeals Board may, where it entertains a notice of appeal, decide the appeal by —

- (a) confirming the decision;
- (b) varying the decision;
- (c) quashing the decision;
- (d) ordering the respondent to reconsider its decision as directed by the Appeals Board.

(2) Three members of the Appeals Board shall constitute a quorum at any sitting of the Appeals Board.

(3) Every decision of the Appeals Board shall be signed and dated by the Chairperson and two other members.

(4) The Appeals Board shall treat an application with the urgency that it requires.

(5) A signed copy of the decision shall be served on the parties to the proceedings within 14 days from date that the decision is made.

Offences

13. A person who —

- (a) willfully insults or obstructs a member or any officer of the Appeals Board in the course of any proceedings of the Board;
- (b) willfully insults or obstructs a witness or other person in attendance at any proceedings of the Appeals Board;
- (c) willfully interrupts or disrupts, or otherwise misbehaves at, any proceedings of the Appeals Board,

commits an offence and shall be liable upon conviction to a fine of level 3 on the standard scale.

Disclosure of interest

14. Where a member is present at proceedings before the Appeals Board and that member or a close relative of that member, has direct or indirect interest in a matter being dealt with in those proceedings, the member shall, before or as soon as practicable after the commencement of the proceedings, disclose that interest and shall not take part in any consideration or discussion of, or vote on any question relating to, the matter under consideration.

SCHEDULE 1

(Regulation 4(1))

NOTICE OF APPEAL

Before the Appeals Board established under section 73 of the Environment Protection Act, 2016

Take Notice that the Appellant appeals to the Appeals Board against the decision of the Respondent dated (copy attached) on the following grounds —

- 1.
- 2.
- 3.

Dated this day of, 20.....

Signed (Appellant)

The address for service of the Appellant is.....

SCHEDULE 2

[Regulation 4(2)]

Fees for filing of Notice of Appeal

SCR 250.00

SCHEDULE 3

[Regulation 6(1)]

Notice of Mention

The Appeals Board under the Environment Protection Act, 2016

..... **Applicant**

Versus

..... **Respondent**

Cs No.....

TAKE NOTICE that the above case will be mentioned on the
at am/pm.

You are hereby required to appear before the Environment Protection Appeals Board, located at the building at Victoria on the above mentioned date and time.

Dated this day of 20

SECRETATRY OF THE APPEALS BOARD

To be served on: 1. XXXX

MADE this 8th day of July, 2022.

**FLAVIEN JOUBERT
MINISTER OF AGRICULTURE,
CLIMATE CHANGE AND ENVIRONMENT**
