



STATUTORY INSTRUMENTS.

S.I. No. 68 of 2018



FORESTRY APPEALS COMMITTEE REGULATIONS 2018

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I, MICHAEL CREED, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by sections 7(2) and 15 of the Agriculture Appeals Act 2001 (No. 29 of 2001), (as adapted by the Agriculture, Fisheries and Food (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 455 of 2011)), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Forestry Appeals Committee Regulations 2018.

Definitions

2. In these Regulations-

“Act” means the Agriculture Appeals Act 2001(No. 29 of 2001);

“appeal” means an appeal under section 14A(4) of the Act.

Forestry Appeals Committee

3. (1) The Minister may appoint to the Forestry Appeals Committee the following members:

(a) a chairperson, and

(b) any other person the Minister may determine appropriate to serve as an ordinary member.

(2) The chairperson and any 2 ordinary members of the Forestry Appeals Committee may hear an appeal.

(3) The chairperson and ordinary members of the Forestry Appeals Committee are appointed for a term specified in the instrument of appointment but not exceeding 3 years.

(4) The chairperson or ordinary member of the Forestry Appeals Committee may be reappointed.

(5) The chairperson or ordinary member of the Forestry Appeals Committee (excluding officers of the Minister) shall be paid such remuneration and such allowances for expenses as may be determined by the Minister and the Minister for Public Expenditure and Reform.

(6) The chairperson or ordinary member may resign from office by notice in writing to the Minister and the resignation takes effect on the date that the

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th March, 2018.

Minister receives the notice or if a date is specified in the notice, and the Minister agrees to that date, on that date.

(7) The Minister may remove the chairperson or ordinary member of the Forestry Appeals Committee from office—

- (a) if the chairperson or ordinary member becomes incapable through ill-health of effectively performing his or her functions,
- (b) for stated misbehaviour, or
- (c) if the chairperson's or ordinary member's removal appears to the Minister to be necessary for the effective performance by the Forestry Appeals Committee of its functions.

(8) The Forestry Appeals Committee shall be independent in the performance of its functions.

(9) Where a member of the Forestry Appeals Committee believes that his or her participation in an appeal would give rise to the perception of any potential conflict of interest, he or she shall disclose that to the parties concerned.

(10) The chairperson shall ensure that the functions of the Forestry Appeals Committee are performed efficiently and as expeditiously as may be consistent with fairness and natural justice.

(11) The Forestry Appeals Committee shall hold such appeal hearings as may be necessary for the performance of its functions.

(12) The Forestry Appeals Committee shall determine decisions by a majority of the votes of the members present and, in the event that voting is equally divided, the chairperson shall have a casting vote in addition to his or her deliberative vote.

Submission of appeal and information to be supplied by appellant

4. (1) Where a person is dissatisfied with a decision made by the Minister or an officer of the Minister under an enactment or statutory instrument set out in Schedule 2 of the Act, he or she may appeal to the Forestry Appeals Committee against the decision by written notice to the chairperson of the Forestry Appeals Committee within 28 days of the date of the Minister's decision.

(2) The Forestry Appeals Committee shall not consider an appeal, notice of which is received by it later than the expiration of the period referred to in paragraph (1).

(3) A notice of appeal shall contain—

- (a) the name and address of the appellant and his or her nominated agent, if any,

- (b) the full grounds of appeal including a statement of the facts and reasoning on which the appellant relies, and
- (c) such documents, particulars or other information relating to the appeal that the appellant considers necessary or appropriate.

(4) The appellant shall submit the notice of appeal to the office of the Forestry Appeals Committee, along with such documentary evidence as the appellant wishes to rely on in support of his or her appeal, and the notice shall contain a list of any such documents.

(5) Where a valid appeal has been received within the period referred to in paragraph (1) and accepted by the chairperson, the chairperson may extend the time for submission of supporting documents where the appellant requests such an extension and the chairperson believes that the request is justified.

(6) A person wishing to withdraw an appeal may do so by sending a written notice to that effect to the Forestry Appeals Committee.

Joinder of actions

5. The Forestry Appeals Committee may, at its discretion, treat two or more appeals as a single appeal.

Notification of appeal and information to be supplied

6. (1) The Forestry Appeals Committee shall notify the Minister of each notice of appeal.

(2) The Minister shall, in relation to each notice of appeal, furnish the Forestry Appeals Committee with the following—

- (a) a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and
- (b) information, documents or items in the power or control of the Minister that is relevant to the appeal.

(3) Where the appeal is made by a person who is not the applicant or licensee under the enactment or statutory instrument set out in Schedule 2 of the Act, the Minister shall notify the applicant or licensee of the appeal and grounds of appeal.

(4) On receipt of the notice referred to in paragraph (1) the Minister shall, as soon as practicable, publish notice of the appeal detailing the decision being appealed and the name of the appellant on a publicly available website.

(5) The Forestry Appeals Committee shall, as soon as practicable after receiving a notice of appeal, give a copy to each other party to the appeal.

Further information to be supplied and amendment of pleadings

7. The Forestry Appeals Committee may—

- (a) require the appellant, an officer of the Minister or any other person or body appearing to the Forestry Appeals Committee to be concerned, to furnish such information as appears necessary to the Forestry Appeals Committee to consider the appeal, and
- (b) the Forestry Appeals Committee may fix a period within which any information shall be furnished.

Hearings

8. (1) The Forestry Appeals Committee shall, as soon as may be, fix a date and place for the hearing of the appeal, and give reasonable notice of the hearing to the appellant, the Minister, and any other person appearing to the Forestry Appeals Committee to be concerned in the appeal.

(2) A request by a party for an oral hearing of an appeal shall be made in writing to the Forestry Appeals Committee.

(3) A request by a party for an oral hearing of an appeal shall be made within 28 days from the date of-

- (a) where the person requesting the oral hearing is the appellant referred to in Regulation 4(1), the date of the written notice of appeal, or
- (b) where the person requesting the oral hearing is the Minister or the applicant or licensee referred to in Regulation 6(3), the date of the notice referred to in Regulation 6(1) or (3) respectively.

(4) Where a request by a party for an oral hearing has been received later than the period referred to in paragraph (3), the chairperson may extend that time where the appellant requests such an extension and the chairperson believes that the request is justified.

(5) The Forestry Appeals Committee, in conducting an oral hearing of an appeal, may take evidence on oath and for that purpose may administer oaths.

(6) An appellant may represent himself or herself or be represented by another person at the oral hearing of his or her appeal.

(7) Where an appellant is represented by another person at the oral hearing of his or her appeal, a member of the Forestry Appeals Committee hearing the appeal may examine the appellant, if the Committee member considers it necessary.

Failure to attend hearing

9. Where, after notice of a hearing of an appeal has been given under Regulation 8(1), a party fails to appear at the hearing, the Forestry Appeals Committee may decide to proceed with the hearing and reach a conclusion based on the evidence before it.

Procedure at hearing

10. (1) The Forestry Appeals Committee shall determine the procedure to be followed at a hearing.

(2) The Forestry Appeals Committee hearing an appeal may postpone or adjourn the hearing at its discretion.

(3) Where the Forestry Appeals Committee holds the hearing of an appeal it may hear statements from any party it believes has interest in the matter.

(4) The Forestry Appeals Committee may, at the hearing of an appeal, admit any duly authenticated written statement or other material as prima facie evidence of any fact in any case in which the Forestry Appeals Committee thinks it appropriate.

Decision of the Forestry Appeals Committee

11. (1) The decision of the Forestry Appeals Committee shall be in writing and shall include the reasons for the decision which shall be notified as soon as may be to the appellant, the Minister and any other person concerned.

(2) The Forestry Appeals Committee may refuse to hear an appeal where, in the opinion of the Committee, the appeal lodged is not made in good faith or is frivolous or vexatious.

(3) The Forestry Appeals Committee shall, at such intervals and in relation to such periods as are specified in writing by the Minister, submit a report in writing to the Minister in relation to the performance of its functions as an appeals body under these Regulations during the period to which the report relates.

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12. For the purpose of the hearing of an appeal, notice of which was received before the making of these Regulations, such appeal shall be heard by the Forestry Appeals Committee as if the provisions of these Regulations had been in operation at the time notice of the appeal was received, to the extent that the application of such provision to the appeal is compatible with natural justice.



GIVEN under my Official Seal,
25 February 2018.

MICHAEL CREED,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations entitled as above provide for the procedures for the Forestry Appeals Committee which was established under section 14A (1) of the Agriculture Appeals Act 2001.

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