

SUBSIDIARY LEGISLATION 420.01

INTERNATIONAL PROTECTION APPEALS TRIBUNAL (PROCEDURES) REGULATIONS

29th October, 2001

LEGAL NOTICE 252 of 2001, as amended by Legal Notices 426 of 2007 and 426 of 2012.

1. The title of these regulations is the International Protection Appeals Tribunal (Procedures) Regulations. Citation.
2. In these regulations, unless the context otherwise requires - Interpretation.
"the Act" means the International Protection Act; Cap. 420.
"appeal" means an appeal made against a recommendation of the Chief Executive Officer in accordance with article 7 of the Act;
"appellant" means a person appealing in terms of article 7 of the Act;
"applicant" means an applicant for refugee status in terms of article 8 of the Act;
"application" means an application for refugee status in terms of article 8 of the Act;
"legal representative" means the person appointed to give free legal aid to represent appellant before the Tribunal in terms of article 7(5) of the Act;
"Minister" means the Minister responsible for immigration;
"Tribunal" means the International Protection Appeals Tribunal appointed in terms of article 5 of the Act.
3. It shall be the function of the International Protection Appeals Tribunal to hear and determine appeals against a recommendation of the Chief Executive Officer in accordance with articles 5 to 7 of the Act. Functions and decisions of the International Protection Appeals Tribunal.
4. (1) Every person appointed to be, or to serve as, chairperson or member of the Tribunal shall, before entering upon those duties, take and subscribe an oath in the form set out in the First Schedule or in such other form as may be appropriate to the case. Oaths of Office.
(2) Such oath may be taken before any Chief Executive Officer for oaths and shall be deposited with the Attorney General.
(3) The officers and employees appointed with the Tribunal shall before entering into the exercise of their office or employment take an oath that they will faithfully and impartially perform the duties of their office or employment, and that they will not divulge any information acquired by them under the Act. Such oath shall be administered by the Chairperson of the Tribunal.

Procedures of the
International
Protection Appeals
Tribunal.

5. (1) The International Protection Appeals Tribunal shall conduct its proceedings in accordance with the following procedures:

- (a) in accordance with article 7(2) of the Act, an appeal under these regulations may be made to the Tribunal by the applicant and, or the Minister within two weeks from the notification on the applicant of the recommendation of the Chief Executive Officer to the Minister to accept or not the application;
- (b) the Tribunal shall transmit a copy of the appeal received from the applicant to the Minister and Chief Executive Officer. Where the appeal is entered by the Minister a copy of the appeal shall be served on the applicant and the Chief Executive Officer;
- (c) the Chief Executive Officer shall furnish the Tribunal with copies of any reports, documents or representations in writing submitted to him under article 8 of the Act and an indication in writing of the nature and source of any other information relating to the application which has come to his notice in the course of an investigation made by him;
- (d) the Tribunal may, for the purposes of its functions under the Act, request the Chief Executive Officer to make such further inquiries and to furnish the Tribunal with such further information as it considers necessary within such period as it may specify;
- (e) the Chief Executive Officer shall furnish the Tribunal with observations in writing concerning any matter arising on the grounds of appeal whenever so requested by the Tribunal and a copy of such observations shall be furnished to the applicant concerned and his legal representative;
- (f) subject to the provisions of the proviso to paragraph (h) and of paragraph (l), the Tribunal shall furnish the applicant concerned and his legal representative, if known, with copies of any written information and, or documentation that reasonably in the discretion of the Tribunal may be necessary for the applicant to fully present his case;
- (g) an applicant may withdraw an appeal to the Tribunal by sending in a written and signed notice of withdrawal;
- (h) the Tribunal shall, where appropriate, following a notice to the parties concerned, hold an oral hearing. The Tribunal shall normally hear only new evidence regarding which it is satisfied that such evidence was previously unknown or could not have been produced earlier when the case was first examined by the Chief Executive Officer. For the purposes of an oral hearing, if any, the Tribunal may -

- (i) direct in writing any person whose evidence is required by the Tribunal to attend before it on a date and at a time and place specified in the direction and there to give evidence and to produce any document or thing in his possession or control specified in the direction,
- (ii) direct any such person to produce any specified document or thing in his possession or control, or
- (iii) give any other directions for the purpose of an appeal that appear to the Tribunal reasonable and justified:

Provided that subparagraphs (i) and (ii) shall not apply in the case of a document or thing relating to information as respects which the Minister or the Minister responsible for foreign affairs, as the case may be, directs that the information be withheld in the interest of national security or public policy;

- (i) the Tribunal shall enable the applicant and the Chief Executive Officer or an authorised officer to be present at the hearing and present their case to the Tribunal in person or through a legal representative or other authorised person;
- (j) the Tribunal shall, as the particular case may require, use its utmost endeavours to procure the attendance of an interpreter to assist at the hearings;
- (k) subject to the provisions of paragraph (l), a witness whose evidence has been or is to be given before the Tribunal shall be entitled to the same privileges and immunities as a witness in a court;
- (l) where information has been supplied to the Chief Executive Officer, by or on behalf of the government of another State in accordance with an undertaking, expressed or implied, that the information would be kept confidential, the information shall not, without the consent of the other State, be produced or further disclosed otherwise than in accordance with the undertaking;
- (m) before deciding an appeal under this article, the Tribunal shall consider the following:
 - (i) the relevant notice of appeal made by the applicant and, or the Minister under article 7 of the Act;
 - (ii) the recommendation of the Chief Executive Officer to the Minister or, as may be appropriate, the relevant decision by the Chief Executive Officer in writing and the reasons supporting it made in terms of article 8(5) of the Act;
 - (iii) any observations made to the Tribunal by the

- Chief Executive Officer or the High Commissioner;
- (iv) the evidence adduced and any representations made at an oral hearing, if any; and
- (v) any documents, representations in writing or other information furnished to the Chief Executive Officer pursuant to article 8 of the Act;
- (n) any decision of the Tribunal and the reasons therefor shall be communicated by the Tribunal to the applicant concerned, his legal representative, if known, the Chief Executive Officer, the Minister and the High Commissioner;
- (o) minutes of each meeting of the Tribunal shall be kept by the Secretary and shall be confirmed by the Tribunal and signed by the Chairperson.

(2) Subject to the provisions under subregulation (1)(a) to (o), the Tribunal shall otherwise regulate its own procedure.

Summoning of witnesses, offences and penalties.
Amended by:
L.N. 426 of 2007.

6. (1) The Tribunal shall have power, exercisable through its and Chairperson, or by the person so authorised by the Chairperson, to -

- (a) summon witnesses;
- (b) take expert advice;
- (c) require any person who appears to it to have a special knowledge of the matter under consideration to furnish orally or in writing such particulars in relation thereto as the Tribunal may require; and
- (d) administer an oath to any witness and to any person concerned in the investigation of the appeal before it, and require them to give evidence and to produce documents in their possession or under their custody in such circumstances as they could be required to give evidence or produce documents before a court of law.

(2) Oaths made under subregulation (1)(d) shall be administered by the Chairperson.

(3) Summonses for attendance before the Tribunal may be in the form set out in the Second Schedule or in such form as may be appropriate to the case, and shall be signed by the Chairperson or member of the Tribunal.

(4) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of sixteen years at the place of residence or of business of the person summoned; and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(5) Except for cases covered by the proviso to regulation

5(1)(h) and by regulation 5(1)(l), any person summoned as aforesaid who refuses, or without sufficient cause fails to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by or with the concurrence of the Tribunal, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Tribunal, shall be guilty of an offence under these regulations and shall be liable on conviction to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of subregulation (1)(d), no person giving evidence before the Tribunal may be compelled to incriminate himself, and every such person shall, in respect of any evidence given by him before the Tribunal, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(6) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature. Cap. 9.

(7) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations. Cap. 9.

(8) No proceedings shall be commenced in respect of any offence against the provisions of these regulations without the concurrence of the Attorney General.

Amended by:
L.N. 426 of 2012.

FIRST SCHEDULE

Regulation 4(1)

Form of oath to be taken by Chairperson or Member of the International Protection
Appeals Tribunal

INTERNATIONAL PROTECTION ACT

OATH OF OFFICE OF MEMBERS OF THE INTERNATIONAL PROTECTION
APPEALS TRIBUNAL

(In terms of regulation 4(1) of the International Protection Appeals Tribunal
(Procedures) Regulations)

I , legally valid identification
document number having been appointed to be Chairperson/Member
of the International Protection Appeals Tribunal do swear/solemnly affirm that I will
faithfully, fully and impartially, and to the best of my ability discharge the trust and
perform the duties devolving upon me by virtue of the said appointment.

So help me God.

(signature)

Amended by:
L.N. 426 of 2012.

SECOND SCHEDULE

Regulation 6(3)

Summons to witnesses to appear before the International Protection Appeals
Tribunal

INTERNATIONAL PROTECTION ACT

SUMMONING OF WITNESSES

(In terms of regulation 6(3) of the International Protection Appeals Tribunal
(Procedures) Regulations)

To legally valid identification document
number

You are hereby summoned to appear before the International Protection Appeals
Tribunal at (place) on (date
and time) in order to give evidence with respect to

.....
.....
.....
..... (the matter of the inquiry).

Given under my hand this day of 20