L.N. 218 of 1998

TELECOMMUNICATIONS (REGULATION) ACT, 1997 (ACT NO. XXXIII OF 1997)

Telecommunications Appeals Board (Rules of Procedure) Regulations, 1998

IN exercise of the powers conferred by section 33 of the Telecommunications (Regulation) Act 1997, the Prime Minister, upon the recommendation of the Telecommunications Regulator, has made the following regulations:—

Citation.

1. These regulations may be cited as the Telecommunications Appeals Board (Rules of Procedure) Regulations, 1998.

Interpretation.

2. In these regulations, "the Act" means the Telecommunications (Regulation) Act, 1997.

Convening of Board.

3. The Board shall be convened by the Chairperson as from time to time required.

Abstention by and challenge of members. Cap. 12.

4. (1) The Chairperson and any member of the Board may abstain from sitting or may be challenged for any of the causes mentioned in section 734 of the Code of Organization and Civil Procedure.

(2) Any question regarding a cause of abstention or challenge, and any question regarding procedure, shall be decided by the Chairperson of the Board.

Decisions by Board.

5. (1) Save as otherwise provided in these regulations, the decisions of the Board shall be taken by a majority vote.

(2) The decisions of the Board shall be in writing and shall be signed by the Chairperson, and the original shall be kept in the registry of the Board together with the complete record of the proceedings of each appeal.

Secretary to the Board.

6. (1) The Secretary of the Board appointed in terms of subsection (5) of section 29 of the Act shall have, *mutatis mutandis*, all such powers and duties as are by the Code of Organization and Civil Procedure vested in, or imposed on, the Registrar of the Superior Courts.

Evidence and proof.

7. For the purpose of —

(a) the hearing and examination of evidence and of enforcing the attendance of witnesses;

(b) the production of books and other documentary evidence;

(c) the appointment of technical experts,

the Board shall have all such powers as are vested by the Code of Organization and Civil Procedure in the Civil Court, First Hall and it shall, *mutatis mutandis*, be regulated by the appropriate rules therein set out.

Order at sittings of the Board.

8. For the purpose of keeping good order during the hearing of appeals, the Board shall be vested with all such powers as are vested by the Code of Organization and Civil Procedure in the Court of Magistrates (Malta).

Place of sittings and registry of the Board.

9. (1) The Board shall hold its sittings in any place which may from time to time be decided upon by the Minister responsible for telecommunications and its locality shall be duly published by notice in the Gazette.

(2) The records relating to the proceedings of the Board shall be kept in the registry of the Board which shall be located at a place determined and notified as aforesaid.

Signing and service of notices etc.

10. (1) Any notice, warrant or order issued by the Board shall be signed by the Chairperson and counter-signed by the Secretary of the Board.

(2) Service of notices, warrants or orders of the Board shall be made by registered mail or by any form as the Chairperson may determine.

Appeals to the Board.

11. (1) An appeal from a decision or other order of the Telecommunications Regulator shall be entered within thirty days from the date on which the said decision or other order of the Telecommunications Regulator has been notified to the appellant.

(2) An appeal shall be made by application which shall be signed by the appellant or his agent.

(3) The application shall state:

(a) the order or decision being appealed from, a copy of which shall be annexed to the application,

(b) a brief statement of the facts,

(c) the grounds of the appeal, and

(d) a demand that the decision or order of the Telecommunications Regulator be reversed or varied.

(4) The application of appeal shall be filed with the Secretary of the Board in duplicate, one copy of which shall be served through the Secretary on the Telecommunications Regulator.

(5) The Board may, at any time, allow any amendment to be made in the application for the purpose of making it clearer:

Provided that the Board shall not take cognizance of any grounds other than those submitted in the application of appeal.

Reply by the Regulator.

12. When an application of appeal is served on the Telecommunications Regulator, he shall, not later than twenty days after the date of service, file with the Secretary of the Board a reply in duplicate stating his reasons for contesting the application, one copy of which shall be served on the appellant.

Hearing of appeals.

13. (1) As soon as may be after the filing of the reply by the Telecommunications Regulator, or, in default, after the lapse of the time allowed for such filing, the Board shall appoint a day for the hearing of the appeal.

(2) Notice of the day and time appointed for the hearing of the appeal shall be given to the appellant and to the Telecommunications Regulator in Form A set out in the Schedule hereto.

(3) The appellant and the Telecommunications Regulator may be assisted during the hearing of the appeal by an advocate or a legal procurator or a technical adviser.

(4) The notice to be given to any person to appear before the Board to give evidence and/or to produce books or other documents shall be given in Form B set out in the Schedule hereto.

Fees and costs.

14. (1) No fees shall be levied by the Board in connection with proceedings before it.

(2) The fee payable to any member of the legal profession or other person assisting an appellant or the Telecommunications Regulator before the Board shall be taxed on the basis of subparagraph (b) of paragraph 15 of Tariff E of Schedule A annexed to the Code of Organization and Civil Procedure, and the fee payable to any referee appointed under the provisions of regulation 7 hereof shall be taxed by the Board on the basis of fair and reasonable compensation for work done.

Cap.12

(3) The costs of the proceedings shall be borne by the parties, or by any of them, as the Board may direct.

(4) Neither of the parties may recover from the other in connection with proceedings before the Board any amount in respect of costs in excess of fees in accordance with these regulations.

Procedure.

15. Save as otherwise expressly provided by these regulations, the Board shall regulate its own procedure.

SCHEDULE

FORM A

(Regulation 13)

Case No. .....

TELECOMMUNICATIONS (REGULATION) ACT, 1997
(ACT NO. XXXIII OF 1997)

NOTICE OF THE DAY AND TIME FOR THE HEARING OF AN APPEAL BEFORE THE TELECOMMUNICATIONS APPEALS BOARD

To: .....

I have to inform you that the Telecommunications Appeals Board will hear on

.....

at..... the appeal entered by ..... against the Telecommunications Regulator.

Date .....

.....
Chairperson of the Telecommunications
Appeals Board

.....
Secretary of the Telecommunications
Appeals Board

FORM B

Regulation 13

Case No. .....

TELECOMMUNICATIONS (REGULATION) ACT, 1997
(ACT NO. XXXIII OF 1997)

NOTICE TO A PERSON TO GIVE EVIDENCE AND/OR TO PRODUCE BOOKS ETC. BEFORE THE TELECOMMUNICATIONS APPEALS BOARD

To: .....

You are hereby required to attend before the Telecommunications Appeals Board on ..... at ..... in order to give evidence in an appeal made by ..... and/or to produce .....

being books or documents in your custody or under your control.

Failure to attend as hereby required will expose you to the sanctions prescribed by law.

Date .....

.....
Chairperson of the Telecommunications
Appeals Board

.....
Secretary of the Telecommunications
Appeals Board