L.N. 111 of 2005

MALTA TELECOMMUNICATIONS AUTHORITY ACT (CAP. 418)

TeleCommunications Appeals Board (Procedure) Regulations, 2005

IN exercise of the powers conferred by article 40(5) of the Malta Telecommunications Authority Act, the Minister for Competitiveness and Telecommunications has made the following regulations:

Citation.

1. These regulations may be cited as the Telecommunications Appeals Board (Procedure) Regulations, 2005.

Interpretation. Cap. 418.

2. (1) Any reference in these regulations to "the Act" is a reference to the Malta Telecommunications Authority Act, and subject to the provisions of subregulation (2) of this regulation, the provisions of article 2 of the said Act shall apply to these regulations.

(2) In these regulations, unless the context otherwise requires:

"the Authority" means the Malta Telecommunications Authority;

"the Appeals Board" means the Telecommunications Appeals Board;

"the Chairman" means the Chairman of the Appeals Board;

"the Minister" means the Minister responsible for communications, and

"the Secretary" means the Secretary of the Appeals Board.

Convening of Appeals Board.

3. The Appeals Board shall be convened by the Chairman as from time to time may be required.

Abstention by and challenge of members.

4. The Chairman shall decide any question regarding:

(a) any abstention or challenge of any member of the Appeals Board in accordance with article 36 (5) of the Act; and

(b) the procedure to be followed by the Appeals Board.

Decisions by the Appeals Board.

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

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

Secretary to the Appeals Board.

Cap. 12.

6. (1) The Secretary shall have, *mutatis mutandis*, all such powers and duties as are by the Code of Organization and Civil Procedure vested in the Registrar of the Superior Courts.

(2) On being notified that in accordance with article 41 of the Act an appeal has been lodged from a decision of the Appeals Board before the Court of Appeal (Inferior Jurisdiction), the Secretary shall without any undue delay ensure that the relative records of the Appeals Board are filed in the Registry of the aforesaid Court of Appeal.

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, and

(d) keeping good order during the hearing of appeals,

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

Place of sittings and registry of the Appeals Board.

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

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

Signing and service of notices etc.

9. (1) Any notice, warrant or order issued by the Appeals Board shall be signed by the Chairman and counter-signed by the Secretary.

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

Appeals to the Appeals Board.

10. (1) An appeal to the Appeals Board shall, in accordance with article 37 of the Act, be made by an application signed by the appellant or his agent, which application shall state:

(a) the decision or directive of the Authority 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 directive of the Authority be reversed or varied.

(2) The application of appeal shall be filed with the Secretary in duplicate, one copy of which shall be served through the Secretary on the Authority.

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

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

Reply by the Authority.

11. When an application of appeal is served on the Authority, the Authority shall, in accordance with article 37 of the Act, file with the Secretary a reply in duplicate stating its reasons for contesting the application, one copy of which shall be served by the Secretary, on the appellant.

Hearing of appeals.

12. (1) Without prejudice to the provisions of article 38(4) of the Act, the Appeals Board shall as soon as may be after the filing of the reply by the Authority, or, in default, after the lapse of the time allowed for such filing, 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 Authority in Form A set out in the Schedule to these regulations.

(3) The appellant and the Authority 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 Appeals Board to give evidence and, or produce books or other documents shall be given in Form B set out in the Schedule to these regulations.

Fees payable to members of the legal profession etc.

13. The fee payable to any member of the legal profession or other person assisting an appellant or the Authority before the Appeals Board shall be taxed on the basis of paragraph 15 (b) of Tariff E of Schedule A annexed to the Code of Organization and Civil Procedure, and the fee payable to any technical expert appointed under the provisions of regulation 7(c) of these regulations shall be taxed by the Appeals Board on the basis of fair and reasonable compensation for work done.

Procedure.

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

Hearing and determination of appeals.

15. (1) The Appeals Board shall be competent to hear those appeals filed after the coming into force of the Act.

(2) Decisions given by the Authority according to the Act between when the Act came into force and the date of the coming into force of these regulations, shall be appealable within thirty day from the coming into force of these regulations.

(3) Appeals which have been pending before the Telecommunications Appeals Board or the Postal Services Appeals Board at the time of the coming into force of the Act shall, in accordance with the provisions of article 36(10) of the Act, continue to be heard and determined by the aforesaid Telecommunications Appeals Board or the Postal Services Appeals Board according to the nature of the appeal.

SCHEDULE

(Regulation 12)

FORM A

Case No....……

MALTA COMMUNICATIONS AUTHORITY ACT
(CAP. 418)

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

Malta Telecommunications Authority

Date_____

_____
Chairman of the Telecommunications Appeals Board

_____
Secretary of the Telecommunications Appeals Board

SCHEDULE

(Regulation 12)

FORM B

Case No.....

MALTA COMMUNICATIONS AUTHORITY ACT
(CAP. 418)

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_____

_____
Chairman of the Telecommunications Appeals Board

_____
Secretary of the Telecommunications Appeals Board

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