L.N. 146 of 2004

POSTAL SERVICES ACT
(CAP. 254)

Postal Services Appeals Board
(Rules of Procedure) Regulations, 2004

IN exercise of the powers conferred by articles 5 and 81 of the Postal Services Act, the Minister for Competitiveness and Communications after consultation with the Malta Communications Authority, has made the following regulations:

Citation and commencement.

1. (1) The title of these regulations is the Postal Services Appeals Board Regulations, 2004.

(2) These regulations shall come into force on the 7th April, 2004.

Interpretation.

2. In these regulations unless the context otherwise requires:

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"the Act" means the Postal Services Act,

"the Authority" means the Malta Communications Authority,

"the Board" means the Postal Services Appeals Board,

Cap. 12.

"the Code" means the Code of Organization and Civil Procedure;

"the Minister" means the Minister responsible for posts.

Convening of Board.

3. The Board shall be convened by the Chairperson as from time to time may be 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 article 734 of the Code.

(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 the 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. The Secretary of the Board appointed in terms of article 4(6) of the Act shall have, mutatis mutandis, all such powers and duties as are by the Code 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 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 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 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 Authority shall be entered within thirty days from the date on which the said decision or other order of the Authority 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 appeals, and

(d) a demand that the decision or order of the Authority 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 Authority.

(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 cognisance of any grounds other than those submitted in the application of appeal.

Reply by the Authority.

12. When an application of appeal is served on the Authority, the Authority shall, not later than twenty days after the date of service, file with the Secretary of the Board a reply in duplicate stating its 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 Authority, 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 Authority in Form A set out in the Schedule hereto.

(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 given to any person to appear before the Board to give evidence and, or 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 Authority before the Board shall be taxed on the basis of paragraph 15 (b) of Tariff E of Schedule A annexed to the Code, 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.

(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.

Right of appeal from decisions taken before the coming into force of these regulations.

15. Decisions taken 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 days from the coming into force of these regulations.

Procedure.

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

SCHEDULE

FORM A

(Regulation 13)

POSTAL SERVICES ACT
(CAP. 254)

Notice of the day and time for the hearing of an appeal before the Postal Services Appeals Board

Case No ……

To_____

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

_____

at_____the appeal entered by _____against the

Malta Communications Authority

Date_____

_____
Chairperson of the Postal Services Appeals Board

_____
Secretary of the Postal Services Appeals Board

SCHEDULE

FORM B

(Regulation 13)

POSTAL SERVICES ACT
(CAP. 254)

Notice to a person to give evidence and/or to produce books etc. before the Postal Services Appeals Board

Case No. ……

To_____

You are hereby required to attend before the Postal Services 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 Postal Services Appeals Board

_____
Secretary of the Postal Services Appeals Board

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