



## REVIEW AND APPEAL PANEL RULES OF PROCEDURE REGULATION

Enacted under the *Review and Appeal Law*, section 37(2)

TNReg \_\_10/2016

Enacted on April 05, 2016  
Amended on June 17, 2020

Hegus [SIGNATURE]

Hegus [NAME]

DEPOSITED IN THE TLA'AMIN  
REGISTRY

ON 24/JUN/2020  
(day/month/year)

Signature of Law Clerk

C.A.O.

**TABLE OF CONTENTS**

**PART 1 - INTRODUCTORY PROVISIONS ..... 1**

    Authority..... 1

    Purpose ..... 1

    Definitions ..... 1

    Application ..... 1

**PART 2 - MATTERS TO BE ADDRESSED IN THE REVIEW AND APPEAL PANEL'S RULES  
OF PROCEDURE..... 1**

    Matters that must be addressed ..... 1

    Matters that may be addressed..... 3

    Process for approving rules of procedure..... 3

    Providing draft rules of procedure and forms to chief administrative officer ..... 3

    Review comments from chief administrative officer ..... 3

## PART 1 - INTRODUCTORY PROVISIONS

### Authority

1. This Regulation is made pursuant to section 37(2) of the *Review and Appeal Law*.

### Purpose

2. The purpose of this Regulation is to set out the matters that must and may be addressed in the Review and Appeal Panel's rules of procedure and the process for approving the rules of procedure.

### Definitions

3. (1) In this Regulation,  
    "Law" means the *Review and Appeal Law*; and  
    "rules of procedure" means the rules of procedure of the Review and Appeal Panel.  
(2) Unless otherwise expressly provided in this Regulation, all terms used in this Regulation have the same meaning as in the Law.

### Application

4. This Regulation applies to the Review and Appeal Panel.

## PART 2 - MATTERS TO BE ADDRESSED IN THE REVIEW AND APPEAL PANEL'S RULES OF PROCEDURE

### Matters that must be addressed

5. (1) In developing rules of procedure under section 28 of the Law, the Review and Appeal Panel must address the following matters:
  - (a) forms to be used by applicants and respondents to initiate a review or appeal;
  - (b) the process for
    - (i) replacing standing panel members with alternate panel members,
    - (ii) adding participants to a review or appeal,
    - (iii) exchange of documents and information among the participants,
    - (iv) access to documents,
    - (v) issuing notices,
    - (vi) service,

- (vii) adjournments,
  - (viii) hearing a review or appeal,
  - (ix) calling and excluding witnesses,
  - (x) calling and excluding technical experts or advisors,
  - (xi) public attendance,
  - (xii) withdrawing an appeal,
  - (xiii) filing written submissions and responses,
  - (xiv) amending a review or appeal request or a notice of response,
  - (xv) determining and issuing decisions, orders, recommendations and reports,  
and
  - (xvi) destroying exhibits after a hearing has been completed;
- (c) whether and under what circumstances interveners will be permitted to participate in a hearing;
  - (d) admissibility of evidence and other evidentiary matters;
  - (e) costs;
  - (f) time requirements;
  - (g) stays; and
  - (h) representation.
- (2) The rules of procedure developed by the Review and Appeal Panel under section 28 of the Law must incorporate the following:
- (a) the standard of proof in respect of evidence in any hearing will be on a balance of probabilities; and
  - (b) where the three panel members are unable to reach a consensus,
    - (i) a determination that is agreed to by two of the standing panel members is considered a determination of the Review and Appeal Panel,
    - (ii) a standing panel member who does not agree with the other two panel members may prepare a dissenting determination, and
    - (iii) if none of the standing panel members are in agreement, the matter will be remitted to the original decision maker and the three standing panel members may provide their views on the matter.

**Matters that may be addressed**

6. In developing rules of procedure under section 28 of the Law, the Review and Appeal Panel may address the following matters:
  - (a) scheduling review or appeal management conferences;
  - (b) scheduling pre-hearing conferences, including confidential pre-hearing conferences;
  - (c) preliminary or interim matters, including a preliminary assessment;
  - (d) consensual alternative dispute resolution processes;
  - (e) providing and certifying the appeal record;
  - (f) audio and video recordings of hearings; and
  - (g) any other matters the Review and Appeal Panel considers advisable for the proper functioning and performance of its duties under the Law.

**Process for approving rules of procedure**

7. The Review and Appeal Panel will establish, by resolution adopted by panel members, its rules of procedure, including forms to be used in reviews and appeals under the Law, in accordance with sections 8 and 9.

**Providing draft rules of procedure and forms to chief administrative officer**

8. At least 15 business days prior to passing a resolution to adopt its rules of procedure, or any form thereunder, the Review and Appeal panel must provide the chief administrative officer with a copy of the draft rules of procedure or form for review and comment.

**Review comments from chief administrative officer**

9. The Review and Appeal Panel must consider any comments it receives from the chief administrative officer prior to passing a resolution to approve its rules of procedure or any form in accordance with this Regulation.