



STATUTORY INSTRUMENTS.

S.I. No. 418 of 2020



FORESTRY APPEALS COMMITTEE REGULATIONS 2020

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I, Charlie McConalogue, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by sections 7(2), 14E, 14F and 15 of the Agriculture Appeals Act 2001 (No. 29 of 2001), (as adapted by the Agriculture, Fisheries and Food (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 455 of 2011)), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Forestry Appeals Committee Regulations 2020.

Definitions

2. In these Regulations-

“Act” means the Agriculture Appeals Act 2001(No. 29 of 2001);

“appeal” means an appeal under section 14A(4) of the Act.

Membership of the Forestry Appeals Committee

3. (1) Where the Minister appoints a chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee, such appointment shall be in writing, and for such term as is specified in the instrument of appointment.

(2) The term of appointment referred to in paragraph (1) shall not exceed 3 years.

(3) The chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee may be reappointed.

(4) The chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee (excluding officers of the Minister) shall be paid such remuneration and such allowances for expenses as may be determined by the Minister and the Minister for Public Expenditure and Reform.

(5) The chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee may resign from office by notice in writing to the Minister and the resignation takes effect on the date that the Minister receives the notice or if a date is specified in the notice, and the Minister agrees to that date, on that date.

(6) The Minister may remove the chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee from office—

- (a) if the chairperson, a deputy chairperson or ordinary member becomes incapable through ill-health of effectively performing his or her functions,
- (b) for stated misbehaviour, or
- (c) if the chairperson, a deputy chairperson or ordinary member's removal appears to the Minister to be necessary for the effective performance by the Forestry Appeals Committee of its functions.

(7) Where the chairperson, a deputy chairperson or ordinary member of the Forestry Appeals Committee believes that his or her participation in an appeal would give rise to the perception of any potential conflict of interest, he or she shall disclose that to the parties concerned.

Forestry Appeals Committee

4. (1) The chairperson of the Forestry Appeals Committee shall ensure that the functions of the Forestry Appeals Committee are performed efficiently and as expeditiously as may be consistent with fairness and natural justice.

(2) The chairperson of the Forestry Appeals Committee shall, from time to time, constitute such and so many divisions of the Forestry Appeals Committee as he or she considers necessary having regard to the workload of the committee and the availability of members.

(3) The Chairperson shall direct the assignment of committee members and appeals to each division so constituted, and in so doing shall have regard to any directive from the Minister under section 14D of the Act.

(4) Other than the case where a division of the Forestry Appeals Committee is composed of 2 persons, the Forestry Appeals Committee shall determine decisions by a majority of the votes of the members present and, in the event that voting is equally divided, the chairperson shall have a casting vote in addition to his or her deliberative vote.

Submission of appeal and information to be supplied by appellant

5. (1) Where a person wishes to make an appeal under section 14A(4) of the Act, he or she shall make such appeal to the Forestry Appeals Committee, in a format required by the Committee, within a period of 28 days beginning on the date of the decision.

(2) The Forestry Appeals Committee shall not consider an appeal, notice of which is received by it later than the expiration of the period referred to in paragraph (1).

(3) A notice of appeal shall contain –

- (a) the name and address of the appellant and his or her nominated agent, if any,
- (b) the grounds, documents and evidence referred to in section 14B(4) of the Act, and
- (c) any fee proscribed under section 14F of the Act.

(4) The Forestry Appeals Committee shall not consider an appeal which does not contain the requirements referred to in paragraph (3).

(5) The appellant shall submit the notice of appeal to the office of the Forestry Appeals Committee, along with all submissions and such documentary evidence as the appellant wishes to rely on in support of his or her appeal, and the notice shall contain a list of any such documents.

(6) A person wishing to withdraw an appeal may do so by sending a written notice to that effect to the Forestry Appeals Committee.

(7) Where the Minister confirms to the Forestry Appeals Committee that the applicant for a licence to which an appeal relates has withdrawn the application, and a determination has not been reached by the Forestry Appeals Committee, the Committee shall dismiss such appeal proceedings.

Joinder of actions

6. The Forestry Appeals Committee may, at its discretion, hear 2 or more appeals as a single appeal.

Notification of appeal and information to be supplied

7. (1) The Forestry Appeals Committee shall notify the Minister of each notice of appeal.

(2) The Minister shall, in relation to each notice of appeal, furnish the Forestry Appeals Committee with the following –

- (a) a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and
- (b) information, documents or items in the power or control of the Minister that is relevant to the appeal.

(3) Where the appeal is made by a person who is not the applicant or licensee under the enactment or statutory instrument set out in Schedule 2 of the Act, the Minister shall notify the applicant or licensee of the appeal and grounds of appeal.

(4) On receipt of the notice referred to in paragraph (1) the Minister shall, as soon as practicable, publish notice of the appeal detailing the decision being appealed and the name of the appellant on a publicly available website.

(5) The Forestry Appeals Committee shall, as soon as practicable after receiving a notice of appeal, give a copy to each other party to the appeal.

(6) The Forestry Appeals Committee shall publish on a website maintained by or on behalf of the committee, as may be decided by the committee, any or all of the following:

- (a) information and documents provided, for the purposes of an appeal, by a party to an appeal or by a person other than a party to an appeal;

- (b) a link to a website hosting documents relating to the decision subject of the appeal;
- (c) any decision of the Forestry Appeals Committee.

Oral Hearings

8. (1) Where the Forestry Appeals Committee considers that an oral hearing is required, the Forestry Appeals Committee shall, as soon as may be, fix a date and place for the hearing of the appeal, and give reasonable notice of the hearing to the appellant, the Minister, and any other person appearing to the Forestry Appeals Committee to be concerned in the appeal.

(2) The Forestry Appeals Committee hearing an appeal may postpone or adjourn the oral hearing at its discretion.

(3) Where a person required to attend an oral hearing under section 14C(4) of the Act does not comply or fully comply with a requirement referred to in that paragraph, the Forestry Appeals Committee may apply in a summary manner to the District Court on notice to that person, for an order requiring the person to comply or fully comply, as the case may be, with the requirement within a period to be specified by the Court, and the Court may make the order sought or such other order as it thinks fit or refuse to make any order.

(4) The jurisdiction of the District Court in respect of an application referred to in paragraph (3) may be exercised by a judge of the District Court for the time being assigned to the District Court district where the person required to attend the oral hearing ordinarily resides or carries on any profession, business or occupation.

Decision of the Forestry Appeals Committee

9. The decision of the Forestry Appeals Committee shall be in writing and shall include the reasons for the decision which shall be notified as soon as may be to the appellant, the Minister and any other person concerned.

Fees

10. (1) The fee prescribed pursuant to section 14F of the Act and that shall be paid to the Forestry Appeals Committee, in respect of an appeal under section 14A(4) of the Act is: €200.

(2) Subject to paragraph (3), a fee received by the Forestry Appeals Committee under this Regulation shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform shall direct.

(3) Where an appeal is withdrawn in accordance with Regulation 5(6) on or before 14 days from the day notice of the appeal was received by the Forestry Appeals Committee, the committee shall, in circumstances it considers appropriate having regard to the expense incurred in processing the appeal, refund such fee.

Revocation and Saver

11. (1) The Forestry Appeals Committee Regulations 2018 (S.I. No. 68 of 2018) are revoked.

(2) Where notice of an appeal has already been received by the Forestry Appeals Committee prior to the coming into force of section 14B of the Act, the Regulations revoked by paragraph (1) remain in force but only to the extent that they are necessary given that subsections (4), (5) and (6) of section 14B of the Act do not apply to such appeals as respects the grounds upon which the appeal is made and the documents and evidence upon which a person intends to rely.



GIVEN under my Official Seal,
7 October, 2020.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

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