



D05-12

APPEALS AND OBJECTIONS TO NOTIFICATION OF ASSESSMENT

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1 PURPOSE

The purpose of this document is to lay down the tasks and responsibilities as well as the documentation for handling appeals and objections against notification of assessment in compliance with the Rules of Accreditation (S03), the Rules of Procedure of the SA Accreditation Board (S02) and the Rules of Procedure of the Appeal Commission (S12). The responsibilities of SA staff in the appeal handling procedure are defined.

2 SUPPORT TO THE SA BOARD IN APPOINTING MEMBERS OF THE APPEAL COMMISSION

2.1 Procedure of drawing up candidate lists for members of the Appeal Commission

The SA Director shall prepare a call for candidature for membership in the Appeal Commission and send it to the website administrator to publish on the SA website, and to the Assessors Sector Manager to e-mail the contents of the call to the assessors in the Assessors Register kept by SA. The call shall be published at least 60 days before the end of term of the Appeal Commission members, or at the latest within 7 days, when a member of the Appeal Commission ceases performing the function earlier.

The candidates shall send their applications, consents to candidacy (the lead assessors employed with SA are considered to have given consent to the candidacy) and a statement as to their relationship whatsoever with the CABs being accredited by SA, at the latest within 15 days of the date of publishing the call on SA's website. Each candidate shall be asked whether they wish to make a personal presentation at the SA Board meeting. Should the call not be responded by at least 6 candidates, the Director shall prolong the deadline for applications and, when necessary, mandate the Assessors Sector Manager to repeat the call and send it to the e-mail addresses of the assessors from SA's Assessors Register.

The Assessors Sector Manager shall prepare the details regarding professional qualifications and references of the candidates, normally taken from the Assessor Registration Record (OB03-13) in the Assessors Register. When the Assessors Sector Manager estimates that those details need updating, he/she shall send to the applying candidate the form Assessor Details (OB03-09), at the latest within 5 working days of expiration of the deadline for submitting the consent, and the candidate shall return the completed form at the latest within 5 working days of receiving the call to update the application.

The applications received from assessors who are not SA employees shall normally be examined by the Assessors Sector Manager, and he/she shall draw up a list of 5 candidates who are not SA employees, or who have not been SA employees for at least 1 year and who are registered SA assessors, and who have given their consent to candidacy. He/she shall also draw up a reserve candidate list with at least 1 reserve candidate who is a registered SA assessor and is not an SA employee.

A candidate list of 5 lead assessors who are SA employees shall normally be drawn up by the Quality Sector Manager. He/she shall also draw up a reserve candidate list with at least 1 reserve candidate who is an SA employee.

In cases where – due to an early termination of a member's/members' function – an alternate member/s of the Appeal Commission must be appointed, the Assessors Sector Manager or the Quality Sector

Manager shall draw up a candidate list with as many members as need to be replaced, and a reserve candidate list with at least 1 reserve candidate.

Candidate lists and reserve candidate lists shall be formulated in accordance with the criteria laid down in paragraphs 2 and 3 of Article 28 and paragraph 6 of Article 29 of the Rules of Procedure of the Slovenian Accreditation Board. Should it be impossible to formulate, in accordance with the basic criteria, a unique candidate list with 5 candidates, additional relevant criteria may be considered, such as who from among the assessors is registered in more accreditation fields, and whether a lead assessor employed by SA performs the function of an accreditation sector manager.

It shall be indicated on the candidate lists in which areas of accreditation individual candidate has knowledge and experience, and whether he/she wishes to make a personal presentation at the SA Board meeting. Candidates' consents shall be attached to both candidate lists containing candidates who are not SA employees.

A description of the procedure of drawing up candidate lists as well as the candidate lists with consents shall be submitted as material for discussion at the SA Board meeting in compliance with the provisions of the Rules of Procedure of the SA Board. Completed forms 'Assessor Registration Record' (OB03-13) or 'Assessor Details' (OB03-09) shall be submitted to the Board members for examination when the meeting is at the stage of treating the candidates, or before taking votes.

The SA Secretariat shall inform in writing the candidates from the candidate lists who expressed their wish to make a personal presentation at the SA Board meeting of the date and time of the SA Board meeting at which the appointing of the SA Appeal Commission is to take place.

2.2 Procedure of drawing up a proposal for appointing the Appeal Commission's Chair and Deputy Chair

After the appointment of members of the Appeal Commission by the SA Board, but at the latest 14 days prior to the expiration of the term of office of the previous members of the Appeal Commission, the SA Director shall draw up a proposal for appointing the Chair of the Appeal Commission, a proposal for appointing the Deputy Chair of the Appeal Commission, and at least one reserve proposal for each of them. The appointment conditions laid down in Article 30 of the Rules of Procedure of the SA Board shall be met in drawing up the proposals. In determining the experience, it should be taken into consideration who has been performing the assessor tasks for a longer period of time, who has carried out a larger total number of assessments, and whose assessments are more complex (combined assessments, assessments involving a larger number of technical assessors, addressing more demanding issues in assessments). When, based on the conditions from the SA Board' Rules of Procedure, it is impossible to uniquely formulate the proposals, assessor's performance appraisal (e.g. performance surveillance results, opinion on assessor's performance) shall be considered as additional criterion. The Director shall seek prior oral consent by the proposed candidates.

The description of the procedure of drawing up the proposals and the proposals for appointing the Chair of the Appeal Commission, the Deputy Chair, and the reserve proposals, shall be submitted by the Director as material for discussion at the SA Board meeting in compliance with the provisions of the Rules of Procedure of the SA Board. Completed forms Assessor Registration Record (OB03-13) or Assessor Details (OB03-09) shall be submitted to the SA Board members when the meeting is at the stage of discussing the proposals, or before taking votes. When a correspondence meeting of the SA

Board is carried out for the purpose of appointing the Chair or the Deputy Chair of the Appeal Commission, the information shall be available to the SA Board members at the SA head office.

3 RECEIVING AN APPEAL

SA will only address appeals sent in writing by registered mail, delivered by messenger service of the accredited body or by hand to the SA Secretariat.

Upon receiving an appeal, the SA Secretariat shall draw up a written acknowledgement of receipt in duplicate and hand a copy to the person who filed the appeal by hand delivery. The acknowledgement shall contain the following data: name, surname and employment of the person who filed the appeal, and date of receipt of the application. The acknowledgement shall be signed by the person filing the appeal and by the SA employee receiving the appeal; the second copy shall be attached to the appeal application.

The Director shall inform of the appeal the SA Secretariat, the Quality Sector Manager, the manager of the accreditation sector to which the appeal refers, and the coordinator of the accredited body that lodged the appeal. Upon receiving the appeal, the Secretariat shall open a new appeal case, while the coordinator shall make a note in the current accreditation procedure case with reference to the case in which the documents relating to the appeal are kept. The coordinator shall, in agreement with the Director and the Accreditation Sector Manager, inform other participants in the procedure to which the appeal refers, e.g. assessors in the particular procedure, of the contents of the appeal, where applicable.

The Director shall check, as soon as possible after the receipt of the appeal, that:

- the appeal was filed in due time, i.e. delivered by hand to SA or submitted to the post by registered mail by the end of the day on which the deadline for filing the appeal expires;
- the object of appeal is permitted under the provisions of the Rules of Accreditation (S03);
- the appeal application is complete, i.e. it contains all the data and annexes required by S03;
- the appeal was lodged by the person so entitled, i.e. the appellant's legal representative or some other person (i.e. authorised representative), provided that they submit a written authorisation to represent, signed by the legal representative of the appellant.

The Director shall send to the appellant a letter confirming the receipt of the appeal within 8 days of the receipt. When the application is incomplete, the Director shall ask the appellant in writing to supplement the appeal within 3 working days of receiving the request to supplement the appeal. In the request to supplement, it must be specially noted that, if the appellant does not supplement the appeal in due time, the appeal will be considered withdrawn, and the appeal handling procedure will be terminated. The appeal is supplemented in due time when the supplement is delivered by hand to SA or submitted to the post by registered mail by the end of the day on which the deadline for supplementing the appeal expires.

When all four conditions stated in paragraph 4 above are met, the Director shall initiate the appeal handling procedure.

In the case that:

- SA has not received the appeal in due time,

- the object of appeal is not permitted,
 - in the case of incomplete application, SA has not received a supplement, or the supplement has not been received in due time,
 - the appeal was not lodged by a person entitled to do so,
- the Director shall issue a decision on termination of the appeal proceeding, which he shall communicate to the appellant, and close the case.

4 APPEAL HANDLING BY SA

SA shall conduct the appeal handling procedure in such a way as to ensure independent, non-discriminatory and confidential treatment and its conclusion in a reasonable time.

The Director shall, in cooperation with the Quality Sector Manager, examine the content and object of the appeal, involving also other participants (e.g. Accreditation Sector Manager, Assessors Sector Manager, assessors, coordinators) in the handling, when needed to determine the circumstances. Documentation (such as records from the case to which the appeal refers and which are related to the object of appeal), opinions and explanations of the personnel involved, shall be saved in the appeal case together with the conclusions.

As a first step, the Quality Sector Manager shall check that the documents in the case relating to the object of appeal provide reasonable grounds for SA to make a decision to prevent obtaining or maintaining of accreditation which was the object of appeal, and find out whether the assessment procedure was carried out in compliance with the Rules of Accreditation and in the necessary scope. Should the Quality Sector Manager find out that, in the case relating to the object of appeal, not all of the necessary information is available to be able to confirm the eligibility of SA's decision to prevent obtaining or maintaining of accreditation, or that the assessment procedure was not carried out correctly, he/she shall to that effect inform the Director, who shall make the decision to eliminate the decision of SA to prevent obtaining or maintaining of accreditation. The appellant shall be refunded the advance payment for the appeal. The Director shall, in cooperation with the Quality Sector Manager and the Accreditation Sector Manager, define the necessary further steps in the process (e.g. carrying out extraordinary surveillance assessment). The appeal handling shall thereby be terminated, and the case closed.

If the Director finds through examination the content of the appeal to be justified, he shall modify the decision being the object of appeal in the appellant's favour. He shall forward the modified decision together with an explanatory letter to the appellant. The appeal handling shall thereby be terminated, and the case closed.

Otherwise, the Director shall hand the appeal over to the Appeal Commission to address. He shall inform in writing the Chair of the Appeal Commission of the receipt of the appeal and provide him/her with three copies of each document in the appeal case. He may send the documents by mail, E-mail, fax, or personally deliver them to the Chair. Besides, he shall inform the Chair, that they may seek additional related information or explanations from SA prior to opening the hearing or during the hearing. He shall inform the SA Board's Chairman and the appellant of the beginning of the appeal handling procedure. The Director shall call upon the Chair of the Appeal Commission and the SA Board's Chairman to address the appeal and make a decision as soon as possible, and he shall define the

deadline for making the decision, such that will make it possible for the Director to implement the decision (inform the appellant of the decision on the appeal) within a time limit not longer than 60 days of the receipt of a complete appeal application, or in more complex cases, e.g. where a foreign expert needs to be engaged, within a time limit not longer than 90 days of the receipt of a complete appeal application. When the appeal handling procedure takes longer to be concluded, the Director shall inform the appellant of the indicative time frame within which the decision on the appeal should be made.

For particular appeal handling cases, the Director may appoint a SA person to provide administrative and organizational support to the Chair of the Appeal Commission, provide for exchange of information and documents, and take over the tasks conferred on the SA Secretariat in that particular procedure.

During the handling of the appeal, the implementation by SA of the activities in the procedure being the object of appeal shall be suspended. When the appeal is lodged against a decision on withdrawal and revocation of accreditation, the appeal shall have suspensive effect on the implementation of the contested decision.

Should SA, at any time during appeal handling, become aware of new facts related to the appeal being addressed, the Director shall inform in writing the Chair of the Appeal Commission's panel and the SA Board's Chairman of those new facts.

5 SUPPORT TO APPEAL COMMISSION'S PANEL IN ADDRESSING THE APPEAL

When the composition of the Appeal Commission's panel is known, SA shall conclude a contract with the two panel members who are not SA employees, fixing the amount and way of remuneration in compliance with the provisions laid down in S13 and D03-05. A contract shall also be concluded with a lawyer who is independent of the object of appeal. The contracts shall also contain provisions regarding protection of confidentiality of data related to individual appeals, protection of personal data and impartial handling of the appeal.

At the request of members of the Appeal Commission's panel, the Director shall collect and submit to the panel members additional documents relating to the object of appeal.

When the panel chair decides to include external independent expert/s in the appeal hearing, he/she shall inform SA to that effect and provide it with request/s for participation in appeal procedure, which the SA Secretariat shall send to individual appointed external expert. Should the external expert not agree to participate, or when he is found not to be independent of the object of appeal the procedure shall be repeated. SA shall conclude a contract with the expert fixing the amount and way of remuneration in compliance with the provisions laid down in S13 and D03-05, also including provisions regarding protection of confidentiality of data related to individual appeals, protection of personal data and impartial handling of the appeal. The SA Secretariat shall provide to the external expert copies of all the documents that were submitted to the members of the Appeal Commission's panel, and invite the expert by a letter to deliver his/her expert opinion within the time limit defined by the panel chair.

When the panel chair informs the SA Secretariat of the expected date and time of appeal hearing, the Director shall, at the latest 8 days in advance of the hearing, send to the appellant or his representative a written invitation to attend the appeal hearing, indicating the date, time and venue of the appeal hearing and the members of the Appeal Commission's panel, including any external experts, when involved in the appeal handling. In the letter of invitation, the Director shall explain to the appellant or

his representative that he shall have the right to state facts and present evidence in support of his appeal. In the letter of invitation, it shall also be noted that the appeal hearing will take place even if the invited appellant or his representative does not come to the hearing.

Of the appeal filed and the date, time and venue of the appeal hearing the SA Secretariat shall also inform the lawyer at least 8 days in advance, and send him a copy of the documentation.

When the appellant or his representative inform SA of his unavailability on the expected date of the appeal hearing and asks SA to adjourn the appeal hearing, the Director shall notify as soon as possible the Chair of the Appeal Commission's panel to that effect. The Director shall inform the appellant, if his request to adjourn the appeal hearing has been refused.

The SA Secretariat shall use mail, E-mail or fax for notifications.

The SA Secretariat shall provide administrative support and allow the use of the SA premises, also in organizing a meeting held by the Appeal Commission's panel prior to the appeal hearing.

5.1 SA's support in appeal hearing

Appeal hearing shall take place in SA's premises. The Director shall appoint a representative of SA to take minutes.

The appeal hearing shall be audibly recorded, of which the Chair of the Appeal Commission's panel shall advise all those present before starting the recording. The advising of audio recording shall be entered in the minutes of the appeal hearing. The minutes-taker shall be responsible for the recording. When the statements of several persons are recorded, the persons who made individual statements should be identifiable on the recording. The audio recording shall be preserved by the SA Secretariat on an electronic medium in the appeal case for 6 months of the date of the appeal hearing, unless legal proceedings have been brought against the decision of the Appeal Commission. When legal proceedings are brought against the decision of the Appeal Commission, the SA Secretariat shall retain the audio recording until a final decision in the legal proceedings is made. SA shall allow the appellant or his representative to listen to the audio recording in its premises, when they request so within the time period during which SA is required to retain the audio recording.

Minutes of the appeal hearing shall be taken by the minutes-taker upon dictation of the panel chair or the lawyer under the chair's authority. The minutes shall contain the relevant data regarding the contents of the appeal hearing, in particular the venue, date and time of the appeal hearing, the subject matter under discussion, the names of those present and their representatives, the essence of each statement by the appellant, his representative or a member of the Appeal Commission's panel, and the time of conclusion of the appeal hearing. A note shall be made in the minutes as to how the minutes will be submitted to the appellant or his representative (e.g. handed over at the end of hearing or sent by registered mail).

At the end of the appeal hearing, the minutes shall be signed by all the members of the Appeal Commission's panel, including external experts, if they were involved in addressing the appeal and they were present at the appeal hearing; the appellant or his representative or both, if they were present at the appeal hearing; the lawyer and the minutes keeper. If the appellant has any comments to make on the minutes, the minutes-taker shall write those down, give them to the appellant to sign and attach

them to the minutes. When the appellant refuses to sign the minutes, this should be noted in the minutes.

A copy of the minutes shall be handed by the SA Secretariat to the appellant or his representative, when they were present at the hearing, immediately after the end of the appeal hearing. If the minutes cannot be concluded immediately after the end of the appeal hearing, or if the appellant did not attend the hearing, the SA Secretariat shall send a copy of the minutes to the appellant subsequently by mail, at the latest within 3 working days of the date of the appeal hearing.

6 DECISION MAKING

When the SA Secretariat receives from the Chair of the Appeal Commission's panel a final motion for decision with the reasons and the complete documentation of the appeal handling procedure as well as a proposal to conduct a correspondence or extraordinary meeting of the SA Board for the purpose of making a decision on the appeal, it shall send the lot to the SA Board's Chairman.

The SA Secretariat shall provide administrative and organisational support in organizing the SA Board's meeting in the form (extraordinary or correspondence) as proposed by the panel chair.

When the SA Board makes a decision on the appeal, they shall serve the decision together with the complete documentation regarding the appeal handling process including records relating to a review, when appropriate, to the SA Director, who shall send the decision regarding the appeal to the appellant. The implementation of the SA Board's decision on the appeal shall be binding on the Director.

The Director shall analyse the impact of the decision on the accreditation procedure and give written instructions to the coordinator or other members of the staff on further conducting accreditation procedure at the appellant.

When the SA Board finds the appeal to be justified in whole or in part, SA shall refund to the appellant the advance payment for the appeal procedure within 15 days of adopting the decision.

The Director shall inform the Quality Sector Manager and other competent persons (e.g. Accreditation Sector Manager, Assessors Sector Manager) of the decision on the appeal, and shall analyse in cooperation with them the need for systematic measures or changes to be considered as laid down in D02-02.

7 CONSIDERING OBJECTION TO NOTIFICATION OF ASSESSMENTS

When SA receives a timely, detailed and well explained or founded objection against a notification of assessment, the Director shall arrange for the objection to be considered as soon as possible, so that the decision on the objection is made before the notified assessment takes place.

For that purpose, he shall seek the necessary explanations and opinions of the responsible SA personnel (accreditation sector managers, assessors sector manager ...) as to the subject of the objection. In particularly complex cases, he may appoint a commission to consider the objection, who shall bring their evaluation of the eligibility of the objection, and propose action, when they find the objection to be reasoned.

Based on the explanations and opinions obtained, the Director shall make his decision as to the merits of the objection. When he decides that the objection is unjustified, he shall serve to the appellant a decision on the rejection of the complaint stating the grounds. When the Director decides that the objection is justified, he shall send to the appellant a letter stating the grounds and a correction or amendment to the notification of assessment. When an appeal filed by a client during an unnotified extraordinary assessment is found to be justified, the results of such assessment shall be annulled, and the assessment shall be repeated by an assessor team with changed composition.

SA shall inform the appellant of the merits of the objection at the latest within 5 days of the date of receipt of the objection, or before the beginning of assessment.

8 RECORDS

Upon receiving an appeal, the Secretariat shall open a new case, and also inform the Quality Sector Manager to that effect. The case shall contain documentation related to the handling of the appeal and notifying the appellant, such as: the appeal; its supplements; proof of advance payment; copies of documents from accreditation procedures when referred to by the appeal; letters and records of additional investigations and the results of such investigations; all the records on addressing the appeal by the Appeal Commission's panel and the SA Board; report of the Appeal Commission's panel on the actual state of affairs; scientific and legal bases; motion for decision in the appeal by the Appeal Commission's panel; decision by the SA Board; records of a review, when required; decision by the SA Board on the merits of the appeal; the Director's answer to the appellant; and record of the analysis of impact on continuation of the accreditation procedure.

All the original records on the appeal shall be kept in the relevant appeal case at SA; other persons involved in the appeal handling shall be sent copies of the records.

After the conclusion of appeal handling the SA Secretariat shall, in agreement with the Director and the Quality Sector Manager, close down the case.

The case shall be controlled in accordance with the rules described in D07-01, and shall be permanently kept in the Quality Sector Manager's files.

Records from considering objections to notification of assessment shall be kept in the current procedure of the accredited body who lodged the objection. The current accreditation procedure shall include a record of the objection, all records related to objection handling, including opinions and other bases for decision making on the objection, as well as a decision on the merits of the objection with correction or amendment to notification of assessment.

9 CHANGES WITH REGARD TO PREVIOUS REVISION

In 2.1, the time distance for former employees of SA in appointing them into the Appeal Commission has been defined.

In Clause 5, the requirement to conclude a contract with a lawyer has been added and the content of the contracts has been defined in more detail. The provision on the necessary independence of external experts and the lawyer from the object of appeal has been added.



In Clause 7, the content on handling an appeal to notification has been aligned with and amended with regard to the content of S03.

10 TRANSITORY PROVISIONS

N/A

11 CONTROL OF THE DOCUMENT

A valid copy of this document shall be located in i4 (SA's information system). A clean copy shall be published on SA's website, and available in printed form at SA's head office.

Individual copies may be controlled in physical form. The recipients or places of storage shall be shown in records on issuance of the document.

Other printouts and copies of the document shall have informative nature and shall not be considered as controlled copies. Please check the validity of these documents in i4 or on SA's website.