

*Insurance (Appeals Tribunal) Regulations*

**SAINT LUCIA**

**No. 113 of 2019**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

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*Insurance (Appeals Tribunal) Regulations***SAINT LUCIA**

STATUTORY INSTRUMENT, 2019, No. 113

[ 19th August, 2019 ]

In exercise of the power conferred under section 167(1)(f) of the Insurance Act, Cap. 12.08, the Minister responsible for finance, makes these Regulations:

**PRELIMINARY****Citation**

1. These Regulations may be cited as the Insurance (Appeals Tribunal) Regulations, 2019.

**Interpretation**

2. In these Regulations —

“Act” means the Insurance Act, Cap. 12.08;

“appellant” means —

(a) an insurer, insurance agent, insurance broker or insurance salesperson; or

(b) a person who is aggrieved by a decision of the Authority;

“Authority” means the Financial Services Regulatory Authority established under section 3 of the Financial Services Regulatory Authority Act, Cap. 12.23;

“Chairperson” means the Chairperson of the Tribunal;

“member”, in relation to an appeal, means a member of the Tribunal entitled to sit for the purpose of hearing and determining that appeal;

“Secretary” means the Secretary to the Tribunal;

“Tribunal” means the Insurance Appeals Tribunal established under section 170 of the Act.

*Insurance (Appeals Tribunal) Regulations***PART I****MEETINGS OF TRIBUNAL****Meetings**

3.—(1) The Tribunal shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Chairperson determines.

(2) The Chairperson —

(a) may call a special meeting of the Tribunal; and

(b) shall call a special meeting within four days of a written request for that purpose addressed to him or her by two members of the Tribunal.

(3) The Secretary to the Tribunal shall give to every member of the Tribunal notice of a meeting at least seventy-two hours before the time appointed for holding the meeting.

(4) The Chairperson shall preside at meetings of the Tribunal and if at any meeting the Chairperson is not present within thirty minutes of the time appointed for holding the meeting, the members present may choose one member among themselves to chair the meeting.

(5) The decisions of the Tribunal shall be by a simple majority of votes.

(6) Minutes, in the form the Chairperson directs, of each meeting shall be kept by the Secretary.

(7) Subject to these Regulations, the Tribunal may regulate its own proceedings.

**PART II  
APPEALS****Application**

4. This Part applies to an appeal filed on or after the commencement date of these Regulations.

*Insurance (Appeals Tribunal) Regulations***Notice of Appeal**

5.—(1) An appellant may appeal, by serving notice in writing, to the Tribunal within fifteen days of receipt of the decision of the Authority.

(2) The notice of appeal under subregulation (1) must be signed by the appellant and six copies of the notice of appeal must be submitted to the Secretary.

(3) A notice of appeal must be in the form set out in Schedule 1.

(4) The Secretary shall publish in the *Gazette* an address where a notice of appeal may be given under these Regulations.

(5) A notice of appeal shall be given to the Secretary personally or by sending it by registered mail to the address published under subregulation (4).

**Application for extension of time**

6.—(1) The Tribunal may extend the time within which an appeal must be brought under these Regulations.

(2) An application to extend the time within which an appeal must be brought shall be in writing and made within ten days of receipt of the decision of the Authority.

(3) An application to extend the time within which an appeal must be brought must be in the form set out in Schedule 2.

(4) The Tribunal shall determine an application to extend the time within five days of receipt of the application.

**Record**

7. The Secretary shall, as soon as possible after receiving a notice of appeal, compile a record consisting of the —

- (a) notice of appeal;
- (b) notes of evidence;
- (c) relevant documents and exhibits, if any;
- (d) reasons for the decision of the Authority.

*Insurance (Appeals Tribunal) Regulations***Transmission of the record**

8.—(1) The Secretary shall, as soon as possible after compiling the record under regulation 7, send one copy to each of the following persons —

- (a) the Chairperson;
- (b) members of the Tribunal;
- (c) the appellant; and
- (d) the Authority.

(2) The copy of the record to be sent to the appellant and the Authority must be sent personally or by registered mail.

**Filing of opposition by Authority**

9.—(1) In an appeal the Authority is the respondent.

(2) The Authority shall, within fifteen days of receipt of a copy of a notice of appeal, file with the Secretary its opposition to the appeal.

(3) The Authority shall, when filing its opposition to the appeal, serve a copy of the opposition on the appellant and any person to whom a copy of the record was sent under regulation 8(1).

**PART III****HEARING OF APPEALS****Preliminary hearing**

10.—(1) A preliminary hearing must be held.

(2) The Chairperson shall serve a notice on the parties, setting out the date, time and place of the preliminary hearing —

- (a) not later than thirty days after receipt by the Secretary of the opposition to the appeal by the Authority; and
- (b) not less than ten days before the day appointed for the preliminary hearing.

(3) Notwithstanding subregulation (2), the appellant and the Authority may agree to the times the notice is to be served.

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(4) A preliminary hearing may be held as a matter of urgency as directed by the Chairperson or as agreed to by the parties.

(5) The preliminary hearing must be in private and shall be heard by the Chairperson.

(6) The parties may appear in person at the preliminary hearing, or be represented by an attorney-at-law, or by any other person duly authorized by the parties.

(7) The Chairperson shall consider the disclosure of matters contained in a notice of appeal to another person, and may direct that the matters be disclosed.

(8) The Chairperson shall —

(a) give such directions as he or she considers necessary or desirable for the conduct of the appeal; and

(b) fix the date, time and place of the hearing of the appeal;

(9) The parties may seek clarification regarding the conduct of the appeal.

**Hearing by Tribunal**

**11.—**(1) A hearing by the Tribunal shall take place at least ninety days after the date of the Authority's decision.

(2) At least seven days before the date fixed for the hearing of an appeal, the Secretary shall by notice in writing advise the appellant and the Authority of the date on, and the place at which, the appeal has been set down for hearing.

(3) A notice under subregulation (2) shall be given to the appellant and the Authority personally or by sending the notice by registered mail.

(4) An appeal to the Tribunal is a review of the record.

**Constitution**

**12.—**(1) A hearing by the Tribunal must comprise the Chairperson and the other members of the Tribunal.

(2) Whenever the Chairperson sits on an appeal he or she shall preside at the hearing.

*Insurance (Appeals Tribunal) Regulations***Evidence and procedure**

**13.—**(1) At the hearing the Chairperson may, on the application of a party to the appeal or on his or her own motion, by direction given at the hearing or by notice in writing, require the parties or another person, at a time and place given in the direction or notice, to attend and give evidence or to produce a document in the person's custody or under his or her control which relates to a matter in question at the hearing.

(2) A person shall not be compelled to give evidence or to produce a document which he or she could not be compelled to give or produce if the hearing was a proceeding in a court of law.

(3) Notwithstanding subregulation (2), evidence may be admitted by the Tribunal whether or not it would be admissible in a court of law.

(4) In exercising the power under subregulation (1), the Chairperson shall take into account the need to protect information which relates to a person who is not a party to the appeal and which is commercially sensitive, or was communicated or obtained in confidence.

(5) The Chairperson may set aside a direction or notice given under subregulation (1) on the application of the person to whom the direction or notice was given, but shall not do so without first notifying the person who applied for the direction or notice and considering representations made by that person.

(6) The Secretary shall supply a copy of a document obtained under this regulation to a party to the appeal if that party does not have a copy of the document, and it is a condition of such supply that the information supplied is used only for the purposes of the appeal.

(7) The hearing must be in private.

(8) The parties may appear in person at the hearing, or may be represented by an attorney-at-law or by any other person duly authorized by the parties.

(9) At the hearing each party may make an opening statement, call witnesses to give evidence, cross-examine witnesses called by the other party, and make a final statement.

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(10) If the Tribunal requires a witness to give evidence, the evidence must be given on oath or affirmation; and the Chairperson shall administer the oath or affirmation.

(11) If the parties fail to appear or be represented at the time and place fixed for the hearing, the Tribunal may proceed with the hearing or adjourn it to a later date.

(12) If the Tribunal proceeds with the hearing under subregulation (11) the Tribunal shall take into consideration written representations which may have been submitted by each party.

(13) A person who, in respect of a material matter —

- (a) tenders into evidence, or procures another to tender into evidence, a false written statement;
- (b) while giving evidence under oath or affirmation, knowingly makes a false statement or makes a statement which he or she does not believe is true; or
- (c) procures another to give evidence under oath or affirmation which the person knows is a false statement or which he or she does not believe is true,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

**Withdrawal of appeal or opposition**

**14.—**(1) An appellant may withdraw an appeal, and the Authority may withdraw its opposition to an appeal, before the hearing by giving notice in writing to the Secretary and to the other party.

(2) At the hearing, the appellant may give notice to the Tribunal that he or she desires to withdraw the appeal, or the Authority may give notice that it desires to withdraw its opposition to the appeal, and the Tribunal shall bring the hearing to a close.

**Decision**

**15.—**(1) The Tribunal may within fourteen days of an appeal affirm or set aside the decision appealed or may make another decision which the Authority could have made.

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(2) The Tribunal shall, within twenty days, indicate the reasons for its decision made under subregulation (1).

(3) The Secretary shall, within seven days of the decision of the Tribunal under subregulation (1), send a copy of the decision to —

- (a) the appellant; and
- (b) the Authority.

(4) A copy of a decision must be sent under subregulation (3) to the appellant and the Authority personally or by registered mail.

**PART IV  
MISCELLANEOUS**

**Time and miscellaneous powers**

**16.—**(1) If the time specified by these Regulations for doing an act expires on a Saturday, Sunday or bank holiday and the act cannot be done on that day, the act is in time if done on the next working day.

(2) The Authority may file with the Secretary an application requesting the Chairperson to extend the time under regulation 9.

(3) The Chairperson may, after consulting with the other party, grant an extension on terms, if any, as he or she thinks fit.

(4) An application may be granted after the time specified under regulation 5, 6, or 9, has expired.

(5) The Chairperson may, after consultation with the parties —

- (a) postpone the date fixed for a hearing; or
- (b) alter the place appointed for a hearing.

(6) If a hearing is postponed, or the place for a hearing is altered under subregulation (5), the Secretary shall notify the following persons of the revised arrangements —

- (a) the parties to the appeal;
- (b) a witness.

**Pending appeals**

**17.** The procedure to regulate an appeal pending before the Tribunal before the date on which these Regulations are made is as determined by the Tribunal.

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**SCHEDULE 1**

(Regulation 5)

**SAINT LUCIA**

**BETWEEN:**

Appellant  
And  
Respondent

**NOTICE OF APPEAL**

Take notice that (1) ....., an insurer, insurance agent, insurance broker, insurance salesperson or a person aggrieved by the decision of the Authority,

(2)..... being dissatisfied with the decision of the Authority dated ..... day of ..... 20 ..... of which I received notice on the .....day of ..... 20 .....

That (3).....  
.....  
.....  
.....  
.....  
.....

hereby appeal(s) to the Insurance Appeals Tribunal for the reasons set out in paragraph 5 below and will at the hearing of the appeal seek a decision to the Tribunal that

(4) .....  
.....  
.....  
.....  
.....

**Reasons for Appeal**

And further take notice that the reasons for which I desire to appeal against the said decision are as follows (5)

(a) .....

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(b).....  
(c) etc. ....

All notices or other documents relating to this appeal may be sent to me at

(6).....  
Dated this ..... day of ..... 20

To: The Secretary  
The Insurance Appeals Tribunal

Note:

- (1) Name of appellant
- (2) Office/occupation
- (3) Insert substance of the decision appealed against
- (4) State order sought from the Tribunal
- (5) Reasons for appeal
- (6) Address

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**SCHEDULE 2**

(Regulation 6)

**SAINT LUCIA**

**BETWEEN:**

Appellant  
And  
Respondent

**APPLICATION TO EXTEND TIME WITHIN WHICH TO APPEAL**

Take notice that (1) ....., an insurer, insurance agent, insurance broker, insurance salesman or a representative or a person affected by the decision of the Authority,

(2) ..... hereby apply to the Insurance Appeals Tribunal to extend the time within which I may appeal against the decision of the Authority dated the .....day of .....20.....of which I received notice on the ..... day of ..... 20.....

That (3).....  
.....  
.....  
.....  
.....

And further take notice that the reasons for this application are as follows — (4)

- (a).....
- (b).....
- (c).....
- (d)etc.....

And further take notice that the time required is

(5) .....

All notices or other documents relating to this application may be sent to me at (6)

.....  
Dated this ..... day of ..... 20

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Appellant

To: The Secretary  
The Insurance Appeals Tribunal

Note:

- (1) Name of Appellant
- (2) Occupation/office
- (3) Insert substance of the decision appealed against
- (4) Insert reasons for being out of time
- (5) Insert number of days and date by which appeal will be made
- (6) Address.

Made this 2<sup>nd</sup> day of August, 2019.

ALLEN M. CHASTANET,  
*Minister responsible for finance.*