

**THE PROCUREMENT AND SUPPLIES PROFESSIONALS
AND TECHNICIANS (APPEALS BOARD) RULES, 2013**

(G.N. NO. 349 OF 2013)

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THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND
TECHNICIANS (APPEALS BOARD) RULES, 2013

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THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND
TECHNICIANS BOARD ACT
(CAP. 167)

RULES

(Made under section 32 (2))

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS
(APPEALS BOARD) RULES, 2013

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Procurement and Supplies Professionals and Technicians (Appeals Board) Rules,.
- Application 2. These Rules shall apply to all parties as well as to the members in respect of matters of appeals before the Appeals Board.
- Interpre-
tation 3. In these Rules unless the context otherwise requires-
(Cap.167) "Act" means The Procurement and Supplies Professionals and Technicians Board Act;
"Appeals Board" means the Appeals Board appointed under section 32 of the Act;
"appellant" means a person who institutes an appeal before the Appeals Board under these Rules;
"Board" means the Procurement and Supplies Professionals and Technicians Board established under section 4 of the Act;
"Chairperson" means the Chairman of the Appeals Board appointed in terms of the Act and includes a Vice Chairman;
"Director" means the Executive Director appointed in terms of section 9 of the Act;

- “expert opinion” means the expert opinion given by an expert on any matter of the appeal as may be required by the Appeals Board or any party to the appeal;
- “member” means a member of the Appeals Board including a Chairperson; “memorandum of appeal” means memorandum of appeal filed to the Appeals Board by the appellant in terms of these Rules;
- “Minister” means the Minister responsible for Finance;
- “party” includes the appellant, the respondent and every person who is interested in the subject matter of the proceedings before the Appeals Board;
- “register” means the register of appeals in which all appeals to the Appeals Board are properly recorded and kept;
- “respondent” means a person or body of persons against whom the appeal is filed under these Rules.

PART II

PROCEDURES FOR APPEALS

4.-(1) Subject to the provisions of the Act and these Regulations made thereof, a person who is aggrieved by the decision of the Board may, within forty-five days from the date of the decision of the Board, file or lodge an appeal to the Appeals Board.

Appeals

(2) Notwithstanding sub rule (1), the Appeals Board may accept an appeal made by a party out of time if it is satisfied that special circumstances precluded the submission of the appeal within the period prescribed under sub rule (1).

(3) Where the Appeals Board accepts an appeal out of time under this rule, it shall record the reasons and the special circumstances which necessitated the party concerned to appeal out of time.

5.-(1) A person who wishes to appeal to the Appeals Board under rule 4 shall, prior to the filing an appeal to the Appeals Board, submit to the Director a written notice of his intention to appeal against the decision of the Board.

Notice of
intention
to appeal

(2) A notice of intention to appeal referred to under sub rule (1), shall be-

- (a) made in the Form PSPT I prescribed in the First Schedule to these Rules;
- (b) signed by or on behalf of the appellant; and
- (c) filed to the Director within seven working days from the date of the decision of the Board.

(3) The Director shall, upon receipt of the notice of intention to appeal under this rule-

- (a) endorse on the notice the date on which it was received;
- (b) enter or cause to be entered in the register relevant particulars of the notice as may be necessary to identify the intended appeal;
- (c) serve copies of the notice of intention to appeal to the respondent or his representative if any.

(4) The Director shall have power to reject an appeal where the appellant fails without good cause to file the notice of intention to appeal within the time prescribed under sub rule (2).

(5) Where the Director rejects the appeal under sub rule (5), he shall record his decision and report the matter to the Appeals Board.

Procedure
for appeal

6.-(1) An appeal to the Appeals Board shall be instituted by lodging a memorandum of appeal to the office of the Director within forty-five days from the date of service of the notice of intention to appeal.

(2) The memorandum of appeal under sub rule (1) shall be made in the Form PSPT II prescribed in the Second Schedule to these Rules and shall contain-

- (a) particulars of the appellants;
- (b) particulars of appeal;
- (c) reasons or grounds in support of the appeal; and
- (d) list of documents to be produced before the Appeal Board.

(3) The Director shall, upon receipt of the memorandum of appeal as lodged under this Rule-

- (a) verify the document to ensure compliance with the requirement of these Rules; and
- (b) endorse on the memorandum of appeal the date on which he received it.

(4) Where the memorandum of appeal is in compliance with all the requirement of these Rules, the Director shall admit the documents and register the same in the register of appeals indicating the date on which the documents were filed.

7.-(1) The Director may refuse to endorse on the memorandum of appeal for non compliance with these Rules, and direct the appellant to comply within such time frame as the Director may specify in his written direction.

Direction
by the
Director

(2) Where an appellant under sub rule (1) fails without good cause to comply as directed by the Director, the Director may reject the appeal and notify the appellant in writing accordingly.

8. A person who institutes an appeal to the Appeals Board shall attach to his memorandum of appeal copies of all material documents which he deems necessary for proper determination of his appeal.

Attachment
of
documents

9.-(1) The Director shall, prior to presentation of the appeals before the Appeals Board, prepare the record of appeal in respect of each appeal.

Record
of appeal

(2) The record of appeal shall contain all relevant documents relating to the proceedings of the Board, the decision of the Board, the notice of intention to appeal, the memorandum of appeal and such other material documents as may be attached for the purpose of appeal.

10.-(1) The Director shall serve a copy of the memorandum of appeal to the Board.

Service
of copies
of appeal

(2) The Board shall upon receipt of a copy of memorandum of appeal under sub rule (1), and within thirty days of the receipt of such copy, submit to the Appeals Board its representations in writing.

(3) The Director shall keep the representations made by the Board as part of the record of appeal.

11.-(1) The Director shall produce such number of copies of record of appeal to be distributed to each member of Appeals Board prior to the hearing of the appeal.

Record to
be
presented
to the
Appeals
Board

(2) The Appeals Board shall, after receiving the record of appeals as distributed by the Director under sub rule (1)-

- (a) fix a day or days, time and place for hearing the appeal;
- (b) direct the Director to furnish all parties with the notice of hearing of appeal requiring all parties to appear before the Appeals Board.

Payment
of fees

12.-(1) There shall be such amount of fees to be payable by the appellant in respect of various services provided for each appeal filed with the Appeals Board.

(2) The services and their respective amount of fees shall be as prescribed in the Third Schedule to these Rules.

(3) The appeal shall not be entertained if the appropriate fees have not been paid as required under these Rules.

(4) The Appeals Board shall have power to review the fees after every three years.

PART III

ATTENDANCE OF PARTIES

Notice of
hearing

13.-(1) The parties shall be given sufficient advance notice of hearing and of meeting of the Appeals Board for the purpose of inspection of documents, goods or any other matter relating to the appeal.

(2) The Director shall, after consultation with the Appeals Board regarding the date, time and place appointed for hearing, and within a period of not less than fourteen days prior to the date fixed for hearing, serve to all parties and their witnesses a notice of hearing of the appeal.

(3) The notice of hearing issued under sub rule (1), shall be made in the form prescribed in the Fourth schedule of these Rules and shall specify the date, time and place or venue where it is intended that hearing be conducted.

(4) A Notice of hearing signed by the Director shall be served by way of summons in Form PSPT III prescribed in the Fourth Schedule to these Rules.

(5) A party who has been served with the notice of hearing under this rule to appear before the Appeals Board shall acknowledge the service of such notice by endorsing on it.

Appearance
of parties

14.-(1) The appellant may appear in person at the hearing or may be represented by any other person being an advocate or any other person of his choice.

(2) The Appeals Board may, whenever it deems fit to do so, be represented by any person duly authorized in that behalf.

Failure to
appear

15.-(1) Where the appellant or a person duly authorized by him fails without good cause to appear at the hearing of the appeal, the Appeals Board shall-

- (a) adjourn the hearing; and
- (b) direct the Director to serve the appellant with another Notice of hearing requiring that person to appear before the Appeals Board on such date, time and venue as the Appeals Board may determine.

(2) Where the appellant or his representative fails to appear despite the Notice served to him under sub rule (1), or fails to make representation in respect of his appeal or fails to produce documentary evidence, the Appeals Board may-

- (a) make a decision dismissing the appeal or give directions with or without conditions, for the speedy determination of the appeal; or
- (b) continue with the appeals proceedings and make the decision on the evidence before it.

PART IV

PROCEDURE FOR HEARING APPEALS

16.-(1) Subject to the provisions of section 31 (2) of the Act, the quorum of the Appeals Board shall be the Chairperson and other three members. Quorum

(2) The Chairperson or in his absence the Vice Chairperson shall preside at every meeting of the Appeals Board.

17.-(1) The Appeals Board shall decide whether to hold oral hearing for the presentation of evidence or for oral argument or whether the proceeding shall be conducted only on the basis of documents and other materials furnished in terms of these Rules. Hearing and written submission

(2) Any statement, document or other information furnished to or application made to the Appeals Board by one party shall be communicated to the other party together with any expert report or evidential document on which the Appeals Board may rely in making its decision.

18.-(1) Unless otherwise directed by the Chairperson, proceedings of the Appeals Board shall be open to the public. Procedure for hearing

(2) The Appeals Board may, in the course of proceedings-

- (a) take evidence on oath;

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- (b) proceed in the absence of the party who has failed to appear before it despite the service of notice of hearing; and
- (c) adjourn the hearing.

Grounds
of appeal
to be
stated.

19.-(1) At the hearing the appellant shall state the grounds of appeal and may support the same by any relevant evidence as he may require.

(2) The grounds of appeal to be stated by the appellant under sub rule (1), shall state the facts supporting the appeal, the points at issue and the relief or remedy sought and the respondent shall state his defence in respect of these facts.

(3) The parties may submit with their statements, all documents they consider to be relevant or may add a reference to the documents or other evidence to be submitted.

(4) Except with the consent of the Appeals Board and upon such terms and conditions as the Appeals Board may determine, the appellant shall not at the hearing rely on any ground other than the grounds stated in the memorandum of appeal.

Evidence

20.-(1) The Appeals Board shall, during the hearing of the appeal, consider the evidence as adduced and admitted by the Board.

(2) The appellant shall not at the hearing adduce any evidence other than the evidence which was previously made available to the Board.

(3) Notwithstanding the provisions of sub rules (1) and (2), parties may be entitled to produce additional evidence where-

- (a) the Board had refused to admit evidence which ought to have been admitted;
- (b) the Appeals Board requires any document to be produced or any witness to be examined to enable it pronounce a decision to or for any substantial cause.

(4) Where the Appeals Board decides to admit additional evidence under sub rule (3), it shall give and record reasons for its decision or admission.

(5) In determining the evidence under this rule, the Appeals Board shall specify the points to which the evidence is to be confined and record in its proceedings the points so specified.

21.-(1) Evidence before the Appeals Board may be given orally or by way of an affidavit or on oath or in such other manner as the Appeals Board may deem fit.

Evidence to be oral or by affidavit.

(2) Where the evidence is given by way of an affidavit, the Appeals Board may at the instance of either party or itself, order the attendance of deponent for cross-examination.

22.-(1) At the hearing before the Appeals Board, the appellant or his representative shall have the right to begin his presentation basing on the grounds as stated in the memorandum of appeal.

Presentation before the Appeals Board

(2) At the conclusion of the statement and the evidence on behalf of the appellant, the respondent or his representative shall be entitled to reply in respect of each ground of appeal and make submission supported by relevant evidence as may be necessary.

(3) The appellant shall, after submission by the respondent under sub rule (2), be entitled to reply on the submission but may not rely on any ground or evidence other than grounds or evidence adduced at the earlier stages of the proceedings before the Board.

(4) The Chairperson and members of the Appeals Board shall be entitled at any stage of hearing to ask such questions as they consider relevant to the matter in question.

23.-(1) The summons for attendance of witness shall be issued by the Appeals Board and shall be in the Form PSPT IV prescribed in the Fifth Schedule to these Rules.

Summons for attendance of witnesses

(2) A person or a witness summoned by the Appeals Board to attend and give evidence shall be paid allowances and expenses at such rates as may be specified by the Appeals Board.

24.-(1) A witness called and examined by one party may be cross examined by the opposite party.

Witnesses

(2) The Appeals Board may call an expert witness to attend a hearing of the appeal and give evidence including the production of any document if the Appeals Board believes such evidence will assist in its deliberations.

25.-(1) The Appeals Board may, where the appeal can not be determined on the fixed date of hearing or for any other good cause as it considers necessary, adjourn the hearing of the appeal to another date as it may determine.

Adjournment

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(2) Where on the date fixed for hearing or any other date to which the hearing may be adjourned the appellant fails to appear when the appeal is called for hearing, the Appeals Board may order the appeal to be dismissed.

(3) Where the appellant appears and the respondent fails to appear before the Appeals Board for hearing, the appeal shall be heard *ex-parte*.

(4) Notwithstanding sub rules (2) and (3), where it is proved to the satisfaction of the Appeals Board that-

- (a) the appellant was prevented by any sufficient cause from appearing;
- (b) the notice was not duly served to the appellant or respondent, the Appeals Board may re admit the appeal and adjourn the hearing of appeal for such reasonable time as it may deem appropriate.

Amend-
ment of
memora-
ndum of
appeal.

26.-(1) The appellant may, except as otherwise determined by the Appeals Board, amend or supplement his memorandum of appeal or defence during the course of the proceedings.

(2) The Appeals Board may, at any stage and time, on its discretion or on application by the party to the proceedings, direct that the memorandum of appeal be amended upon such terms as it deems fit.

(3) Where the memorandum of appeal has been amended under sub rule (1), the Appeals Board may call upon the respondent to reply to the amended memorandum and make submissions accordingly within the time as may be specified by the Appeals Board.

Withdrawal
of the
appeal.

27.-(1) The appellant may, at any time prior to the conclusion of the hearing of the appeal or before the Appeals Board makes decision, withdraw the appeal from the Appeals Board.

(2) The withdrawal of the appeal under sub rule (1) shall be made in writing and shall be addressed to the Appeals Board.

(3) The Appeals Board may, after receiving the letter of withdrawal from the appellant under this rule, end the proceedings in respect of the withdrawn appeal.

(4) Where the appeal has been withdrawn by the appellant, the Director shall, within fourteen days of receipt of the withdrawal, send to the opposite party and to each other interested party a copy of the withdrawal, and may attach such other document relating to the withdrawal of the appeal.

(5) Withdrawal of an appeal or decision under this rule shall not prevent a party from applying for costs.

28.-(1) The Appeals Board may, whenever necessary and for the purpose of ensuring fairness in its decision -

Experts
opinion

- (a) appoint one or more experts conversant with the subject matter in question, to report on specific issues to be determined by the Appeals Board; and
- (b) require a party to give such expert any relevant information or to produce or provide access to any relevant documents, goods or other property for inspection.

(2) Where the party so requests or if the Appeals Board considers necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing where the parties shall have the opportunity to question him and to present expert witnesses in order to testify on the points at issue.

(3) The expert appointed under this rule shall, upon the request of the party, make available for examination all documents, goods or other property in the expert's possession which was provided to him in order to prepare his report.

29. During the hearing of the appeal, the Appeals Board shall not be bound by the rules or practice of evidence and may seek to be informed in relation to any matter in such manner as it thinks fit as may result in the expedition's determination of an appeal.

Appeals
Board
not to be
bound by
rules of
evidence

PART V

DECISION OF THE APPEALS BOARD

30.-(1) Subject to section 32 of the Act, a decision made by the majority of the members of the Appeals Board in Appeals proceedings shall be the decision of the Appeals Board except that the opinion of the dissenting member and reasons thereof shall be recorded in the records of the decision.

Decision
of the
Appeals
Board

(2) After the conclusion of hearing of the evidence and submissions of both parties, the Appeals Board shall within twenty eight days after such conclusion, make a decision in the presence of the parties or their advocates or their representatives.

(3) The Appeals Board may, notwithstanding the foregoing provisions, determine the appeal in the absence of the appealing parties.

(4) The Appeals Board may, in making decision under this rule, confirm, vary or rescind the decision of the Board and inform the parties to the appeal of its decision.

(5) A finding made or punishment imposed by the Board shall not be reversed or set aside on the ground that irregularity in the appointment of the Board or conduct of the proceedings of the Board has substantially affected the decision of the Board.

Contents
of the
decision
of the
Appeals
Board

31.-(1) The decision of the Appeals Board under rule 30 shall be in writing and signed by the Chairperson of the Appeals Board, and shall state-

- (a) a brief description of the nature of the appeal;
- (b) points or issues for determination;
- (c) affirmation, varying or setting aside the decision of the Board which was appealed against;
- (d) the reasons for the decision;
- (e) date and place of decision;
- (f) the relief or remedy to which the appellant is entitled where the decision of the Board is reversed or varied; and
- (g) order as to costs.

(2) The Appeals Board may issue an order to award cost as it consider appropriate to any party to the proceedings to be paid to the other party within such period as the Appeals Board may determine.

Time
frame for
decision
of appeal

32. The Appeals Board shall unless exceptional circumstances occur ensure that every appeal is concluded within ninety days from the date of receipt of the copy of appeal made under these Rules.

Decision
to be
served to
parties

33.-(1) The Director shall, within fourteen days of the delivery of the decision of the Appeals Board, serve to each party to the proceedings copies of the decision as duly signed by the Chairperson of the Appeals Board or a person who presided at the appeals proceedings and indicate the date of issue.

(2) Any decision or order of the Appeals Board shall be enforceable and executed as if it were a decision or order issued by a court of law.

34. The Appellate proceedings shall be governed by the law of evidence and procedures generally applicable to civil proceedings in Tanzania except where the parties, in any particular part of the proceedings agree to apply any other rules of evidence or procedure.

Procedural
law

35.-(1) Any person who is aggrieved by the decision of the Appeals Board, may appeal to the Court of Appeal.

Appeals
to court

(2) An appeal to the Court of Appeal shall lie on matters involving questions of law only.

(3) The provisions of the Appellate Jurisdiction Act and Rules made there under shall apply mutatis mutandis to appeals from the decision of the Appeals Board.

36. The National Board for Materials Management (Appeals Board) Rules, 2007 are hereby revoked.

Revocation
of GN
No. 117
of 2007

Procurement and Supplies Professionals and Technicians (Appeals Board)

G.N. No. 349 (contd.)

FIRST SCHEDULE

(Under rule 5(2))

FORM PSPT I

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS
APPEALS BOARD RULES, 2013

NOTICE OF INTENTION TO APPEAL

IN THE APPEALS BOARD AT.....

IN THE MATTER OF INTENDED APPEAL

NO..... OF.....

BETWEEN

APPELLANT

AND

RESPONDENT

TAKE NOTICE THAT..... being aggrieved by the
decision of the Board issued on day of year

..... intends to appeal to the Appeals Board against the decision of the Board.

The address of service of the appellant is

Dated this day.

of years.

Signed Appellant/ Advocate/Person authorized by the appellant.

To: The Executive Director

Lodged in the Appeals Board at on the day of year.

EXECUTIVE DIRECTOR

SECOND SCHEDULE

(Under rule 6(2))

FORM PSPT II

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS
(APPEALS BOARD) RULES, 2013

MEMORANDUM OF APPEAL

IN THE APPEALS BOARD AT.....

APPEAL NO..... YEAR.....

IN THE MATTER OF

APPELLANT

AND

RESPONDENT

1. PARTICULARS OF THE APPELLANT

(a) Full name:

(b) Postal address:

(c) Physical address of appellant:

(d) Telephone No.....Fax.....

No.....Email.....

2. PARTICULARS OF APPEAL

3. STATEMENT OF FACTS AND REASONS OR GROUNDS IN SUPPORT OF THE APPEAL

(If space provided is not adequate, attach as many additional pages as needed for the statement)

4. LIST OF DOCUMENTS TO BE PRODUCED BEFORE THE APPEALS BOARD

5. NAMES OF WITNESSES IF ANY AND THEIR RESPECTIVE ADDRESS

Dated this day of year.....

Procurement and Supplies Professionals and Technicians (Appeals Board)

GN No. 349 (contd.)

Signature of appellant

For official use only:

6. THE EXECUTIVE Director

Date of filing of the appeal

Signature

Official stamp of the Executive Director

THIRD SCHEDULE

(Under rule 12)

FEEs FOR LODGING APPEALS

Upon lodging notice of intention to appeal.	10,000/-
Upon lodging memorandum of appeal.	15,000/-
Upon amendment of the memorandum of appeal.	10,000/=
Application for issue of a witness summons.	5,000/-
Application for execution of decree or order.	10,000/=

FOURTH SCHEDULE

(Under rule 13 (4))

FORM PSPT III

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS
(APPEALS BOARD) RULES, 2013

NOTICE OF PARTIES TO APPEAR

IN THE APPEALS BOARD

AT OF

APPEAL NO.

YEAR OF 20.....

FROM ORIGINAL DECISION OF BOARD NO.....

AT DAR ES SALAAM.

IN THE MATTER OF

THE APPELLANT

AND

THE RESPONDENT

TO:

TAKE NOTICE that the above appeal from the decision of the Procurement and Supplies Professionals and Technicians Board (PSPT) at Dar es salaam has been presented by the said appellant and that the said appeal will be heard by the Appeals Board on the day of at O' clock in the forenoon at (indicate place)

You are accordingly required to appear before the Appeals Board and bring witness with you. If no appearance is made by you or by any person authorized by you to act on your behalf, the appeal may be heard and decided in your absence. Given under my hand and the seal of the Appeals Board this day of year.

EXECUTIVE DIRECTOR

Acknowledgement of receipt of Notice :

Name

FIFTH SCHEDULE

(Under rule 23(1))

FORM PSPT IV

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS
(APPEALS BOARD) RULES, 2013

WITNESS SUMMONS

IN THE APPEALS BOARD

AT

APPEAL NO. OF YEAR

IN THE MATTER OF

THE APPELLANT

AND

THE RESPONDENT

Procurement and Supplies Professionals and Technicians (Appeals Board)

G.N. No. 349 (contd.)

TO:

.....
.....
WHEREAS your attendance is required as a witness on behalf of the..... during
the hearing of the above appeal you are by this summons required to appear before this Appeal
Board on the..... day of..... year..... at o'clock
in the forenoon/afternoon and bring with you or send the following books, documents or thing
to the Appeals Board
.....
.....

Failure to respond or obey this summons may render you liable to penalties under the Act.

GIVEN under my hand and the seal of the Appeals Board this..... day of Year.....

.....
EXECUTIVE DIRECTOR

ACKNOWLEDGEMENT OF SERVICE OF SUMMONS

Full Name.....
Address.....
Date and Time.....
Signature.....

Dar es Salaam,
2nd September, 2013

WILLIAM A. MGIMWA
Minister for Finance