

ANNEX 14

MEMBERSHIP APPEAL BOARD RULES OF PROCEDURE

1. DEFINITIONS

1.1 In these Rules:

Appealable Decisions means those decisions of Insurance Ireland set out in Rule 3.1;

Appellant means a person wishing to appeal against an Appealable Decision;

Associate Member means an entity that is an associate member of Insurance Ireland as described in the Terms and Conditions of Associate Membership of Insurance Ireland;

Associate Member Criteria means the criteria to become an Associate Member of Insurance Ireland as set out in the Terms and Conditions of Associate Membership, which is available on the Insurance Ireland website (<https://www.insuranceireland.eu/about-us/about-us/insurance-ireland-membership/documents/annex10>);

Case Panel means the adjudicator(s) appointed under Rule 5;

Chairperson means the chairperson of the Membership Appeal Board designated by adjudicators of the Membership Appeal Board;

Full Member means an entity that is a member of Insurance Ireland under the Insurance Ireland Constitution and as described in the Rules relating to Full Membership of Insurance Ireland;

Full Member Criteria means the criteria to become a Full Member of Insurance Ireland as set out in the Rules Relating to Admission to Full Membership, which is available on the Insurance Ireland website (<https://www.insuranceireland.eu/about-us/about-us/insurance-ireland-membership/documents/annex09>);

Insurance Ireland means Insurance Ireland (Member Association) Company Limited by Guarantee;

Membership Appeal Board means the Membership Appeal Board set up by Insurance Ireland to hear appeals in respect of Appealable Decisions;

Membership Appeal Board Members means the members of the Membership Appeal Board appointed by Insurance Ireland;

Membership Applicant means an entity applying to become a Full Member or an Associate Member of Insurance Ireland;

Membership Application Officer means an individual of a sufficient level of seniority (i.e. manager level or above) appointed by Insurance Ireland to process and determine applications to be admitted as a Full Member or Associate Member pursuant to the Membership Application Procedure;

Membership Application Procedure means the procedure for processing applications to be admitted as a Full Member or as an Associate Member of Insurance Ireland set out on the Insurance Ireland website;

Notice of Appeal means the Notice of Appeal referred to in Rule 3;

Reply means the response of the Appellant to a Response;

Respondent means Insurance Ireland;

Response means the response by the Respondent to a Notice of Appeal;

Secretary means the secretary appointed by the Chairperson under Rule 5.

2. COMPOSITION OF THE MEMBERSHIP APPEAL BOARD

- 2.1 The Membership Appeal Board shall comprise a standing panel of a minimum of three and a maximum of five adjudicators. The Membership Appeal Board shall be distinct from, and independent of, the InsuranceLink Oversight Committee.
- 2.2 The adjudicators shall be appointed by Insurance Ireland for a minimum term of one year and shall be eligible for reappointment.
- 2.3 The adjudicators appointed to the Membership Appeal Board shall:
 - (a) Have proven knowledge of and expertise in the insurance sector and/or dispute resolution, acquired in a professional capacity; and
 - (b) Be independent, meaning the absence of any ongoing business, personal or family links to Insurance Ireland and/or any Full Member or Associate Member of Insurance Ireland.
- 2.4 Before being appointed, each adjudicator must provide written confirmation to Insurance Ireland that they meet the criteria outlined in Rule 2.3. An adjudicator may only be removed from the Membership Appeal Board in the event that they fail to meet the criteria for independence outlined in Rule 2.3 above. Such a decision may be taken by the Membership Appeal Board acting by majority vote.
- 2.5 On an annual basis, the adjudicators of the Membership Appeal Board shall designate one of their number to act as Chairperson on the basis of a majority vote. An adjudicator appointed to the role of Chairperson shall be eligible for reappointment to the position of Chairperson. Where the Chairperson is unavailable or indisposed, the Chairperson shall designate one of the other adjudicators to act as Chairperson. If the Chairperson fails to do so, the adjudicators of the Membership Appeal Board shall designate one of them to act as Chairperson on the basis of a majority vote.
- 2.6 Insurance Ireland shall ensure that adjudicators do not seek or receive any instructions, pressure or influence regarding the exercise of their functions under these Rules of Procedure from the Board of Directors or the executive management of Insurance Ireland.
- 2.7 The costs of the Membership Appeal Board, including (to the extent relevant) the reasonable expenses of the adjudicators appointed to the Membership Appeal Board, shall be borne by Insurance Ireland.

3. COMMENCEMENT OF APPEAL AND TIME LIMITS

- 3.1 Appeals to the Membership Appeal Board may be brought by a Membership Applicant in accordance with these rules of procedure against: (i) a decision by a Membership Application Officer or the Board of Insurance Ireland that a Membership Applicant does not meet either the Full Member Criteria or the Associate Member Criteria; or (ii) that a Full Member or Associate Member has been denied without reasonable justification access in whole or in part to the facilities or services of Insurance Ireland that it is entitled, within its membership class, to receive.
- 3.2 The Appellant must send a Notice of Appeal to the Membership Appeal Board within the time limits laid down in these Rules. The contact details of the Membership Appeal Board shall be published on the Insurance Ireland website.
- 3.3 A Notice of Appeal must be lodged with the Membership Appeal Board within 10 business days of the relevant decision referred to in Rule 3.1.
- 3.4 The Notice of Appeal must be served on Insurance Ireland at the same time as it is lodged with the Membership Appeal Board. Insurance Ireland shall be the Respondent to the appeal. The contact details of Insurance Ireland shall be published on the Insurance Ireland website.
- 3.5 The Appellant and the Respondent have a right to legal representation in respect of an Appeal.

4. NOTICE OF APPEAL

- 4.1 The Notice of Appeal shall contain:
 - (a) The name and address of the Appellant and of any legal representative (if the Appellant chooses to appoint one), identifying the person and address to which communications from the Membership Appeal Board should be sent;
 - (b) A statement of the grounds of appeal including all arguments that the Appellant wishes to make stating in particular to what extent the Appellant relies on error of fact, the wrongful exercise of discretion by the Membership Application Officer of the Board of Insurance Ireland, or a breach of the Membership Application Procedure;
 - (c) A schedule of supporting documents, and copies of all documents relied on, and copies of all documents and materials submitted to Insurance Ireland in connection with the appealed decision; and
 - (d) A description of the decision which should, in the view of the Appellant, have been made by the Membership Application Officer in respect of the matters set out in Rule 3.1 that are under review.

5. CONSTITUTION OF THE CASE PANEL HEARING THE APPEAL

- 5.1 Within 10 business days of receipt of a Notice of Appeal the Chairperson of the Membership Appeal Board shall appoint a Case Panel to hear the appeal from amongst the Membership Appeal Board Members and shall notify the parties of the decision. A new Case Panel shall be appointed in respect of each Notice of Appeal and shall have authority in relation to the matter alone.
- 5.2 The Case Panel shall be comprised of the Chairperson and two members of the Membership Appeal Board selected by the Chairperson. To the extent possible, the composition of the Case Panel shall vary from case to case.

- 5.3 In the event that a Notice of Appeal involves, or might reasonably be expected to involve, a conflict of interest for a Membership Appeal Board Member, the Membership Appeal Board Member shall recuse himself/herself from involvement in the Case Panel for the Notice of Appeal. The Appellant may object to the inclusion of a Membership Appeal Board Member on a Case Panel if the Appellant believes that the Notice of Appeal involves, or might reasonably be expected to involve, a conflict of interest for that member. If such an objection is received, the Chairperson shall appoint a replacement Membership Appeal Board Member within two days of receipt of the objection.
- 5.4 The Chairperson may appoint a Secretary who shall be responsible for communication between the Case Panel and the parties and for the expeditious and economical administration of the appeal.

6. RESPONSE TO NOTICE OF APPEAL

- 6.1 The Respondent shall lodge with the Membership Appeal Board a Response to the Notice of Appeal.
- 6.2 The Response to the Notice of Appeal shall contain:
- (a) Details of any legal representative appointed by the Respondent;
 - (b) A response to the grounds set out in the Notice of Appeal, together with all arguments that the Respondent wishes to make; and
 - (c) A schedule of supporting documents, and copies of all documents relied on, including copies of all documents and materials considered by the Respondent in making the decision under appeal.
- 6.3 The time for lodging the response shall be 10 business days from the service of the Notice of Appeal on the Respondent.

7. REPLY

- 7.1 The Appellant shall have the right to lodge with the Membership Appeal Board a Reply to the Response to the Notice of Appeal, with a copy to the Respondent, within 5 business days from the service of the Notice of Appeal or, where necessary, such other reasonable and proportionate deadline set by the Chairperson.

8. CONDUCT OF THE APPEAL

- 8.1 The appeal will be conducted as flexibly and informally as possible (including, where appropriate, remotely by video or teleconferencing), with a view to disposing of the appeal justly, economically and expeditiously. To that end, the Case Panel, or the Chairperson acting alone, as the case may be, may make such procedural directions as he or they think fit. Such directions may include in particular directions:
- (a) Setting, abridging, or extending any time limits;
 - (b) Directing the hearing of evidence on particular issues, including directions as to the manner in which evidence is to be given or heard, the witnesses whose evidence should be given or heard and any cross-examination;
 - (c) Allowing a party to submit further documents or arguments;

- (d) As to the instruction of experts by the parties, and the manner in which expert advice is to be given;
 - (e) Determining the issues to be decided; and
 - (f) Determining the appeal, or issues in the appeal, by consent or agreement.
- 8.2 The Case Panel will review the documents submitted by the parties and shall indicate to the parties as soon as possible any further information that it may require for the purpose of determining the appeal and whether it is able to determine the appeal by reference to the papers only, and without a hearing.
- 8.3 Where a party requests an opportunity to appear before the Case Panel for the purpose of better presenting its case, the Case Panel shall make arrangements for a hearing and shall give the other party an opportunity to attend and, if it wishes to do so, to present its own case.
- 8.4 If neither party requests a hearing, where the Case Panel considers it appropriate to do so, it shall issue its decision on the basis of the documentary evidence provided to it by the parties, without the need to convene a hearing to dispose of the appeal.
- 8.5 Any hearing may take place if convenient by way of electronic conferencing facilities or, if necessary, in the physical presence of the parties and the Case Panel.

9. HEARINGS

- 9.1 The Chairperson shall set a date for the hearing, and shall give any directions as may be necessary as to the issues to be addressed, the evidence to be called, the time limits to be observed or any other aspect of the hearing.
- 9.2 Unless the Case Panel considers there is a clear and specific reason for a later date, the hearing shall be held no later than 10 business days following:
 - (i) the date of the submission of the Reply to the Response to the Notice of Appeal; or,
 - (ii) if no Reply to the Response to the Notice of Appeal was submitted, the date of submission of the Response to the Notice of Appeal.
- 9.3 The hearing before the Case Panel, or the sole adjudicator, as the case may be, shall be conducted in a manner appropriate for ensuring the just, economical and expeditious handling of the proceedings.

10. CONFIDENTIALITY

- 10.1 Any party seeking to rely on confidential information may request that such information is dealt with on terms of confidentiality, which are to be at the discretion of the Case Panel.
- 10.2 If the confidential information is or may be material to the Case Panel decision, the Case Panel hearing the appeal, or the Chairperson as the case may be, shall seek means of ensuring the fairness of the procedure while respecting the confidentiality claimed.

11. THE CASE PANEL'S DECISION

- 11.1 The Case Panel shall take its decision by majority vote. Each Case Panel member shall have one vote.

- 11.2 In reaching its decision, the Case Panel shall have regard, as relevant, to the Full Member Criteria, the Associate Member Criteria, the Membership Application Procedure and any other such rules that the Membership Application Officer and the Board of Insurance Ireland (or any sub-committee of the Board) are required to observe.
- 11.3 The Case Panel shall give its decision in writing, setting out its reasons. The decision shall state whether it was unanimous or by the majority.
- 11.4 The Case Panel shall issue its decision no later than 10 business days following:
- (i) the date of the hearing; or
 - (ii) if no hearing was held, the date of submission of the Reply to the Response to the Notice of Appeal; or
 - (iii) if no Reply to the Response to the Notice of Appeal was submitted, the date of submission of the Response to the Notice of Appeal.
- 11.5 The decision of the Case Panel is final.
- 11.6 In the case of an appeal which is upheld, the Case Panel shall direct that the Appellant be admitted as a Full Member or Associate Member (as relevant) and Insurance Ireland will, within 5 days of the Case Panel's decision, enter the Appellants details on the register of Full Members or Associate Members of Insurance Ireland.
- 11.7 Unless there is a clear and specific reason for a longer period that has been agreed with the Appellant and the Respondent, the maximum period for the determination of an appeal under these Rules of Procedure shall be 35 business days from the date on which a Notice of Appeal is lodged with the Membership Appeal Board.

12. COSTS

- 12.1 Each party shall bear its own costs in relation to the appeal.

13. SERVICE

- 13.1 Documents served on the Membership Appeal Board or any party may be served by electronic means, unless otherwise directed.

14. GENERAL

- 14.1 Subject to the foregoing, the Membership Appeal Board may regulate its own procedure.
- 14.2 Each of the members of the Membership Appeal Board shall sign a copy of these Rules of Procedure.
- 14.3 The Membership Appeal Board shall make available to Insurance Ireland and the Monitoring Trustee details as to the outcomes of appeals brought under these Rules of Procedure for the purpose of including such details in the written reports provided by the Monitoring Trustee to the European Commission regarding the implementation of the Commitments.