



MOSTI

STANDARDS
MALAYSIA

**DEPARTMENT OF STANDARDS MALAYSIA
ACCREDITATION OF CONFORMITY ASSESSMENT BODIES**

CAB 3
Issue 2, 15 February 2007

APPEALS

Authority To Issue

**Director General
Department of Standards Malaysia**

INDEX

	TOPIC	PAGE
1	Purpose of the document	1
2	References	1
3.	Definitions	1
4.	The Appeals Panel / Technical Appeals Panel	2
5.	Functions of Appeals Panel / Technical Appeals Panel	3
6.	How to Lodge an Appeal	3
7.	Information	3
8.	Confidentiality	4
9.	Process	4
10.	Decision of the Appeal Panel	4
11.	Decision of the Technical Appeals Panel	5
12.	Cost	5

1. PURPOSE OF THE DOCUMENT

- 1.1 The object of this document is to provide a transparent procedure for the handling of appeals when an applicant or accredited conformity assessment bodies (CAB) does not agree with a decision taken by STANDARDS MALAYSIA related to its desired accreditation status.
- 1.2 This document details the appeals process, which is consistent with the requirements of MS ISO/IEC 17011. The process also prescribes the method of selecting members of an Appeals Panel / Technical Appeals Panel (hereinafter referred to as the AP and TAP respectively), and the procedure to be followed by the Department of Standards Malaysia (STANDARDS MALAYSIA) in the event of an appeal being lodged.
- 1.3 An Appeals Panel / Technical Appeals Panel will be set up to pass decision on the appeal against any decision or measure taken by STANDARDS MALAYSIA, against which a CAB is entitled to appeal, according to the terms and conditions governing the accreditation scheme of STANDARDS MALAYSIA.
- 1.4 The appeals process as prescribed in this document is applicable to all accreditation schemes administered by STANDARDS MALAYSIA.

2. REFERENCES

- 2.1 Act 549: Standards of Malaysia Act 1996.
- 2.2 ISO/IEC 17000: Conformity assessment – Vocabulary and general principles
- 2.3 MS ISO/IEC 17011: Conformity assessment - General requirements for accreditation bodies accrediting conformity assessment bodies

3. DEFINITIONS

- 3.1 For the purpose of this document, definitions in the relevant ISO standards and the relevant ISO/IEC Guides shall apply. The following definitions and abbreviations shall also apply.

Accreditation: Third party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks.

Accredited Conformity Assessment Body: A body that has been accredited by STANDARDS MALAYSIA in accordance with specific criteria, procedures and requirements to operate, on a continuing basis, as a conformity assessment body.

Appeal: Request by a CAB for reconsideration of any adverse decision made by STANDARDS MALAYSIA related to its desired accreditation status.

Appeals Panel (AP): An independent and impartial panel established by STANDARDS MALAYSIA to consider any adverse decision made by STANDARDS MALAYSIA.

Conformity Assessment Body (hereinafter referred to as CAB): Body that performs conformity assessment services and that can be the object of accreditation, e.g testing and calibration laboratories, certification bodies, inspection bodies.

Director General: The Chief Executive Officer of the Department of Standards Malaysia appointed in accordance with Section 9 of the Standards of Malaysia Act 1996 and for the purpose of carrying out the duties and functions detailed in Subsection 10 of the same Act.

Malaysian Standards and Accreditation Council, MSAC (hereinafter referred to as the Council or MSAC): An Advisory Council established under Section 13 of the Standards of Malaysia Act 1996 with delegated functions under the said Act in advising the Minister on policies, criteria and procedures for the administration of a national accreditation system.

Technical Appeals Panel: An independent and impartial panel established by STANDARDS MALAYSIA to hear appeal related to technical matter.

4. THE APPEALS PANEL / TECHNICAL APPEALS PANEL

- 4.1 In the event that a CAB lodges an appeal against any decision of STANDARDS MALAYSIA related to its accreditation status, the STANDARDS MALAYSIA Accreditation System has put in place an appeal process to be handled by an independent and impartial panel on each occasion that an appeal has to be heard.
- 4.2 Where the appeal is against decision made by the DG of STANDARDS MALAYSIA, three persons drawn from members of the Council and/or members of the National Accreditation Committee (NAC) or National Medical Testing Accreditation Committee (NMTAC), as appropriate will be appointed by the Chairman of the Council to function as the Appeals Panel (AP). In the same respect, the Chairman of the Council will also appoint the Chairman for the AP. The Director of Accreditation or his designated representative will be the secretary to the AP who is a non-voting member.
- 4.3 The Director of Accreditation will ensure that the composition of Appeals Panel satisfies the requirements of impartiality and no conflict of interest.
- 4.4 Where the appeal is against decision with regard to technical matters, the DG will appoint competent persons from among its staff and/or external assessors as a pool of panelists, out of which three members will be selected to function as the Technical Appeals Panel (TAP). The members selected will be independent and impartial. The Scheme Manager or his representative will be the secretary to the TAP who is a non-voting member.

- 4.5 The Scheme Manager or his representative will ensure that the composition of the Technical Appeals Panel satisfies the requirements of impartiality and no conflict of interest.
- 4.6 No member of the AP / TAP will be from the CAB or have a direct interest in the subject of the appeal, in any form. In this respect, the Council and Committee representatives in the category of suppliers of products and services who are certificated by the appellant are therefore not eligible for membership of the AP / TAP.
- 4.7 The appellant will be informed of the members of the AP / TAP and he has the right to object with valid reason(s) to any member(s) of the AP / TAP considering the appeal. The appellant's reasons for lodging objections should be considered by STANDARDS MALAYSIA which should decide whether or not to accept them and change the membership of the panel accordingly.

5 FUNCTIONS OF APPEALS PANEL / TECHNICAL APPEALS PANEL

- 5.1 The Appeals Panel / Technical Appeals Panel will have the following defined functions:
- a) to convene meetings to hear appeals;
 - b) to evaluate material facts submitted by the appellants, STANDARDS MALAYSIA Secretariat and the relevant parties to the appeal;
 - c) to judge in all fairness;
 - d) to act in impartial and independent manner and with no undue pressure and with no conflicts of interest ;
 - e) to maintain confidentiality on all information pertaining to the appeal, the appellant and STANDARDS MALAYSIA;
 - f) to abide by STANDARDS MALAYSIA procedures on appeals.

6. HOW TO LODGE AN APPEAL

- 6.1 An appeal will be lodged not later than thirty (30) days after notification to the CAB of the decision or measure made by STANDARDS MALAYSIA.
- 6.1 An appeal will be lodged by sending a substantiated letter of appeal or by electronic means to the Director General of STANDARDS MALAYSIA who will notify the Chairman of the Council, as the case required, without delay.
- 6.2 In other cases related to technical matters, the DG will direct a member of the staff to deal with the case without delay.
- 6.3 Together with the letter of appeal, the appellant will forward a deposit of RM1, 500.00 made payable to "Ketua Pengarah Jabatan Standard Malaysia" to cover any costs which might be incurred in respect of the appeal.

7. INFORMATION

- 7.1 The employees of STANDARDS MALAYSIA, external assessors and experts involved in the particular assessment of the CAB (appellant), are obliged - without prejudice to their declaration of confidentiality towards all others - to provide the members of the AP / TAP with the necessary information, if required to do so.

8. CONFIDENTIALITY

- 8.1 The members of the AP / TAP are under obligation of confidentiality concerning anything that might come to their knowledge during the course of their duty, with regard to the person, the CAB or the personal or business situation of the appellant.

9. PROCESS

- 9.1 Immediately after receipt of the letter of appeal and the deposit, the Director General will inform the Chairman of MSAC, as the case required. If the deposit has not been made within five working days after receipt of the appeal, Director General will grant the appellant an extension period of another five working days. In the event that the appellant still has not made the deposit at the end of the extension period, the appeal will be dismissed.
- 9.2 The AP / TAP has the right to hear witnesses, to consult experts and to take all measures and make all provisions, including the convening of one or more sessions, deemed necessary for a sound judgment.
- 9.3 The Chairman of the Council will, at his earliest convenience, appoint a Chairman and members for the AP. In other cases, the DG will appoint competent persons from among its staff and/or external assessors as a pool of panelists, out of which three members will be selected to function as the Technical Appeals Panel (TAP). The DG will also appoint the chairman of the TAP.
- 9.4 The Chairman of the AP / TAP will consult the other members of the AP / TAP and fix the place, date and time of the session..
- 9.5 The session will be held within 3 weeks after receipt of the appeal. The appellant will be given a minimum of five working days notice of the time and location of the meeting of the AP / TAP.
- 9.6 Both the appellant and the AP / TAP have the right to avail themselves of assistance from witnesses, provided the names and addresses of the witnesses have been supplied in writing, to the AP / TAP or to the appellant, whatever the case may be, not later than five days before the date of the session. In other cases not involving the Council, these procedures may be simplified as deemed appropriate by the DG.

10. DECISION OF APPEALS PANEL

- 10.1 The AP decides on the appeal by a majority of votes.
- 10.2 The decision of the AP will be signed by all members. The decision of the AP will be communicated to the Minister in writing, not later than five days after date of decision.
- 10.3 The final decision of the Minister based on the decision of the AP are considered binding.
- 10.4 The final decision of the Minister will be sent by registered mail, to the appellant and a copy will be filed in STANDARDS MALAYSIA and kept as official records.

11 DECISION OF TECHNICAL APPEALS PANEL

- 11.1 The TAP decides on the appeal by a majority of votes.
- 11.2 The decision of the TAP will be signed by all members. The decision of the TAP will be communicated to the DG in writing, not later than five days after the date of decision.
- 11.3 The final decision of the DG based on the decision of the TAP are considered binding.
- 11.4 The final decision of the DG will be sent by registered mail, to the appellant and a copy will be filed in STANDARDS MALAYSIA and kept as official records.

12. COST

- 12.1 The cost of conducting an appeal will be determined by STANDARDS MALAYSIA. Reasonable out of pocket expenses associated with the conduct of an unsuccessful appeal will be borne by the appellant.
- 12.2 In the case of successful appeal, the appellant will be given a full refund of the Deposit collected.
- 12.3 In the event that the appellant has been ordered to pay the costs, or part of them, these costs will be settled with the deposit. Any surplus will immediately be returned to the appellant. If the deposit is insufficient, the appellant will be under obligation to pay the remaining amount due to the STANDARDS MALAYSIA within fourteen days after date of the decision.