



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

**CAB 3
APPEALS**

Issue 5, 28 April 2022

Authority to Issue

**Director General
Department of Standards Malaysia**

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1 PURPOSE

- 1.1 This document is to provide information for the handling of appeals when an applicant or accredited conformity assessment body (CAB) requests for reconsideration of any adverse decision made by Standards Malaysia related to its desired accreditation status. This document is consistent with the requirements of ISO/IEC 17011.
- 1.2 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 ISO/IEC 17011: Conformity assessment - 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 Conformity Assessment Body (CAB) for reconsideration of any adverse decision made by Standards Malaysia related to its desired accreditation status.

Appeals Panel : An independent and impartial panel established to evaluate and formulate recommendation to the Chairman of Malaysian Standards and Accreditation Council (MSAC), of any adverse decision made by the Director General of 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, medical testing, certification bodies, inspection bodies and proficiency testing providers.

Director General: The Head of Department of Standards Malaysia appointed in accordance with Section 9 of the Standards of Malaysia Act 1996 (Act 549) 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): The Malaysian Standards and Accreditation Council is an Advisory Council established under Section 13 of the Standards of Malaysia Act 1996 (Act 549) and has the function of advising the Minister on policies, criteria and procedures on standardisation activities, accreditation schemes, GLP Compliance Programme and other programmes administered by Standards Malaysia.

Chairman of MSAC: person appointed by the minister to preside over the MSAC.

4 HOW TO LODGE AN APPEAL

- 4.1 An appeal should be lodged no later than thirty (30) days after notification to the CAB of the decision or measure made by Standards Malaysia.
- 4.2 An appeal should be lodged in writing to the Director General of Standards Malaysia who will notify the Chairman of the MSAC, as the case required, in a timely manner.
- 4.3 The appellant is required to submit a letter of appeal.
- 4.4 Upon acknowledgement of letter of appeal by Standards Malaysia, the appellant will be issued an invoice for a non-refundable appeal fee as per the Standards of Malaysia (Fees) Regulation 2018 - made payable to "Ketua Pengarah Jabatan Standard Malaysia" to cover any costs which might be incurred in respect to the appeal.

5 PROCESS

- 5.1 Immediately after receipt of appeal letter and fee, Standards Malaysia will inform the Chairman of MSAC, as the case requires.
- 5.2 The Chairman of MSAC will, at his earliest convenience, approve the appeal and appoint an Appeals Panel to review and provide recommendation on the appeal.
- 5.3 The appellant will be informed of the members of the Appeals Panel and he has the right to object in writing with valid reason(s) to any member(s) of the Appeals Panel 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.
- 5.4 The Director of Accreditation, acting as the secretary of the Appeals Panel will consult the members of the Appeals Panel and fix a place, date and time of the session.
- 5.4 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 Appeals Panel .
- 5.5 Both the appellant and the Appeals Panel 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 Appeals Panel or to the appellant, whatever the case may be, not later than five days before the date of the session.
- 5.6 Appellant may be invited to provide clarification to the appeal. However, the appellant shall leave during the deliberation of decision by the members of the Appeals Panel.

6 THE APPEALS PANEL

- 6.1 In the event that a CAB lodges an appeal against any adverse 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.
- 6.2 When the appeal is against the adverse decision made by the DG of Standards Malaysia, the appeal will be registered and forwarded to the Chairman of MSAC .
- 6.3 Once reviewed, the MSAC Chairman will appoint an Appeals Panel to provide recommendation on the appeal.
- 6.4 The Appeals Panel shall consist of a NAC member that shall act as the Chairman of the Appeals Panel, and two persons that can be from Standards Malaysia's assessors pool, evaluation panel pool, or NAC member. The Director of Accreditation or his designated representative who is a non-voting member is the secretary to the Appeals Panel. The appointment letter of Appeals Panel members will be issued by the Director of Accreditation.
- 6.5 The Director of Accreditation will ensure that the composition of Appeals Panel satisfies the requirements of impartiality and no conflict of interest. No member of the Appeals Panel shall be from the appellant CAB.
- 6.6 Where the appeal is against a decision with regards to technical matters, the Director of Accreditation may propose to the Chairman of the Appeals Panel to include competent persons from among its staff, technical experts and/or regulators as a non-voting member of the Appeals Panel.
- 6.7 The appellant will be informed of the members of the Appeals Panel and he has the right to object with valid reason(s) to any member(s) of the Appeals Panel considering the appeal. The appellant's reasons for lodging objections may be considered by Standards Malaysia which should decide whether or not to accept them and change the membership of the panel accordingly.

7 FUNCTIONS OF APPEALS PANEL

- 7.1 The Appeals Panel will have the following defined functions:
- a) to abide by Standards Malaysia procedures on appeals
 - b) to convene meetings to deliberate the appeals;
 - c) to evaluate material facts submitted by the appellants, Standards Malaysia Secretariat and the relevant parties to the appeal;
 - d) to ensure that any appropriate action is taken in a timely manner;
 - e) to judge in all fairness;
 - f) to act in an impartial and independent manner with no undue pressure and with no conflicts of interest;
 - g) to maintain confidentiality of all information pertaining to the appeal, the appellant and Standards Malaysia; and
 - h) to provide recommendation to the Chairman of MSAC for decision.

8 INFORMATION

- 8.1 The staff of Standards Malaysia, external assessors and experts involved in the particular assessment of the CAB (appellant), is obliged without prejudice to their declaration of confidentiality towards all others, to provide the members of the Appeals Panel with the necessary information, if required to do so.

9 CONFIDENTIALITY

- 9.1 The members of the Appeals Panel 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 as stipulated in CAB 1.
- 9.2 Unless prohibited by the law, Standards Malaysia will notify the appellant of any release of confidential information.

10 DECISION

- 10.1 The Appeals Panel decides on the appeal by a majority of votes.
- 10.2 The recommendation of the Appeals Panel will be minuted and signed by all members. If there are any cases of disagreement to the appeal by the panel, the reason for dissent will be stated in the minutes as well. The recommendation of the Appeals Panel will be communicated to the Chairman of MSAC in writing, not later than five days after the date of the Appeals Panel meeting.
- 10.3 The decision of the Chairman of MSAC based on the recommendation of the Appeals Panel are considered binding and final.
- 10.4 The decision of the Council will be sent by registered mail, to the appellant and a copy will be filed in Standards Malaysia and kept as official records.

11 REVIEW

- 11.1 Appeals shall be included as an agenda item for all Management Review meetings.