

# ***Sections D-F***

*Disciplinary Process*

*Appeals Process*

*Authorised Officer*

---

## SECTIONS D, E, F - TABLE OF CONTENTS

<b>SECTION D – DISCIPLINARY PROCESS</b> .....	<b>4</b>
PREAMBLE.....	5
1 GENERAL .....	6
2 DEFINITIONS.....	6
3 DUTIES OF THE REC .....	8
4 LIABILITY OF THE REC TO DISCIPLINARY ACTION .....	9
5 ROLE OF THE COMPLAINTS OFFICER, THE INSPECTOR, THE DISCIPLINARY COMMITTEE AND THE APPEALS PANEL .....	10
6 PROCESSING OF COMPLAINTS BY THE BODY.....	11
7 INVESTIGATION OF COMPLAINT BY THE COMPLAINTS OFFICER.....	12
8 CONSIDERATION OF THE REPORT OF THE COMPLAINTS OFFICER BY THE DISCIPLINARY COMMITTEE.....	13
9 ADJUDICATION OF THE COMPLAINT BY THE DISCIPLINARY COMMITTEE.....	14
10 FINDINGS AND ORDERS OF THE DISCIPLINARY COMMITTEE.....	16
11 APPEALS TO THE APPEALS PANEL.....	17
12 APPEAL TO THE APPEALS COMMITTEE OF THE COMMISSION.....	20
13 APPLICATION OF DISCIPLINARY SANCTIONS BY THE BODY .....	20
GUIDANCE AND CONSULTATION.....	21
<b>SECTION E - APPEALS PROCESS</b> .....	<b>22</b>
PREAMBLE.....	23
1 APPEAL BY THE REC.....	24
2 COMMISSION APPEALS OFFICER AND PROCEDURES .....	25
GUIDANCE AND CONSULTATION.....	26

<b>SECTION F - AUTHORISED OFFICER .....</b>	<b>27</b>
PREAMBLE .....	28
1 AUTHORIZED OFFICER .....	29
2 INSPECTION CARRIED OUT BY AN AUTHORIZED OFFICER .....	30
3 AUTHORIZED OFFICER INSPECTION REPORT .....	31
GUIDANCE AND CONSULTATION.....	32

**SECTION D – DISCIPLINARY PROCESS**

## **PREAMBLE**

*This Section D sets out the obligations of the Body and the REC with respect to any disciplinary process to be taken. Such a disciplinary process may be embarked upon, as appropriate, further to the REC being discovered to have breached any of the requirements of the Criteria Document.*

*The process set out in Section D comprises three stages – (1) the Investigative Stage, (2) the Adjudicative Stage and (3) the Appeals Stage.*

*This Disciplinary Process would commence further to:*

- Inspection and/or Audit;*
- a complaint received about the REC; and/or,*
- the Performance Marking System and the risk-based monitoring system to be implemented by the Body in accordance with the requirements of Section B.*

*Any sanction imposed by the Body further to the operation of the disciplinary process may be appealed by the REC to the Appeals Committee of the Body in the first instance.*

*The decision of the Appeals Committee shall be final except in instances where the sanction imposed includes suspension or revocation of the registration of the REC. In such instances, the sanction may subsequently be appealed to the Commission in line with the requirements of the Act.*

*The requirements with respect to such Appeals are specified in Section E of the Criteria Document.*

*The Commission intends to require that a single Disciplinary Committee and a single Appeals Committee shall be in place for the regulatory system, regardless of the number of Bodies designated. This is in the interests of the Commission's objective in ensuring consistency, fairness and equity of treatment of all RECs who are subject to a disciplinary process.*

*Thus, all Bodies shall have their disciplinary processes escalate through the common Disciplinary Committee and the common Appeals Committee. The Commission will direct that these committees are constituted such that there is a balance of representation from each Body and also an independent chairperson.*

*This proposal would offer several distinct advantages:*

- (i) provides opportunity for consistency and therefore fairness and equity of treatment;*
- (ii) efficiency through the avoidance of duplication of processes, resources and costs;*
- (iii) allows for a greater degree of co-ordination between the bodies in terms of disciplinary matters and matters relating to registration;*
- (iv) provides for greater confidence in disciplinary process from REC perspective through the involvement of all Bodies.*

## 1 GENERAL

The Body shall ensure that its procedures with respect to disciplinary matters are in accordance with the requirements of this Section D.

## 2 DEFINITIONS

The definitions in this section and as set out below apply specifically to this Section D of the document and shall be read in conjunction with, and are supplementary to, the definitions set out in Section A.

Appeal Committee of the Commission	means the Committee that has been appointed to hear an appeal in accordance with paragraph (7)(b) of the Act;
Appeals Officer	means an officer who has been appointed under paragraph (8)(a) of the Act to prepare a report to be furnished to the Appeal Committee of the Commission;
Appeals Panel	means a Panel appointed by the Body in accordance with the requirements specified by the Commission;
Complaint	means any complaint, allegation, expression of concern, matter or event touching or apparently touching upon the conduct (whether by act or omission), behaviour, performance of any REC, employee, or agent thereof in respect of any matter as set out in Clause 4 hereof whether brought to the attention of the Body by a Complainant or otherwise coming to the attention of the Body;
Complainant	means a person who makes a Complaint to the Body concerning a REC and shall include an Inspector of the Body;
Complaints Officer	means the person appointed by the Body to investigate any Complaint;
Disciplinary Body	means the Complaints Officer, the Disciplinary Committee, the Appeals Panel, and the Appeals Committee of the Commission or any of them;

Disciplinary Committee	means the committee appointed by the Body, the purpose of which is to adjudicate on and impose such disciplinary sanction as it shall decide to be imposed on the Respondent, and the constitution of which shall be in accordance with any directions issued by the Commission;
Disciplinary Process	means the process and procedures applied by the Body and/or the Commission pursuant to this Section D;
Inspector	means a person appointed by the Body (including, where relevant, an Authorised Officer) or the Complaints Officer to inspect the work carried out by a REC and to prepare and furnish a report for the Complaints Officer;
Order	means any order of a Disciplinary Body made pursuant to this Disciplinary Process;

### **3 DUTIES OF THE REC**

- 3.1.1 Any REC who is the subject of a Disciplinary Process must cooperate fully with every phase of the Disciplinary Process. Every REC (including any REC who is not subject to the Disciplinary Process) must provide such information, explanations, documents (electronic or otherwise) and other records as shall be required during every phase of the Disciplinary Process.
- 3.1.2 Where an Order is made pursuant to the Disciplinary Process for the imposition of the sanction of suspension or revocation of the registration of the REC, it shall return to the Body all unused Certificates and shall comply with the requirements imposed by the Disciplinary Body as a consequence of the suspension or revocation.



## **4 LIABILITY OF THE REC TO DISCIPLINARY ACTION**

4.1 Any REC shall be liable to disciplinary action(s) in accordance with this Section D in any of the following circumstances:

- (i) Furnishing incorrect, misleading or fraudulent information or documentation in an application for registration to a Body or at any subsequent renewal application.
- (ii) Any material breach of the Rules of Registration or any material breach of the Criteria Document, including but not limited to:
  - (a) any failure to furnish evidence of any mandatory policy of insurance within the period specified by the Body;
  - (b) any failure to carry out work or failure by its employees, servant or agents to carry out work in compliance with the requirements of the Criteria Document;
  - (c) any failure to respond adequately to or at all to correspondence or other communications from the Body, the Commission, an Inspector, a Complaints Officer or from any Disciplinary Body, or failure to cooperate fully with any inquiry or investigation being conducted by or on behalf of the Body;
  - (d) providing a Certificate in respect of a Controlled Work that has not been completed by the REC;
  - (e) the Performance Marking Scheme (as approved by the Commission and as per the arrangements pursuant to Section B).

4.2 If, following a Complaint being made to a Body, an REC resigns from that Body, such purported resignation shall not be considered effective until the conclusion of any Disciplinary Process. The process of investigation, and any subsequent steps arising from that, as described in this Section D, shall be adhered to.

## **5 ROLE OF THE COMPLAINTS OFFICER, THE INSPECTOR, THE DISCIPLINARY COMMITTEE AND THE APPEALS PANEL**

5.1 The Body shall appoint from time to time:

- (i) a Complaints Officer or Complaints Officers;
- (ii) a Disciplinary Committee; and,
- (iii) an Appeals Panel.

in order to carry out the duties and procedures as laid out within this Section D. An employee of the Body may be appointed for such purposes. However, no person shall be a member of the Disciplinary Committee and the Appeals Panel at the same time.

5.2 The Body shall have the power to pay and meet the reasonable expenses of, the Inspector, the Complaints Officer, members of the Disciplinary Committee and members of the Appeals Panel.

5.3 The Body, with respect to the activities and duties of the Complaints Officer, the Disciplinary Committee and the Appeals Panel, shall have the power to set out such rules/procedures as may be considered necessary for the proper performance of their respective functions under this Disciplinary Process.

5.4 The Commission may direct the Body with regard to the establishment, constitution, operation and procedures to be adhered to by the Complaints Officer, Disciplinary Committee and/or Appeals Panel in the performance of their respective functions under this Disciplinary Process.

## **6 PROCESSING OF COMPLAINTS BY THE BODY.**

- 6.1 The Body may attempt to resolve any Complaint by conciliation or in some other way not involving disciplinary action under this process. The Body may only do so in accordance with any requirements specified by the Commission.
- 6.2 If this is successful, the Body should take no further action without prejudice to take such further action as it deems appropriate with respect to such Complaint if subsequently new facts or information come to light.
- 6.3 Such successful resolution shall be notified to the REC and the Complainant in writing and acknowledged by same and shall require any complaint to be formally withdrawn by the Complainant.
- 6.4 Unless a Complaint has been resolved in accordance with the provisions of Clause 6.1, the Body shall remit each Complaint to the Complaints Officer.
- 6.5 The Body may, if it deems it necessary in the interest of safety, order that the self-certification facility of the REC is withdrawn, pending the resolution of the Complaint.
- 6.6 An REC shall not be entitled to transfer registration from one Body to another while any valid complaint remains unresolved.

## **7 INVESTIGATION OF COMPLAINT BY THE COMPLAINTS OFFICER.**

- 7.1 When a Complaint has been conveyed to the Complaints Officer, they shall carry out an initial inquiry to establish if the Complaint is one which is legitimate, non-vexatious and within the remit of the Body to deal with and, if so, shall furthermore establish if the Complaint involves a matter specified relating to Clause 4 hereof. If so, then it shall be dealt with pursuant to the remainder of this Section D.
- 7.2 The Complaints Officer shall notify the REC of the Complaint in writing and shall confirm that the Complaint is being dealt with pursuant to this Disciplinary Process.
- 7.3 The Complaints Officer shall be obliged to investigate the Complaint and to provide a factual report within 10 working days or such other period as may be specified by the Body.
- 7.4 In preparing such a report, the Complaints Officer shall have the power to engage any technical or special expert (including an Inspector of the Body) to assist or to give any advice to them, to procure legal advice or assistance or to authorise an Inspector to do all such things as they may consider reasonable and necessary/conducive to carrying out their inspection and preparing their report ("Complaint Report").
- 7.5 Where applicable, an Inspector shall indicate in their report whether or not, in their opinion, the works carried out by the REC meet the standards and requirements of the Technical Rules and to the extent that they do not where, in their opinion, the deficiencies lie.
- 7.6 The Complaints Officer shall furnish the REC with a copy of the Complaint Report by registered post within 10 working days of its issue. The REC will then have the opportunity (but will not be obliged) to provide a written response to the Complaints Officer within 10 working days from receipt of the Complaint Report.
- 7.7 The Complaints Officer shall, having reviewed the written submissions of the REC (if any) and any other party related to the investigation and, having heard any oral submissions from the Inspector or the REC, shall decide whether or not there is a case to be answered by the REC.
- 7.8 The Complaints Officer shall present a final Complaint Report, setting out the facts and details of their investigation and their recommendation on whether or not there is a case to be answered by the REC to the Disciplinary Committee and any other such recommendation they may make with respect to training and/or the Performance Marking System (further to system established by the Body under Section B).
- 7.9 The Complaints Officer may, if they deem it necessary in the interest of safety, request the Body to withdraw the entitlement to self-certify of the REC, or, as the case may be, the Body's approval of a Qualified Certifier operating on behalf of the REC, pending the conclusion of the Complaints/Disciplinary Process.

## **8 CONSIDERATION OF THE REPORT OF THE COMPLAINTS OFFICER BY THE DISCIPLINARY COMMITTEE**

- 8.1 The Disciplinary Committee shall consider the Complaint Report of the Complaints Officer. Where the Disciplinary Committee is of the opinion that there is no case to be answered by the REC, it shall advise (in writing) the Complainant and the REC of its decision which shall, in such circumstances be final.
- 8.2 Where the Disciplinary Committee finds that there is a case to be answered by the REC, it shall progress this matter in accordance with the procedures set out in this section. In this regard, the Disciplinary Committee may determine that all, or part, of the matters in the Complaint Report are to be progressed.
- 8.3 The Disciplinary Committee may, if it deems it necessary in the interest of safety, order that the self-certification facility of the REC is withdrawn, or the Body's approval of a Qualified Certifier (operating on behalf of the REC) is withdrawn.
- 8.4 The Disciplinary Committee on deciding to adjudicate on the Complaint shall inform all other Bodies that the Disciplinary Process has been commenced against the REC.

## **9 ADJUDICATION OF THE COMPLAINT BY THE DISCIPLINARY COMMITTEE.**

9.1 Where the Disciplinary Committee decides to adjudicate on all or part of any Complaint referred to it, it shall send to the REC the following:

- (i) A copy of any written communication received by the Disciplinary Committee in respect of the Complaint;
- (ii) A summary of the material that was considered by the Complaints Officer and/or Inspector in preparing the Complaint Report;
- (iii) A copy of any written representation made by the Complainant;
- (iv) A copy of the report prepared by the Complaints Officer;
- (v) A copy of any written representations made by the REC;
- (vi) A copy of any other documentation which was provided, and which the Disciplinary Committee considered relevant to the decision that it made.

9.2 In adjudicating on all or part of the Complaint referred to it, the Disciplinary Committee shall hold a hearing. As soon as practicable after the Complaint is remitted to it, the Disciplinary Committee shall notify the REC, the Complaints Officer and any Complainant of the time and place fixed for the hearing. The Disciplinary Committee shall give the REC the opportunity of:

- (i) Attending and being heard at the hearing;
- (ii) Hearing the evidence against them;
- (iii) Cross examining, through the Chair, witnesses called by the person or persons presenting and prosecuting the Complaint;
- (iv) Adducing documentary evidence;
- (v) Calling witnesses to give evidence on their behalf;
- (vi) Making such submissions, as they wish, to the Disciplinary Committee.

9.3 The Disciplinary Committee shall give the person or person presenting and prosecuting the Complaint on behalf of the Body the opportunity of:

- (i) Attending and being heard at the hearing;
- (ii) Adducing the documentary evidence;
- (iii) Calling witnesses (including the Complainant or Inspector) to give evidence;
- (iv) Cross examining witnesses, through the Chairperson of the Hearing, called by the REC;

- (v) Making such submissions as they wish to the Disciplinary Committee.
- 9.4 The Complainant may be requested to attend the hearing and participate in proceedings, as determined by the Disciplinary Committee, but shall not have any right to participate in the hearing, other than as a witness.
- 9.5 At least 14 calendar days in advance of the hearing, the REC will be furnished with a copy of any documents or materials the persons presenting and prosecuting the Complaint intend to rely on and/or a list of any witnesses to be called at the hearing.
- 9.6 If any party seeks to rely on expert evidence, the report by such expert must be served on the other party at least 14 calendar days in advance of the hearing.
- 9.7 If the REC does not attend the hearing on the appointed day and time, the Disciplinary Committee may in its absolute discretion:
- (i) sit and hear the Complaint provided it is satisfied that the notice of the hearing was given to the REC; or
  - (ii) adjourn the hearing to such other date, as it may in its absolute discretion, decide,
- and the Disciplinary Committee shall give to the REC notice of its decision.
- 9.8 The Body, in prosecuting the REC, may appoint legal representation to present and prosecute the Complaint before the Disciplinary Committee as well as any appeal arising from same.
- 9.9 The Disciplinary Committee shall adjudicate upon the Complaint fairly and impartially and in accordance with the requirements of natural justice. A decision by the Disciplinary Committee shall be by majority vote.

## **10 FINDINGS AND ORDERS OF THE DISCIPLINARY COMMITTEE**

- 10.1 The Disciplinary Committee shall issue a written decision setting out its findings and setting out any Order to be made pursuant to its determination in respect of the Complaint.
- 10.2 The standard of proof applicable shall be proof “on the balance of probability”. If the Disciplinary Committee makes a finding that the Complaint has been proved or upheld in whole or in part, it may make any one or more of the following Orders as it considers appropriate:
- (i) That the REC be reprimanded by way of an oral warning;
  - (ii) That the REC be reprimanded by way of a written warning;
  - (iii) That the REC be required to give a written undertaking to the Body on the terms set out by the Disciplinary Committee;
  - (iv) Suspension of the REC’s self-certification rights for a defined period and the terms upon which the suspension shall be lifted;
  - (v) Requirement that the REC and any employees undergo training or attend specified courses;
  - (vi) Suspension of the REC’s registration for a defined period; and/or,
  - (vii) Revocation of the REC’s registration with the Body.
- 10.3 Any other such order that may be made upon such terms and conditions as decided by the Disciplinary Committee in its absolute discretion considers appropriate.
- 10.4 Such order shall include specification by the Disciplinary Committee with respect to any further sanction or sanctions which may be imposed further to the failure of the REC to comply with the order and its terms and conditions.
- 10.5 In the case where the Order of the Disciplinary Committee is to suspend or revoke the registration of the REC, then the Body shall immediately notify the Commission.



## **11 APPEALS TO THE APPEALS PANEL.**

11.1 The Complainant may appeal the Order of the Disciplinary Committee to the Appeals Panel on the following grounds:

- (i) The finding on which the Order was based was materially wrong;
- (ii) The Order imposed a sanction that was inadequate;
- (iii) The Order should be set aside because of a serious procedural or other irregularity in the hearing before the Disciplinary Committee.

11.2 The REC may appeal the Order of the Disciplinary Committee to the Appeals Panel on the following grounds:

- (i) The finding on which the Order was based was materially wrong;
- (ii) The Order imposed a sanction that was excessive;
- (iii) The Order should be set aside because of a serious procedural or other irregularity in the hearing before the Disciplinary Committee.

- 11.3 If the REC wishes to appeal an Order of a Disciplinary Committee, it must do so, to the Appeals Panel, within 28 calendar days of the date of the decision of the Disciplinary Committee being notified to the REC.
- 11.4 Any such notice of appeal shall state the grounds of appeal and enclose the legal submissions of the REC (if any) together with a copy of all documents to be relied upon by the REC including expert reports and witness statements.
- 11.5 The Appeals Panel shall write to the REC advising them of the time, date and venue for the Appeal Hearing.
- 11.6 No member or former member of the Body, or of the Disciplinary Committee or an Inspector who has been concerned with the Complaint which is the subject of the Appeal, shall be eligible for appointment to the Appeals Panel.
- 11.7 Where, in the grounds of appeal, the REC is seeking a re-hearing of the matter, that re-hearing should be conducted and heard by the Appeals Panel, in which case the Complaints Officer or Inspector, as relevant, shall first present the case to the Appeals Panel with the same burden and standard of proof as applied before the Disciplinary Committee and the REC may then present its case.
- 11.8 If the grounds of appeal are in respect of procedural irregularities only, the appeal shall be heard in such manner as the Appeals Panel shall in its absolute discretion decide.
- 11.9 The Appeals Panel may in its absolute discretion admit any evidence not presented at the hearing before the Disciplinary Committee. If either party wishes to introduce any new evidence not presented at the hearing before the Disciplinary Committee they shall give the other party notice, including the new evidence, at least 14 calendar days prior to the date set for the hearing of the appeal.
- 11.10 The Appeals Panel shall give the REC the opportunity of:
- (i) Attending and being heard at the hearing of the Appeal;
  - (ii) If they so desire, being represented legally or otherwise before the Appeals Panel;
  - (iii) Hearing evidence put forward by or on behalf of the Complaints Officer/the Body;
  - (iv) Cross examining witnesses, through the Chair, called by the Complaints Officer;
  - (v) Adducing the documentary evidence;
  - (vi) Calling witnesses to give evidence on their behalf;
  - (vii) Make such submissions as they wish to the Appeals Panel.

- 11.11 The Appeals Panel shall give the person or persons prosecuting the appeal the opportunity of:
- (i) Attending and being heard at the hearing of the Appeal;
  - (ii) Adducing documentary evidence;
  - (iii) Calling witnesses (including, if desired any Complainant to give evidence);
  - (iv) Cross examining witnesses, through the Chair, called by the REC;
  - (v) Making such submissions as they wish to the Appeals Panel.
- 11.12 The Complainant may attend the hearing of the Appeal as an observer and shall have no right to participate, other than as a witness.
- 11.13 On any Appeal, the Appeals Panel may affirm, vary or rescind any Order of the Disciplinary Committee in respect of which the Appeal was brought and may substitute any other finding or Order (on such terms and conditions) as it, in its absolute discretion, considers appropriate.
- 11.14 An Order of the Appeals Panel shall take effect as and from the date thereof, unless the Appeals Panel, in its absolute discretion, directs that it shall take effect from some other date (not being earlier than the date of the Order of the Disciplinary Committee which is subject to the Appeal) as shall be specified in the Order.
- 11.15 Notice of any finding or Order of the Appeals Panel, together with the reasons thereof, shall be given to the REC and to the Complainant and to the Body as soon as practicable. In the case where the Order of the Appeals Panel is to suspend or revoke the registration of the REC then the Body shall immediately notify the Commission.
- 11.16 The Order of the Appeals Panel will be final unless the Order is for the revocation or suspension of the registration of the REC. If the order of the Appeals Panel is the suspension or revocation of the registration of the REC, the REC may appeal the matter to the Commission, but not otherwise.
- 11.17 If the event that the Appeal does not result in the Order of the Appeals Panel altering or amending the Order of the Disciplinary Committee, the Appeals Panel may determine that the REC is liable for the reasonable costs of conducting the Appeal, either wholly or in part. In doing so, the Appeals Panel shall consult with the Commission prior to issuing such a determination.

## **12 APPEAL TO THE APPEALS COMMITTEE OF THE COMMISSION.**

- 12.1 The REC may appeal against the finding or Order of an Appeals Panel to the Commission where such sanction is for the suspension or revocation of the registration of the REC.
- 12.2 The REC must submit its appeal in accordance with the requirements of Section E (Appeals to the Commission).

## **13 APPLICATION OF DISCIPLINARY SANCTIONS BY THE BODY**

- 13.1 The Body shall apply any decision of the Disciplinary Committee or the Appeals Panel with respect to sanctions to be imposed on the REC further to the completion of the Disciplinary Procedure.

## **GUIDANCE AND CONSULTATION**

*The Commission welcomes comments on its proposals with respect to Section D and the disciplinary process outlined therein. In particular, the Commission invites specific comment concerning its proposals regarding:*

- 1. The obligations of the Body in dealing with a complaint initially and the requirements relating to the processing of that complaint up to the Disciplinary Committee;*
- 2. The constitution of both the Disciplinary Committee and Appeals Committee and, in particular, the Commission's proposals that there should be one of each committee, regardless of the number of bodies designated;*
- 3. The procedures proposed with respect to the consideration of complaints by the Body and their escalation to the Disciplinary Committee;*
- 4. The functions, rights, entitlements of, and the obligations placed on, the various parties involved in a disciplinary matter.*

## **SECTION E - APPEALS PROCESS**

## PREAMBLE

*Section 4 of the Act requires the Commission to publish Criteria relating to the disciplinary procedures to be operated by a Body in connection with the disciplining of an REC.*

*The Commission considers this a very significant role as it is essential to ensure that appropriate standards of safety are being maintained by all RECs and that an REC who contravenes the provisions of the Criteria Document can be appropriately disciplined, up to and including suspension or revocation of its registration with that Body.*

*The disciplinary process involves three stages, as outlined in Section D of the Criteria Document. These are: an investigative stage, a disciplinary stage and an appeals stage.*

*Where a complaint is made in respect of an REC, a Body will instigate the disciplinary process.*

*Similarly, where a disciplinary process commences further to an Audit/Inspection, the operation of the Performance Marking System and/or any material breach of the Criteria Document, the REC will be entitled to participate in all three stages of the disciplinary process.*

*If, on appeal to an Appeals Panel appointed by the Body, **the sanction to suspend or revoke the registration of the Registered Electrical Contractor is confirmed**, then the REC is entitled, under the Act, to appeal that decision to the Commission.*

*This section outlines the broad requirements concerning making an Appeal to the Commission.*

# **1 APPEAL BY THE REC**

## **1.1 Entitlement to Appeal**

- 1.1.1 An REC may only appeal, to the Commission, the decision of the Appeals Panel of the Body, when such decision has been to revoke or suspend the registration of the REC;

## **1.2 Form of Appeal**

- 1.2.1 The appeal shall be in writing (“Notice of Appeal”).

- 1.2.2 In order to be valid, the Notice of Appeal shall include:

- (i) the details of the REC;
- (ii) the specific grounds of the appeal;
- (iii) any legal submissions in respect of the appeal which the REC intends to rely on;
- (iv) all documentation and evidence the REC intends to rely on;
- (v) all witness statements and expert reports the REC intends to rely on; and,
- (vi) copies of the notifications by the Body (including its Complaints Officer, Disciplinary Committee, or the Appeals Panel of the Body) relating to the disciplinary proceedings.

- 1.2.3 In order to be valid, the Notice of Appeal must be lodged with the Commission within 28 calendar days from the date of the notification of the decision of the Appeals Panel of the Body.

- 1.2.4 The Commission reserves the right to consider only a Notice of Appeal which meets all of the above requirements.



## **2 COMMISSION APPEALS OFFICER AND PROCEDURES**

### **2.1 Appointment of Commission Appeals Officer**

2.1.1 The Commission, in considering an Appeal for the purposes of this Section, shall appoint one or more persons to act as an Appeals Officer (Commission Appeals Officer). The Commission Appeals Officer(s) shall be responsible for the handling of the appeal within the Commission and in line with the provisions set out in this section and under the Act.

2.1.2 The REC and the Body will be notified by the Commission of the appointment of the Commission Appeals Officer(s) within 10 calendar days of the receipt of the valid Notice of Appeal.

### **2.2 Procedures of Commission Appeals Officer**

2.2.1 The Commission Appeals Officer(s) shall review all documentation submitted as part of the Notice of Appeal by the REC together with all legal submissions made (if any) and all expert reports and witness statements provided (if any) with the REC's Notice of Appeal.

2.2.2 Having reviewed all of the documentation and legal submissions, the Commission Appeals Officer(s) will evaluate the factual, legal and procedural issues raised by the REC and will prepare a Report for the Commission's approval (Commission Appeals Report).

2.2.3 The Commission's Appeals Officer(s) will forward the Commission Appeals Report to the Commission within such timeline as is agreed with the Commission.

2.2.4 The Commission Appeals Report will set out whether or not, in the opinion of the Commission Appeals Officer(s), a prima facie case has been established against the REC and a recommendation as to whether or not the Commission should confirm, vary or set aside the decision of the Body's Appeals Panel.

2.2.5 The REC will comply with any requirements or procedures specified by the Commission or the Commission Appeals Officer relating to the Appeal.

### **2.3 Commission's Decision on Appeal**

2.3.1 Further to its consideration of the Commission Appeals Report, the Commission will, in accordance with the procedures to be determined by the Commission, make a decision to confirm, vary or set aside the decision of the Body's Appeals Panel

2.3.2 The Commission shall advise the Body, the Commission Appeals Officer(s) and the REC of its decision to confirm, vary or set aside the decision of the Body.

2.3.3 The Commission may furnish, in addition to a written copy of its decision, a copy of the Commission Appeals Report to the Body and the REC.

2.3.4 The Commission's decision on the Appeal shall be final.

## **GUIDANCE AND CONSULTATION**

*The Commission invites comment on the proposed process for the handling of an Appeal made by the REC to the Commission.*

*It should be noted that the main requirements concerning this process are set out under the Act.*

## **SECTION F - AUTHORISED OFFICER**

## **PREAMBLE**

*Under the Act, the Commission has the power to appoint a person or persons to act as an Authorised Officer. Authorised Officers (who may be a person or persons employed by the Body) may be appointed by the Commission to carry out inspections of:*

- *all electrical work which is being or has been carried out by an REC; or,*
- *electrical work for which a Completion Certificate has issued (a Controlled Work).*

*The Authorised Officer shall prepare a report in respect of any inspection and this shall be presented to either the Commission or the Body as the case may be.*

*This section outlines the duties and powers of an Authorised Officer and the procedures which should be followed by them in carrying out their inspections of electrical installations and in preparing their reports.*

**Note:** *For the avoidance of doubt with respect to this section, “reasonable assistance” shall include meeting with the Authorised Officer and responding to their queries.*

# **1 AUTHORISED OFFICER**

## **1.1 Appointment of Authorised Officer**

- 1.1.1 The Commission shall appoint an Authorised Officer in accordance with the Act.
- 1.1.2 The Commission shall specify the procedure and requirements for the appointment of an Authorised Officer. The Body, in applying for an Authorised Officer to be appointed, shall comply with such procedures and requirements as specified.
- 1.1.3 The Commission shall furnish a Certificate of Appointment to the Authorised Officer.
- 1.1.4 The Certificate of Appointment shall be for a period of time prescribed by the Commission. Upon the expiration of the Certificate of Appointment the Authorised Officer will no longer have the Powers of an Authorised Officer.
- 1.1.5 The Commission may at its discretion withdraw or cancel the Certificate of Appointment issued to an Authorised Officer.

## **1.2 Powers and Duties of an Authorised Officer**

- 1.2.1 The Commission may direct the Authorised Officer with respect to the carrying out of the Authorised Officer's powers and duties.
- 1.2.2 The Authorised Officer shall have the following powers:
  - (vii) to attend at and enter onto any land where the Authorised Officer believes work is being or has been carried out by an REC and/or work for which a completion certificate has issued;
  - (viii) inspect all electrical work associated with the electrical installation which is subject to the inspection and which they believe is necessary to assist them in the carrying out of the inspection;
  - (ix) obtain such information, documentation, computer and/or electronic records as they consider necessary for the carrying out of the inspection;
  - (x) inspect and copy documents that they consider necessary to assist them in the carrying out of the inspection;
  - (xi) take such photographs and make such drawings of the electrical works and the premises as they consider necessary;
  - (xii) require any person(s) who carried out the electrical work at the premises and the person who owns and/or occupies the premises on which the work was carried out to assist them in their inspection and investigation of the electrical works;

- (xiii) require the person who issued the Completion Certificate in respect of the electrical work to assist them in the carrying out of the inspection; and,
  - (xiv) require that documents relating to the electrical installation are produced and explained to them (and where they deem necessary, require responses and explanations in writing).
- 1.2.3 The Authorised Officer shall present the Certificate of Appointment for inspection to any party affected by the actions of the Authorised Officer in their capacity as Authorised Officer.
- 1.2.4 The Authorised Officer in the carrying out of the inspection shall be required at all times to act in a reasonable manner.

## **2 INSPECTION CARRIED OUT BY AN AUTHORISED OFFICER**

### **2.1 Notice of Inspection**

- 2.1.1 Where the Authorised Officer has been appointed to carry out an inspection of work by an REC, the Body (or the Commission, as appropriate) may notify the REC in writing two (2) working days prior to the inspection.
- 2.1.2 In the case where the electrical work being inspected has been completed by someone other than an REC, the person who owns and/or occupies the premises on which the work was carried out shall be informed in writing two (2) working days prior to the Authorised Officer's inspection taking place.
- 2.1.3 The owner and/or occupier of such premises shall not obstruct the Authorised Officer in carrying out their duties.

### **2.2 Co-operation with Authorised Officer**

- 2.2.1 An REC and every employee or other party engaged by that REC shall provide all reasonable assistance to the Authorised Officer and shall provide all documentation, records and information he or she requires.
- 2.2.2 It shall be an offence for a person to obstruct an Authorised Officer performing any function he or she is authorised to perform pursuant to the Act and the Certificate of Appointment.

### **2.3 Carrying out of the Inspection**

- 2.3.1 The Body shall have documented procedures (which may be subject to approval by the Commission) for the Authorised Officer in the carrying out of the functions associated with their appointment. These procedures shall include those matters and requirements relating to:
  - (i) the entry onto premises or land by the Authorised Officer;
  - (ii) the inspection of electrical works;

- (iii) interviewing relevant parties and requesting information from them to assist in their investigation/inspection; and/or,
- (iv) the documenting of evidence and facts further to the carrying out of the investigation/inspection; and/or,
- (v) the preparation of a report on the investigation (the Authorised Officer's Inspection Report as set out in Section 3 hereunder).

2.3.2 These procedures shall be made available to any party upon request during or prior to an inspection by an Authorised Officer.

### **3 AUTHORISED OFFICER INSPECTION REPORT**

3.1.1 The Authorised Officer shall complete a Report on the Inspection (Authorised Officer's Report).

3.1.2 The Authorised Officer's Report shall:

- (i) set out the details of the investigation and circumstances leading up to the investigation;
- (ii) set out the Authorised Officer's findings of fact;
- (iii) confirm whether or not the electrical installation, the electrical works and the certification associated with such works comply with the appropriate Technical Rules and/or sections of the Criteria Document and the Act. This shall include any other requirements/procedures relating to the REC and their electrical works and certification (for example, storage of certificates, insurance, etc.).

3.1.3 The Body may (if appropriate and according to the case in question) forward a copy of that Report within such timeline as is specified by Commission to:

- (i) the REC;
- (ii) the owner and/or occupier of the premises where the electrical work was carried out;
- (iii) the Commission;
- (iv) any other party as requested by the Commission.

## **GUIDANCE AND CONSULTATION**

*The Commission invites comment on this Section F.*

*It should be noted that in considering the responses on this matter, the requirements relating to the appointment and operation of an Authorised Officer emanate directly from the Act and are therefore bound by the provisions of the Act.*