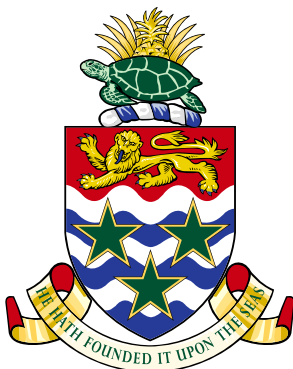


CAYMAN ISLANDS



Financial Assistance Act, 2022

(Act 10 of 2022)

**FINANCIAL ASSISTANCE (APPEALS)
REGULATIONS, 2023**

(SL 23 of 2023)

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CAYMAN ISLANDS**Financial Assistance Act, 2022****(Act 10 of 2022)****FINANCIAL ASSISTANCE (APPEALS)
REGULATIONS, 2023****(SL 23 of 2023)****Arrangement of Regulations**

Regulation	Page
1. Citation and commencement	5
2. Definitions.....	5
3. Appeal against decision of Director.....	6
4. Filing of notice of appeal.....	6
5. Procedure on receipt of appeal.....	6
6. Director to provide original decision	7
7. Notice of hearing	7
8. Disclosure.....	7
9. Notice of additional evidence	8
10. Waiver of notice periods	8
11. Conduct of hearing	8
12. Witnesses at hearing	8
13. Withdrawal of appeal or defence.....	9
14. Absence of parties.....	9
15. Decisions of the Appeals Tribunal.....	9
16. Director to give effect to decisions of Appeals Tribunal	9
17. Costs.....	10
18. Appeal from decisions of the Appeals Tribunal	10

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Financial Assistance Act, 2022

(Act 10 of 2022)

**FINANCIAL ASSISTANCE (APPEALS)
REGULATIONS, 2023**

(SL 23 of 2023)

In exercise of the powers conferred by section 34 of the Financial Assistance Act, 2022, the Cabinet makes the following Regulations —

Citation and commencement

1. (1) These Regulations may be cited as the Financial Assistance (Appeals) Regulations, 2023.
- (2) These Regulations come into force immediately after the *Financial Assistance Act, 2022* comes into force.

Definitions

2. In these Regulations, “**appellant**” means an applicant or a recipient who appeals to the Appeals Tribunal against the decision of the Director in respect of an application under section 18 of the Act for the reconsideration of the decision.

Appeal against decision of Director

3. (1) Where an applicant or a recipient is aggrieved by, or dissatisfied with, the decision of the Director in respect of an application for reconsideration under section 18 of the Act, the aggrieved applicant or recipient may, within twenty-eight working days of the communication of the decision of the Director, or such longer period as the Appeals Tribunal may allow for good cause shown, appeal against the decision of the Director to the Appeals Tribunal.
- (2) For the purposes of paragraph (1), if notice of the decision of the Director is sent by registered mail, the decision of the Director, unless the contrary is proved, shall be deemed to have been communicated to the person at the time at which the registered mail would have been received.

Filing of notice of appeal

4. (1) An appeal shall be by notice in writing, signed by or on behalf of an appellant and contain the following particulars —
- (a) the appellant's name;
 - (b) the appellant's address;
 - (c) the address to which documents in connection with the matter should be sent to the appellant, if different from that referred to in subparagraph (b);
 - (d) the decision against which the appeal is made;
 - (e) the grounds of the appeal; and
 - (f) whether or not the appellant wishes to be heard personally or by a representative.
- (2) A notice of appeal under paragraph (1) shall be —
- (a) filed with the secretary to the Appeals Tribunal; and
 - (b) addressed to the Appeals Tribunal.

Procedure on receipt of appeal

5. (1) Subject to paragraph (2), on receipt of a notice of appeal under regulation 4, the Appeals Tribunal shall —
- (a) notify the Director of the decision against which the appeal is made and the grounds of the appeal; and
 - (b) give the Director —
 - (i) twenty-eight working days, with time running from the date on which the Appeals Tribunal notifies the Director of the notice of appeal; or
 - (ii) such longer period as the Appeals Tribunal may allow for good cause shown,to provide a written defence to the appeal.



- (2) The Appeals Tribunal, after receipt of a notice of appeal under regulation 4 —
 - (a) may deny the request for an appeal on the basis that the appeal is frivolous or vexatious and of no merit; and
 - (b) where the request for an appeal is denied, shall communicate in writing to the appellant and the Director the decision to deny the request.

Director to provide original decision

6. Whether or not the Director provides a written defence to the appeal under regulation 5(1), the Director shall forward to the Appeals Tribunal, as soon as practicable after receiving the notice of appeal —
 - (a) a copy of the decision and any other documents related or relevant to the appeal and the reasons given by the Director for the decision; and
 - (b) a copy of any other document or information in the Director's possession that is relevant to the decision and the appeal.

Notice of hearing

7. The Appeals Tribunal shall fix the date, time and place for the hearing of an appeal and give at least fourteen working days' written notice to an appellant and the Director of the date, time and place of the hearing.

Disclosure

8. (1) Where the Appeals Tribunal gives notice of a hearing under regulation 7, the appellant and the Director shall disclose, or allow the inspection of, documents related or relevant to the appeal in the appellant's or the Director's custody, at least seven working days before the date fixed for the hearing.
- (2) Paragraph (1) does not apply to —
 - (a) documents or information covered by legal professional privilege or privilege by virtue of any law; and
 - (b) confidential documents of third parties, unless —
 - (i) the written consent of the third party is obtained; or
 - (ii) the Appeals Tribunal directs that disclosure be made specifically for the purpose of the hearing.
- (3) Where an appellant or the Director has access to information which is related or relevant to the appeal and which is not reasonably available to the other party, the Appeals Tribunal may direct the party with access to that information to —
 - (a) prepare and file a document recording that information; and
 - (b) serve a copy of the document on the other party.

Notice of additional evidence

9. An appellant who wishes to provide additional evidence to the Appeals Tribunal shall so notify the Appeals Tribunal and the Director, in writing.

Waiver of notice periods

10. (1) The Appeals Tribunal, on its own initiative or on written request by an appellant or the Director, may do any of the following —
- (a) adjourn a hearing to any date, time or place;
 - (b) waive any notice period;
 - (c) waive any requirement to send any document, information or other article or material to the appellant or the Director; or
 - (d) where there has been a failure to comply with a requirement under these Regulations, waive that requirement or impose a modified requirement.
- (2) The Appeals Tribunal, before carrying out an action under paragraph (1), shall be satisfied that carrying out the action would not be contrary to the rules of natural justice.

Conduct of hearing

11. (1) At the hearing of an appeal, where an appellant or an appellant's representative is present —
- (a) the appellant or the appellant's representative shall be given an opportunity to address the Appeals Tribunal;
 - (b) the Director or the Director's representative shall be heard in answer if called upon by the Appeals Tribunal; and
 - (c) the Appeals Tribunal may call upon either party to address the Appeals Tribunal further.
- (2) A representative of an appellant or the Director need not be an attorney-at-law.

Witnesses at hearing

12. (1) Where necessary to the determination of an appeal, the Appeals Tribunal may hear witnesses for an appellant or the Director.
- (2) Neither an appellant nor the Director may put in evidence an expert witness's report without applying for and receiving the permission of the Appeals Tribunal.
- (3) Where an appellant or the Director applies for the permission of the Appeals Tribunal under paragraph (2), the appellant or the Director shall provide an estimate of the costs of the proposed expert evidence and identify —
- (a) the field in which the expert evidence is required and the issues which the expert evidence addresses; and



- (b) where practicable, the name of the proposed expert witness.
- (4) Where the Appeals Tribunal grants permission, the permission granted —
 - (a) shall be in relation to the expert witness named or the field identified under paragraph (3); and
 - (b) shall specify the issues which the expert evidence shall address.
- (5) Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings.

Withdrawal of appeal or defence

- 13.** (1) An appellant or the Director may withdraw an appeal or a defence to an appeal by notice, in writing, to the Appeals Tribunal, at any time before the Appeals Tribunal makes a decision.
- (2) A notice of withdrawal under paragraph (1) shall be served on an appellant or the Director, as the case may be, as soon as reasonably practicable after the notice of withdrawal is provided to the Appeals Tribunal.
- (3) Where an appellant withdraws an appeal, the appeal shall be dismissed and the appellant shall be precluded from laying claim to any costs incurred up to the date of the withdrawal.
- (4) Where the Director withdraws a defence to an appeal, the Appeals Tribunal shall —
 - (a) make a decision under section 25(1) of the Act; and
 - (b) give such directions as it thinks fit for the payment of costs or expenses of an appellant.

Absence of parties

- 14.** The Appeals Tribunal may conduct a hearing and decide an appeal where an appellant or the appellant's representative or the Director or the Director's representative is not present at the hearing.

Decisions of the Appeals Tribunal

- 15.** (1) The Appeals Tribunal shall make a decision no later than twenty-eight working days after the hearing.
- (2) Decisions of the Appeals Tribunal, with reasons for said decisions, shall be communicated in writing to an appellant and the Director.

Director to give effect to decisions of Appeals Tribunal

- 16.** The Director shall take such steps as may be required to give effect to a decision of the Appeals Tribunal within seven working days after the decision has been communicated to the Director.

Costs

17. The Appeals Tribunal may give such directions as it thinks fit for the payment of costs or expenses of an appellant.

Appeal from decisions of the Appeals Tribunal

18. Where an appellant or the Director is aggrieved by a decision of the Appeals Tribunal, the appellant or the Director, within twenty-eight days after the decision is communicated, may appeal to the Grand Court against that decision, on a point of law only.

Made in Cabinet the 10th day of October, 2023.

Kim Bullings
Clerk of the Cabinet

