

**L.N. 25 of 2008****ACCREDITATION OF ACADEMIC AND VOCATIONAL  
QUALIFICATIONS (APPEAL) RULES****CONTENTS**

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## ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS (APPEAL) RULES

(Made by the Rules Committee under section 17(2) of the Accreditation of Academic and Vocational Qualifications Ordinance (6 of 2007))

### 1. Commencement

These Rules shall come into operation on 5 May 2008.

### 2. Interpretation

In these Rules, unless the context otherwise requires—

“Appeal Board” (上訴委員會) means the appeal board established under section 10(1) of the Ordinance;

“notice of appeal” (上訴通知書) means a notice of appeal lodged under section 11(2) of the Ordinance;

“presiding officer” (審裁官) means the presiding officer within the meaning of section 12(1)(a) of the Ordinance;

“respondent” (答辯人) means—

- (a) in relation to an appeal against a determination or decision of the Accreditation Authority, the Accreditation Authority;
- (b) in relation to an appeal against a decision of the QR Authority, the QR Authority.

### 3. Notice of appeal

(1) An appeal shall be made by lodging a notice of appeal in accordance with section 11(2) of the Ordinance.

(2) A copy of a notice of appeal lodged with the Appeal Board shall be served on the respondent on the day on which the notice is lodged with the Appeal Board.

(3) A notice of appeal shall be accompanied by—

- (a) a statement specifying the grounds of the appeal; and
- (b) a statement of the facts relied on as may suffice to enable the Appeal Board and the respondent to be fully and fairly informed of the grounds of appeal.

(4) Where the Appeal Board is satisfied that the appellant has failed to comply with subsection (2) or (3), the Appeal Board may dismiss the appeal.

#### **4. Appellant to serve documents**

(1) The appellant shall, within 7 days after the lodging of the notice of appeal or such further period as the presiding officer may specify, serve on the Appeal Board and the respondent on the same day—

- (a) a copy of all documents the appellant intends to rely on; and
- (b) a list of the names of all witnesses the appellant intends to call at the hearing of the appeal.

(2) Where the Appeal Board is satisfied that the appellant has failed to comply with subsection (1), the Appeal Board may dismiss the appeal.

#### **5. Respondent to serve documents**

The respondent shall, within 28 days after receiving a copy of the notice of appeal under section 3(2) or such further period as the presiding officer may on application allow, serve on the Appeal Board and the appellant on the same day—

- (a) a written summary of the facts of the case and the reasons for the determination or decision appealed against;
- (b) a copy of all documents the respondent intends to rely on; and
- (c) a list of the names of all witnesses the respondent intends to call at the hearing of the appeal.

#### **6. Date, time and place of hearing**

(1) Upon service of the documents referred to in sections 4(1) and 5, the presiding officer shall fix the date, time and place of the hearing of the appeal.

(2) The presiding officer shall, not less than 14 days before the date of the hearing, serve on the appellant and the respondent a notice in writing of the date, time and place of the hearing.

#### **7. Grounds of appeal**

The grounds of appeal shall be limited to those set out in the notice of appeal unless the Appeal Board grants leave for the grounds of appeal to be amended.

#### **8. Languages**

The hearing of an appeal may be conducted in the Chinese or English language or both as the Appeal Board thinks fit.

## 9. Abandonment of appeal

(1) An appellant may, at any time, abandon the appeal or any part of the appeal by notice in writing served on the Appeal Board.

(2) An appellant who serves a notice under subsection (1) shall at the same time serve a copy of such notice on the respondent.

## 10. Failure of appellant to attend hearing

(1) If at the time fixed for the hearing of an appeal, the appellant fails to attend the hearing either in person or through an authorized representative, the Appeal Board may—

(a) if it is satisfied that the appellant's failure to attend was due to sickness or any other reasonable cause, postpone or adjourn the hearing for such period as it thinks fit;

(b) proceed to hear the appeal; or

(c) by order dismiss the appeal.

(2) Where an appeal is dismissed under subsection (1)(c), the appellant may, within 14 days after the making of the order for dismissal, apply to the Appeal Board for a review of the order by serving a notice in writing on the Appeal Board.

(3) An appellant who serves a notice under subsection (2) shall at the same time serve a copy of such notice on the respondent.

(4) The Appeal Board may, if it is satisfied that the appellant's failure to attend the hearing was due to sickness or any other reasonable cause, set aside the order for dismissal.

(5) Where the Appeal Board sets aside an order under subsection (4), the presiding officer shall—

(a) fix the date, time and place for a fresh hearing of the appeal; and

(b) not less than 14 days before the date so fixed, serve on the appellant and the respondent a notice in writing of the date, time and place of the hearing.

## 11. Service

Any document, notice or thing required to be served or lodged under these Rules may be served or lodged in person or by post.

CHAN Kin-keung  
Chairman,  
Rules Committee

23 January 2008

### **Explanatory Note**

These Rules are made under the Accreditation of Academic and Vocational Qualifications Ordinance (6 of 2007).

2. Section 3 provides that an appeal should be made by lodging a notice of appeal with the Appeal Board and that a copy thereof should be served on the respondent.
3. Sections 4 and 5 set out the documents that have to be served by the appellant and the respondent on the Appeal Board and the other party respectively.
4. Section 6 provides for the fixing of the date, time and place for the hearing of an appeal.
5. Section 7 limits the grounds of appeal as set out in the notice of appeal unless leave is granted by the Appeal Board to amend the grounds of appeal.
6. Section 8 provides that the hearing of an appeal could be conducted in Chinese or English or both.
7. Section 9 allows the appellant to abandon the appeal or any part of it at any time.
8. Section 10 makes provision for situation where the appellant fails to attend the hearing.
9. Section 11 provides for service of documents, etc. in person or by post.