

**Copies of statutory provisions relating to
the appointment of the Chairman, Deputy Chairman and
panel members of Appeal Boards and
the tenure of such appointment**

關乎上訴委員會的主席、副主席及備選委員的委任
及該項委任的任期的法例條文文本

Chapter:	466	Title:	DUMPING AT SEA ORDINANCE	Gazette Number:	34 of 2000
Section:	28	Heading:	Constitution of Appeal Board panel	Version Date:	01/07/1997

(1) The Chief Executive may appoint a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336) and who is not a public officer as Chairman to sit on all Appeal Boards. (Amended 34 of 2000 s. 3)

(2) The term of appointment for the Chairman is not more than 3 years and he may be reappointed.

(3) The Chief Executive may appoint a panel of persons whom he considers suitable as members of an Appeal Board. (Amended 34 of 2000 s. 3)

(4) The term of appointment for a member of the panel is not more than 3 years and he may be reappointed.

(5) Appointments under this section are to be published in the Gazette.

(Enacted 1995)

章：	466	標題：	海上傾倒物料條例	憲報編號：	25 of 1998; 34 of 2000
條：	28	條文標題：	上訴委員會委員團的 組成	版本日期：	01/07/1997

附註：

具追溯力的適應化修訂一見 1998 年第 25 號第 2 條；2000 年第 34 號第 3 條

(1) 行政長官可委任有資格根據《區域法院條例》(第 336 章)第 5 條獲委任為區域法院法官的人，出任所有上訴委員會的主席，但該人不得是公職人員。(由 1998 年第 25 號第 2 條修訂；由 2000 年第 34 號第 3 條修訂)

(2) 主席的任期不得超過 3 年，但可再獲委任。

(3) 行政長官可委出委員團，而該委員團中的人均為行政長官認為適合擔任上訴委員會委員的人。(由 2000 年第 34 號第 3 條修訂)

(4) 委員團成員的任期不得超過 3 年，但可再獲委任。

(5) 根據本條作出的委任均須在憲報公布。

(1995 年制定)

Chapter:	456	Title:	CONSUMER GOODS SAFETY ORDINANCE	Gazette Number:
Section:	14	Heading:	Appeal Board panel	Version Date: 30/06/1997

(1) The Secretary shall appoint members to an Appeal Board panel based on the following numbers and categories-

- (a) a chairman and a deputy chairman each of whom shall be a barrister qualified to practise as such or a solicitor qualified to act as such under the Legal Practitioners Ordinance (Cap 159);
- (b) not more than 5 members who are scientists or technologists with relevant expertise in consumer goods;
- (c) not more than 5 members who are from the consumer goods industry;
- (d) not more than 5 members of the general public who do not come within the categories referred to in paragraphs (b) and (c).

(2) A public officer is not eligible for appointment to the Appeal Board panel.

(3) A member shall be appointed for a term determined by the Secretary, and he may set different terms for each member, and a member may be reappointed at the end of a term.

(Enacted 1994)

章：	456	標題：	消費品安全條例	憲報編號：	L.N. 106 of 2002
條：	14	條文標題：	上訴委員會	版本日期：	01/07/2002

(1) 局長須按下列人數及組別委任上訴委員會的成員— (由 2002 年第 106 號法律公告修訂)

- (a) 主席及副主席各一名，他們須為根據《執業律師條例》(第 159 章)具備有關執業資格的大律師或律師；
- (b) 不超過 5 名在消費品方面具備有關專長的科學家或科技專家；
- (c) 不超過 5 名來自消費品工業的人士；
- (d) 不超過 5 名並非隸屬(b)及(c)段所提述組別的公眾人士。

(2) 公職人員並無資格獲委任為上訴委員會的成員。

(3) 成員的任期由局長決定，而局長可對不同的成員定出不同的任期；成員在任期屆滿時可再獲委任。(由 2002 年第 106 號法律公告修訂)

(1994 年制定。由 1997 年第 362 號法律公告修訂；由 2000 年第 218 號法律公告修訂)

Chapter:	563	Title:	URBAN RENEWAL AUTHORITY ORDINANCE	Gazette Number:	L.N. 92 of 2001
Section:	27	Heading:	Appeal Board	Version Date:	01/05/2001

(1) The Chief Executive may appoint a panel of persons ("the Appeal Board panel") whom he considers suitable to sit as members of an Appeal Board to hear an appeal under section 28.

(2) The Chief Executive shall not appoint-

- (a) a director of the Board of the Authority;
- (b) an employee of the Authority; or
- (c) a public officer,

to the Appeal Board panel.

(3) In subsection (2), "public officer" (公職人員) does not include a judge of the Court of First Instance, a recorder of the Court of First Instance, a deputy judge of the Court of First Instance or a District Judge.

(4) The Chief Executive may appoint a member of the Appeal Board panel as Chairman of the panel and may appoint one or more members as Deputy Chairmen of the panel as he thinks fit.

(5) The Chief Executive may appoint a public officer to be the secretary to the Appeal Board panel who at the same time serves as the secretary to an Appeal Board.

(6) Members of the Appeal Board panel shall be appointed for a term not exceeding 3 years but shall be eligible for reappointment.

(7) Members of the Appeal Board panel may resign at any time by notice in writing given to the Chief Executive.

(8) On receipt of a notice of appeal, the secretary to the Appeal Board panel shall notify the Chairman of the panel who shall, subject to subsections (9), (10), (15) and (20), nominate an Appeal Board to hear the appeal.

(9) The Chairman of the Appeal Board panel shall not nominate an Appeal Board to hear an appeal or act as its Chairman if he has a direct or indirect interest in the appeal.

(10) A Deputy Chairman of the Appeal Board panel designated for the purpose by the Chairman of the panel shall, in the absence of the Chairman of the panel, or if the Chairman of the panel has a direct or indirect interest in an appeal, nominate an Appeal Board to hear the appeal.

(11) Subsection (9) shall apply to a Deputy Chairman of the Appeal Board panel as it applies to the Chairman of the panel.

(12) A member of the Appeal Board panel shall not be nominated to an Appeal Board to hear an appeal or act as its member if he has a direct or indirect interest in the appeal.

(13) Subject to subsections (9), (10), (12), (15) and (20), the Chairman or a Deputy Chairman and 4 other members of the Appeal Board panel shall constitute an Appeal Board to hear an appeal.

(14) Subject to subsections (9), (10), (15) and (20), the Chairman or a Deputy Chairman of the Appeal Board panel shall act as the Chairman of an Appeal Board.

(15) If the Chairman of the Appeal Board panel and the Deputy Chairman designated under subsection (10) have a direct or indirect interest in an appeal, the Chief Executive may appoint another Deputy Chairman or another member of the panel, who does not have a direct or indirect interest in the appeal, to nominate an Appeal Board to hear the appeal and to act as the Chairman of the Appeal Board.

(16) At least 3 members, one of whom must be the Chairman of the Appeal Board, shall be present to hear and determine an appeal.

(17) The Appeal Board shall hear the appeal and a majority of the members hearing the appeal shall determine questions before it.

(18) Where there is an equality of votes in respect of any question to be determined in an appeal, the Chairman of the Appeal Board shall have a casting vote in addition to his original vote.

(19) A member shall not take part in determining the questions before the Appeal Board unless he has been present at all the Appeal Board hearings held in respect of the appeal concerned.

(20) If the Chairman of the Appeal Board panel is precluded by illness or absence from Hong Kong from exercising his functions-

(a) the Deputy Chairman designated under subsection (10) shall act as Chairman; or

(b) if the Deputy Chairman designated under that subsection is unable to act as Chairman, the Chief Executive may appoint another Deputy Chairman or another member to act as Chairman.

(21) The Chairman and the members of an Appeal Board may be paid such remuneration and allowances as the Financial Secretary may determine.

章：	563	標題：	市區重建局條例	憲報編號：	L.N. 92 of 2001
條：	27	條文標題：	上訴委員會	版本日期：	01/05/2001

- (1) 行政長官可委出一個由他認為適宜擔任上訴委員會成員的人組成的委員團(“上訴委員團”)，負責聆訊根據第 28 條提出的上訴。
- (2) 行政長官不得委任以下人士為上訴委員團成員—
 - (a) 董事會的成員；
 - (b) 市建局的僱員；及
 - (c) 公職人員。
- (3) 在第(2)款中，“公職人員”(public officer) 不包括原訟法庭法官、原訟法庭特委法官、原訟法庭暫委法官或區域法院法官。
- (4) 行政長官可委任一名上訴委員團成員為委員團主席，並可視其認為合適而委任一名或多於一名成員為委員團副主席。
- (5) 行政長官可委任一名公職人員為上訴委員團秘書，他同時出任上訴委員會秘書。
- (6) 上訴委員團的成員的任期不得超過 3 年，但有資格再獲委任。
- (7) 上訴委員團的成員可隨時向行政長官發出書面通知而辭職。
- (8) 在收到上訴通知書後，上訴委員團秘書須通知委員團主席，而在符合第(9)、(10)、(15)及(20)款的規定下，委員團主席須提名一個上訴委員會以聆訊該宗上訴。
- (9) 上訴委員團主席如在某宗上訴中有直接或間接的利害關係，則不得提名上訴委員會以聆訊該宗上訴或出任該上訴委員會主席。
- (10) 在上訴委員團主席不在時，或如他在某宗上訴中有直接或間接的利害關係，則一名由他為此目的而指定的上訴委員團副主席須提名一個上訴委員會以聆訊該宗上訴。
- (11) 第(9)款適用於上訴委員團副主席，一如其適用於委員團主席。
- (12) 上訴委員團的成員如在某宗上訴中有直接或間接的利害關係，則不得被提名出任上訴委員會成員以聆訊該宗上訴或出任該上訴委員會的成員。
- (13) 在符合第(9)、(10)、(12)、(15)及(20)款的規定下，上訴委員團主席或一名副主席加上 4 名其他成員即組成一個上訴委員會以聆訊上訴。
- (14) 在符合第(9)、(10)、(15)及(20)款的規定下，上訴委員團主席或副主席須出任上訴委員會主席。
- (15) 如上訴委員團主席及根據第(10)款獲指定的副主席在某宗上訴中有直接或間接的利害關係，行政長官可委任另一名在該宗上訴中沒有直接或間接利害關係的委員團副主席或成員，由其提名一個上訴委員會以聆訊該宗上訴和出任該上訴委員會主席。
- (16) 須有至少 3 名成員(其中一名須為上訴委員會主席)出席上訴聆訊和就上訴作出裁定。

- (17) 上訴委員會須聆訊上訴，而有待上訴委員會所裁定的問題須由聆訊上訴的成員以過半數票裁定。
- (18) 如聆訊上訴的成員就任何待上訴裁定的問題所投的票出現票數均等，則上訴委員會主席除原有的一票外，還可投決定票。
- (19) 除非成員曾出席所有就有關上訴所舉行的上訴委員會聆訊，否則他不得參與裁定上訴委員會所面對的問題。
- (20) 如上訴委員會主席因傷病或不在香港而不能行使其職能—
- (a) 則根據第(10)款獲指定的副主席須署理主席一職；或
 - (b) 而根據第(10)款獲指定的副主席亦不能署理主席一職，則行政長官可委任另一名副主席或成員署理主席一職。
- (21) 上訴委員會主席及其成員可獲由財政司司長決定的薪酬及津貼。
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Chapter:	220	Title:	MUNICIPAL SERVICES APPEALS BOARD ORDINANCE	Gazette Number:	L.N. 320 of 1999
Section:	5	Heading:	Persons excluded from membership	Version Date:	01/01/2000

(1) For the purposes of an appeal, the Board shall not include a person who, or a member of a body which, was involved in making the relevant administrative decision or the appeal board decision or a decision confirmed, varied, suspended or cancelled by the appeal board decision.

(2) Subsection (1) does not apply if the person or other body was involved in making the administrative decision, the appeal board decision or other decision only to the extent of delegating the power to make the administrative decision, the appeal board decision or other decision.

(Enacted 1990. Replaced 78 of 1999 s. 7)

Section:	6	Heading:	Chairman, Vice-chairman, Secretary and panel members	Version Date:	01/01/2000
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(1) The Chief Executive shall appoint-

- (a) a legally qualified person to be the Chairman of the Board;
- (b) a Secretary to the Board;
- (c) a panel of persons who are not public officers and whom he considers suitable for nomination as members of the Board under section 3(3)(b). (Replaced 78 of 1999 s. 7)

(2) The Chief Executive may appoint one or more persons who are legally qualified as Vice-chairmen of the Board. (Replaced 78 of 1999 s. 7)

(3) All appointments under this section shall be notified in the Gazette and, except in the case of the Secretary, shall be for a term of 3 years.

(4) Any person appointed under this section may be re-appointed, and may resign by notice in writing to the Chief Executive.

(5) Where a person ceases to be Chairman, Vice-chairman or a member of a panel appointed under subsection (1)(c), and at the time of that event the person is involved in the hearing of an appeal to the Board, that person may continue to hear and determine that appeal.

(Amended 78 of 1999 s. 7)

(6) In this section, "legally qualified" (具有法律專業資格) means qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336).

(Enacted 1990. Amended 59 of 1999 s. 3)

章：	220	標題：	市政服務上訴委員會 條例	憲報編號：	L.N. 320 of 1999
條：	5	條文標題：	不得成為委員會成員 的人	版本日期：	01/01/2000

(1) 委員會在處理上訴時，不得包括曾參與作出有關決定的人，或曾參與作出該決定的團體的成員，在本條中，“有關決定”指有關的行政決定或上訴委員會決定，或由該上訴委員會決定所確認、更改或取消的決定，或因該上訴委員會決定而暫緩執行的決定。

(2) 如該人或該團體參與作出有關決定的方式，只限於轉授權力給別人作出該決定，則第(1)款並不適用。

(1990年制定。由1999年第78號第7條代替)

條：	6	條文標題：	主席、副主席、秘書及 審裁小組成員	版本日期：	01/01/2000
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(1) 行政長官須委出一

(a) 一名具有法律專業資格的人為委員會主席；

(b) 一名委員會秘書；

(c) 一個審裁小組，其成員須不是公職人員，且須是行政長官認為適合根據第3(3)(b)條指定為委員會成員的人。(由1999年第78號第7條代替)

(2) 行政長官可委任一名或多於一名具有法律專業資格的人為委員會副主席。(由1999年第78號第7條代替)

(3) 所有根據本條作出的委任須在憲報公布；除秘書外，所有委任的任期均為3年。

(4) 根據本條獲委任的人可再獲委任，並可用書面通知方式向行政長官提出辭職。

(5) 凡任何人停止擔任主席、副主席時，或停止擔任根據第(1)(c)款委任的審裁小組成員時，正在參與聆訊已向委員會提出的上訴，則他仍可繼續聆訊該宗上訴，並作出裁決。(由1999年第78號第7條修訂)

(6) 在本條中，“具有法律專業資格”(legally qualified)指具有根據《區域法院條例》(第336章)第5條可獲委任為區域法院法官的資格。(由1998年第25號第2條修訂)

(1990年制定。由1999年第59號第3條修訂)

Chapter:	106	Title:	TELECOMMUNICATIONS ORDINANCE	Gazette Number:	36 of 2000
Section:	32M	Heading:	Establishment and membership of Appeal Board	Version Date:	16/06/2000

- (1) There is hereby established an appeal board called in English the "Telecommunications (Competition Provisions) Appeal Board" and in Chinese the "電訊(競爭條文)上訴委員會".
- (2) Subject to subsections (3) and (4), the Chief Executive shall appoint a person to be the Chairman of the Appeal Board and such other persons as he thinks fit to be Deputy Chairmen of the Appeal Board.
- (3) A person shall not be appointed under subsection (2) unless the person is eligible to be appointed a judge of the High Court under section 9 of the High Court Ordinance (Cap 4).
- (4) Subject to subsections (7) and (8), the Chairman and a Deputy Chairman shall each be appointed for a term of not more than 2 years but may be reappointed.
- (5) The Chief Executive shall appoint a panel of persons not being public officers whom he considers suitable for appointment under section 32O(1)(a)(ii) as members of the Appeal Board.
- (6) An appointment under subsection (2) or (5) shall be notified in the Gazette.
- (7) The Chairman, a Deputy Chairman or a panel member may at any time resign by notice in writing to the Chief Executive.
- (8) The Chief Executive may revoke the appointment of the Chairman, a Deputy Chairman or a panel member on the ground of incapacity, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Chief Executive.
- (9) The remuneration, if any, of the Chairman, a Deputy Chairman and a panel member shall be paid at a rate that the Financial Secretary determines.

(Part VC added 36 of 2000 s. 17)

章：	106	標題：	電訊條例	憲報編號：	36 of 2000
條：	32M	條文標題：	上訴委員會的成立及 成員資格	版本日期：	16/06/2000

- (1) 現成立一個中文名稱爲“電訊(競爭條文)上訴委員會”而英文名稱爲"Telecommunications (Competition Provisions) Appeal Board" 的上訴委員會。
 - (2) 在第(3)及(4)款的規限下，行政長官須委任一名人士擔任上訴委員會主席，並須委任行政長官認爲合適的若干名其他人士擔任上訴委員會副主席。
 - (3) 根據《高等法院條例》(第 4 章)第 9 條有資格獲委任爲高等法院法官的人方可根據第(2)款獲委任。
 - (4) 除第(7)及(8)款另有規定外，主席及副主席的任期均不得超過 2 年，但可獲再度委任。
 - (5) 行政長官須委任他認爲適合根據第 32O(1)(a)(ii)條獲委任爲上訴委員會成員的並非公職人員的人士，組成一個備選委員小組。
 - (6) 根據第(2)或(5)款作出的委任須在憲報公布。
 - (7) 主席、副主席或任何備選委員可隨時向行政長官發出書面通知而辭職。
 - (8) 如有證明令行政長官信納主席、任何副主席或任何備選委員喪失執行職能的能力、破產、疏於職守或有不當行爲，行政長官可基於該等理由而撤銷他的委任。
 - (9) 主席、副主席及備選委員的酬金(如有的話)的款額由財政司司長決定。
(第 VC 部由 2000 年第 36 號第 17 條增補)
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Chapter:	499	Title:	ENVIRONMENTAL IMPACT ASSESSMENT ORDINANCE	Gazette Number:	L.N. 70 of 1998
Section:	18	Heading:	Appeal Board panel	Version Date:	01/04/1998

Remarks: Adaptation amendments retroactively made - see 34 of 2000 s. 3

- (1) The Appeal Board shall determine an appeal under this Ordinance.
- (2) The Chief Executive shall appoint as Chairman of the Appeal Board panel a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336).
- (3) The Chief Executive may appoint as Deputy Chairman of the Appeal Board panel a person who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336) who may act as Chairman in his absence.
- (4) The Chairman, a Deputy Chairman and a person appointed to the Appeal Board panel are appointed for a term of 3 years but may be reappointed.
- (5) The Chief Executive shall appoint a panel of persons whom he considers suitable for appointment as members of the Appeal Board to hear any appeal under this Ordinance.
- (6) An appointment under subsection (2), (3) or (5) is to be notified in the Gazette.
- (7) The Chairman, a Deputy Chairman and a person appointed to the Appeal Board panel may at any time resign by notice in writing to the Chief Executive.

(Amended 34 of 2000 s. 3)

章：	499	標題：	環境影響評估條例	憲報編號：	L.N. 70 of 1998
條：	18	條文標題：	上訴委員會小組	版本日期：	01/04/1998

附註：

具追溯力的適應化修訂一見 1998 年第 25 號第 2 條；2000 年第 34 號第 3 條

- (1) 根據本條例提出的上訴，須由上訴委員會裁定。
- (2) 行政長官須委任一名根據《區域法院條例》(第 336 章)第 5 條有資格獲委任為區域法院法官的人士為上訴委員會小組主席。(由 1998 年第 25 號第 2 條修訂)
- (3) 行政長官須委任一名根據《區域法院條例》(第 336 章)第 5 條有資格獲委任為區域法院法官的人士為上訴委員會小組副主席，副主席可在主席不在時暫代主席職務。(由 1998 年第 25 號第 2 條修訂)
- (4) 主席、副主席與獲委任入上訴委員會小組的人士，委任的年期為 3 年，但可再獲委任。
- (5) 行政長官須委任一小組他認為適合獲委任為上訴委員會成員的人士，以聆訊根據本條例所提出的任何上訴。
- (6) 根據第(2)、(3)或(5)款所作出的委任，須在憲報公布。
- (7) 主席、副主席與獲委任入上訴委員會小組的人士，可隨時藉給予行政長官的書面通知而辭去職務。

(由 2000 年第 34 號第 3 條修訂)
