

## **Frequently Asked Questions on Appealing under the Carbon Pricing Act**

### *1. On what matters can I appeal to the Minister under the Carbon Pricing Act?*

You can appeal to the Minister in relation to NEA's decisions on the following matters, set out in Section 34(1) of the Carbon Pricing Act:

- a. refusing to deregister a business facility as a taxable facility of the registered person;
- b. refusing to approve a verified emissions report or a monitoring plan for a business facility of the registered person;
- c. refusing to refund any tax under Section 19(1) or credit any carbon credit into the registered person's registry account under Section 19(2); or
- d. refusing to revise any assessment relating to the registered person pursuant to Section 23.

We have provided some examples below of potential matters for appeal in relation to the legal provisions, for illustration:

For example, in relation to Section 34(1)(a), the entitlement for deregistration and the requirements for applications to deregister are provided in Sections 9 and 10 respectively of the Carbon Pricing Act. NEA may reject your application to deregister your business facility as a taxable facility, if they assess the conditions for deregistration are not met. You may disagree with NEA's assessment, and may wish to put in an appeal on the matter.

For example, in relation to Section 34(1)(b), requirements for verified emissions reports and monitoring plans are set out in the Carbon Pricing Act and Carbon Pricing (Measurement, Reporting and Verification) Regulations. NEA may refuse to approve a verified emissions report or a monitoring plan if they assess that any requirements are not met, such as the choice of method, step or procedure for computation of GHG emissions in your taxable facility, or completeness of activity data reported. You may disagree with NEA's assessment, and may wish to put in an appeal on the matter.

For example, in relation to Section 34(1)(c), the conditions for the application for a tax refund are set out in Section 19 of the Carbon Pricing Act. NEA may refuse to refund any tax if they assess that the conditions are not met. You may disagree with NEA's assessment, and may wish to put in an appeal on the matter.

### *2. Can I appeal to the Minister if NEA has not issued a formal refusal to reconsider its decision on matters set out under s34(1) of the CPA?*

No. A request must be made to NEA to issue a formal notice of its refusal to reconsider its decision. You must then file 3 hardcopies of the Notice of Appeal within 30 days after the date of service of the formal notice. In extenuating circumstances where it is not possible to file hardcopies, MSE may provide for the Notice of Appeal to be submitted by other means.

More information on the appeals process and how to appeal under the Carbon Pricing Act is available at [www.mse.gov.sg/policies/climate-change/cpa](http://www.mse.gov.sg/policies/climate-change/cpa).

3. *Is it necessary to engage a counsel?*

It is not necessary to engage a counsel. You must identify an authorised representative for the appeal. This authorised representative may, but does not have to, be a legal representative. Notwithstanding, as these appeals typically involve statutory interpretation of the Carbon Pricing Act and the application of the law to the facts, representation from counsel may be helpful.

4. *Are there any costs involved during the appeals proceedings?*

There are no filing fees to submit a Notice of Appeal. For any costs or expenses that may be incurred during the appeals proceedings (e.g. lawyer's fees), the Appeal Panel may determine who should bear the costs of proceedings on a case-by-case basis.

5. *How long will the appeal process take?*

The time taken for each appeal varies, as it depends on whether the issue can be settled at the Case Management Conference (CMC) stage, or whether there is a need to proceed to Hearing.

6. *How long will the Hearing take?*

The length of the Hearing will depend on the complexity of the appeal.

7. *Do I need to call for witnesses to submit evidence before the Appeal Panel?*

The Minister or the Appeal Panel, as the case may be, may at any time give directions to secure the just, expeditious and economical conduct of the appeal proceedings or the determination of the appeal. This may include directions relating to the submission of witness statements.

Where an Appeal Panel hears the appeal, you may request for witnesses to give evidence before the Panel by informing the Chairman during the CMC. When the Chairman gives direction to submit documents for hearing, a date will also be given for submitting of affidavit (in any). Affidavits are written statements under oath to give an account of the facts (not opinions) to the Panel. Should the parties wish to submit the affidavit after the deadline given by the Chairman, approval will need to be sought from the Chairman.