

- (a) the statement of the intention to appeal and the appeal fee; or
- (b) the appeal notice.

(5) Within 10 days of receiving the appeal notice from the provider the other party may submit an appeal notice response to the provider.

(6) An appeal notice response may not exceed 1000 words, must set out detailed grounds and reasons why the appeal should be rejected.

(7) Following the filing of an appeal notice response, or the expiry of the deadline to do so, the provider shall appoint an appeal panel of three adjudicators.

(8) The adjudicators on the appeal panel must be impartial and must consist of -

- (a) the chairperson of the provider's group of adjudicators; and
- (b) the next available two adjudicators appointed by rotation from the provider's list.

(9) The appeal panel will not take into consideration any new evidence presented in an appeal notice or appeal notice response, unless they believe that it is in the interests of justice to do so.

(10) Regulation 29 and 30 shall apply *mutatis mutandis* to appeal decisions, except that -

- (a) appeal decisions must be returned by the appeal panel to the provider within 20 days of the appointment of the last adjudicator,
- (b) appeal decisions cannot be subject to any further appeal in terms of these Regulations.

Effect of Court proceedings

33. (1) If legal proceedings are initiated during a dispute in respect of a domain name that is the subject of the dispute, the adjudicator must suspend the dispute immediately.

(2) In the event that a party initiates any legal proceedings during a dispute it must promptly notify the adjudicator and the provider in accordance with these Regulations.

Fees

34. (1) A complainant must pay a fixed fee in the sum of R10,000-00 to the provider for one adjudicator as contemplated in regulation 20(3) or a fixed fee in the sum of R24,000-00 for three adjudicators to decide the dispute, if the complainant elects to have the dispute decided by three adjudicators.

(2) If a registrant elects in terms of regulation 18(2)(d) to have the dispute decided by three adjudicators, rather than a single adjudicator elected by the complainant, the registrant and the complainant must pay the provider a fixed fee in the sum of R12,000-00 each.

(3) The appeal fee for an appeal under regulation 32 is a fixed fee in the sum of R24,000-00.

(4) A complainant or registrant may approach the Authority, in writing, for financial assistance to lodge a dispute or defend a dispute, which assistance may be considered at the discretion of the Authority taking into account the financial means of the complainant or registrant.

(5) Upon receipt of the fees required in terms this regulation, the provider must immediately pay 10% of the fees to the Authority, which fees the Authority must use exclusively to fund other complainants and registrants seeking financial assistance.

Exclusion of liability

35. A second level domain administrator shall not be liable to a party for anything done or omitted in connection with any proceedings under these Regulations: Provided such second level domain administrator has implemented the decision following such proceedings.

Procedure modifications

36. If the procedure has already been invoked by the submission of a dispute to a provider, then the version of the procedure in effect at the time it was invoked applies to the dispute.

CHAPTER IV

Accreditation of Providers

Application procedure

37. An applicant for accreditation as a provider must submit an application to the Authority.

Application

38. (1) Applications should contain -

(a) an overview of an applicant's capabilities and background in providing alternative dispute resolution services, including a description of the applicant's track record of handling the clerical aspects of expedited alternative dispute resolution proceedings, if any;

(b) a list of the names and qualifications of the adjudicators the applicant proposes to include on its published list, a description of the screening requirements applicant has used in selecting adjudicators to be included on its list and an indication whether it intends to make exclusive use of adjudicators who are residents or citizens of the Republic of South Africa;

(c) a description of training and educational measures the applicant proposes to employ for listed adjudicators with respect to domain name disputes and these Regulations;

(d) a commitment by the applicant not to prevent or discourage any of its adjudicators from serving as adjudicators for other providers;

(e) a copy of the applicant's proposed supplementary procedure, if any;

(f) documentation of applicant's proposed internal operating procedures that the Authority must hold in confidence if requested;

(g) a proposed schedule for applicant's implementation of its programme for administering disputes under these Regulations, including a statement of applicant's administrative capacity in terms of number of disputes initiated on a monthly basis;

(h) a statement of any requested limitations on the number of disputes that applicant handles, either during a start-up period or on a permanent basis;

(i) a description of how the applicant proposes to administer disputes, including its interactions with parties to the dispute, second level domain administrators, the Authority, and other approved providers; and

(j) a description of how the applicant intends to publish decisions of adjudicators in disputes it administers and a commitment to provide the Authority with copies of all decisions of adjudicators not published.

(2) In general, the Authority examines the applications to determine whether the applicant has demonstrated an ability to handle proceedings in an expedited, online context in an orderly and fair manner.

(3) An applicant must-

- (a) have a track record in competently handling the clerical aspects of the procedure and administrative capabilities or must provide a detailed plan for providing those capabilities;
- (b) propose a list of at least five highly qualified neutral persons from the public and private sectors that are experts in intellectual property rights, commercial, cultural, linguistic, religious and personal rights who have agreed to serve as adjudicators;
- (c) show how it shall ensure that the listed adjudicators are trained concerning these Regulations, the technology of domain names, and the legal principles applicable to domain name disputes;
- (d) state whether it intends to make exclusive use of adjudicators who are citizens or residents of the Republic of South Africa;
- (e) indicate a familiarity with international domain name dispute resolution mechanisms and processes and foreign decisions and must indicate its plan to draw on these to provide an international benchmark for a process that is unique to the Republic of South Africa;
- (f) demonstrate in its supplementary procedure that the applicant understands these Regulations; and
- (g) show that both the applicant and its panel of adjudicators are representative of women, disabled and historically disadvantaged individuals where representivity will also be assessed in terms of the Codes of Good Practice for Broad Based Black Economic Empowerment published by the Department of Trade and Industry, as such Codes may be amended or substituted from time to time.