



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

GUIDELINES FOR ADJUDICATION PROCEEDINGS

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Commission for Communications Regulation

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Contents

1	INTRODUCTION AND STATUTORY FRAMEWORK	4
2	ADMINISTRATION OF ADJUDICATION PROCEEDINGS	4
2.1	Independence of Adjudicators.....	4
2.2	Adjudication Unit	4
2.3	Appointment of assistants to Adjudicators	5
2.4	Adjudication Portal	5
2.5	Record number and communications	5
3	COMMENCEMENT OF ADJUDICATION PROCEEDINGS	6
3.1	Referral by authorised officer	6
3.2	Referral report.....	6
3.3	Appointment of Adjudicator(s).....	6
3.4	Provision of documents upon referral	6
3.5	Withdrawal of referral by Commission	7
4	SETTLEMENTS AND ADJUDICATIONS ON CONSENT	7
4.1	Settlement report and referral for adjudication on consent	7
4.2	Withdrawal of referral following settlement	8
4.3	Notification by Adjudicator on referral	8
4.4	Sanctions following adjudication on consent.....	8
5	PROCEDURE FOLLOWING REFERRAL FOR AN ADJUDICATION NOT ON CONSENT	9
5.1	Notification by Adjudicator on referral	9
5.2	Powers of Adjudicator following referral.....	9
5.3	Information requested and received from third parties.....	10
6	CASE MANAGEMENT & ORAL HEARINGS	10
6.1	Case management hearings	10
6.2	Case management directions	10
6.3	Failure to comply with directions	12
6.4	Conduct of oral hearing by Adjudicator	12
6.5	Request by notified person for oral hearing	12
6.6	Rules and procedure for oral hearings.....	13
6.7	Requests for confidential treatment	13
7	DECISIONS BY ADJUDICATORS	13
7.1	Decision on breach	13
7.2	Form of decision on breach.....	14
7.3	Provision of decision on breach	14
7.4	Submissions on administrative sanctions by the Commission.....	15
7.5	Submissions on administrative sanctions by notified person	15
7.6	Further information to determine administrative sanction	16
7.7	Decision on administrative sanction.....	16

7.8	Publication of decision finding no breach.....	17
8	NOTICE OF ADJUDICATION.....	17
8.1	Provision of decision on administrative sanction to the Commission.....	17
8.2	Notice to notified person	17
8.3	Publication of decisions on breach and administrative sanction	18
9	COSTS.....	18
10	MATTERS CONSEQUENT TO ADJUDICATION.....	19
10.1	Appeal against adjudication	19
10.2	Court confirmation of adjudication.....	19
10.3	Publication of adjudication confirmed by the High Court.....	19
11	CRIMINAL OFFENCES	20

1 INTRODUCTION AND STATUTORY FRAMEWORK

Part 7 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (the “**2023 Act**”) introduces an independent adjudication process into the regulatory regime enforced by the Commission for Communications Regulation (the “**Commission**”).

Part 7 of the 2023 Act was commenced on 9 June 2023 and is supplemented by the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (Part 7) Regulations 2023 (S.I. No. 500 of 2023) (the “**2023 Regulations**”), which were made by the Minister for Communications, Climate Action and Environment on 23 October 2023.

These Guidelines on the conduct of adjudication proceedings (“**Guidelines**”) are adopted and published by the Commission pursuant to section 89(2) of the 2023 Act. If there is any inconsistency between these Guidelines and the Rules for Adjudication Oral Hearings made by the Commission pursuant to section 86(17) of the 2023 Act (the “**Rules**”), the Rules shall prevail.

2 ADMINISTRATION OF ADJUDICATION PROCEEDINGS

2.1 Independence of Adjudicators

The Commission shall at all times ensure the effective internal separation between the functions of the Commission and the functions of Adjudicators and that the structure, policies, practices and functions of, and working arrangements within the Commission are consistent with section 77 of the 2023 Act.

2.2 Adjudication Unit

Adjudicators will be assisted in the conduct of adjudication proceedings by the Adjudication Unit. The Adjudication Unit will provide general administrative support to the Adjudicators and will, for example, have responsibility for:

- (a) receiving referrals for adjudication for and on behalf of the Chief Adjudicator;
- (b) transmitting to the Chief Adjudicator, or individual Adjudicators as appropriate, documents received in the course of adjudication proceedings;

- (c) issuing communications for and on behalf of Adjudicators to notified persons, authorised officers, the Commission, and any other parties as may be directed by Adjudicators;
- (d) liaising with the Adjudicators in respect of any correspondence received from notified persons, authorised officers, the Commission, and any other parties;
- (e) managing the Adjudication Portal (as defined below) in respect of each matter referred for adjudication;
- (f) liaising with Adjudicators and notified persons in relation to scheduling and administrative arrangements; and
- (g) providing such clerical or secretarial assistance as may be required by Adjudicators in the course of adjudication proceedings.

While staff of the Adjudication Unit may provide administrative assistance to Adjudicators, they will not participate in the making of decisions by Adjudicators and, in the case of employees of the Commission assigned to staff the Adjudication Unit, will not be subject to the direction of any member or employee of the Commission in relation to the performance of their functions in assisting Adjudicators.

2.3 Appointment of assistants to Adjudicators

The Commission may nominate employees, or appoint other persons, to act as assistants to an Adjudicator or Adjudicators pursuant to section 81 of the 2023 Act. Such persons may be assigned to staff the Adjudication Unit. The Chief Adjudicator will direct such employees or persons to assist an Adjudicator or Adjudicators as considered appropriate. A person assisting an Adjudicator or Adjudicators under section 81(1) of the 2023 Act shall not participate in the making of the decision of the Adjudicator or Adjudicators under section 90(2) of the 2023 Act.

2.4 Adjudication Portal

The Adjudication Unit, acting for and on behalf of the Chief Adjudicator, will administer and manage an electronic database in respect of all matters referred for adjudication which will be known as the “Adjudication Portal”. Access to the Adjudication Portal for individual matters referred for adjudication will be made available to the Commission, notified persons and/or their agents in order to facilitate the electronic transmission and exchange of notices and documents referred to in these Guidelines.

2.5 Record number and communications

Every matter referred for adjudication will be assigned a record number in the form “ADJ-2024-XYZ” and any communication to the Adjudication Unit in respect of such a matter should refer in its subject line to the record number assigned to that matter.

3 COMMENCEMENT OF ADJUDICATION PROCEEDINGS

3.1 Referral by authorised officer

An authorised officer may (with the Commission's consent) refer a matter for adjudication if, following an investigation into a suspected regulatory breach, the authorised officer has reasonable grounds for suspecting that a notified person has committed or is committing a regulatory breach.

3.2 Referral report

Prior to referring a matter for adjudication, the authorised officer will complete a referral report, which will contain the following information:

- (a) a detailed description of the relevant facts of the case;
- (b) details of the regulatory breach concerned;
- (c) an outline of the facts and evidence on which the authorised officer is relying for the purpose of referring the matter to the Commission for adjudication;
- (d) a summary of any submissions made by the notified person to the authorised officer during the investigation, including in response to the notice of suspected non-compliance or any supplementary notice of suspected non-compliance;
- (e) the authorised officer's assessment of the extent to which the notified person cooperated with the investigation; and
- (f) any other information that the authorised officer considers to be relevant to an adjudication.

3.3 Appointment of Adjudicator(s)

As soon as practicable after receipt of an authorised officer's referral for adjudication, the Chief Adjudicator will assign an Adjudicator or a division of Adjudicators to determine the relevant adjudication proceedings.

3.4 Provision of documents upon referral

When referring a matter for adjudication, the authorised officer will provide the following documents to the Adjudication Unit, acting for and on behalf of the Chief Adjudicator:

- (a) the notice of suspected non-compliance served by the authorised officer under section 63, and any supplementary notice of suspected non-compliance served by the authorised officer under section 64;

- (b) the referral report;
- (c) a copy of all material relied upon by the authorised officer for the purposes of referring the matter for adjudication;
- (d) any relevant material disclosed in accordance with the Commission's *Access to File Policy*, which will be published in due course, and as updated from time to time; and
- (e) any submissions made by the notified person during the investigation.

As soon as practicable after providing those documents to the Adjudication Unit, the authorised officer will provide the following to the notified person or its agents:

- (i) a copy of the referral report; and
- (ii) a copy of, or access to, any material (other than material that has already been provided to the notified person) relied upon by the authorised officer for the purpose of referring the matter for adjudication (subject to redactions as appropriate).

3.5 Withdrawal of referral by Commission

The Commission may, by notice in writing to the Adjudication Unit acting for and on behalf of the Adjudicator, withdraw a referral for adjudication pursuant to section 72 of the 2023 Act at any time before an adjudication is made. If a referral for adjudication is withdrawn by the Commission, the Adjudication Unit, acting for and on behalf of the Chief Adjudicator, will notify the notified person and the Adjudicator or division of Adjudicators assigned to the adjudication of the withdrawal.

4 SETTLEMENTS AND ADJUDICATIONS ON CONSENT

4.1 Settlement report and referral for adjudication on consent

Where the Commission has approved a settlement with a notified person, the authorised officer will prepare a report (the "settlement report") containing:

- (a) a summary of the facts of the case;
- (b) the regulatory breach alleged against the notified person;
- (c) details of any administrative sanction to be imposed on the notified person as part of the settlement;
- (d) a statement that the Commission and the notified person consent to the imposition of the administrative sanction referred to in (c) above; and
- (e) details of any other measures agreed to be taken either by the Commission or by

the notified person on foot of the settlement agreement.

The authorised officer will provide a copy of the settlement report to the notified person and will refer the matter for adjudication on consent.

4.2 Withdrawal of referral following settlement

Where, at the time the notified person is given a copy of the settlement report, the matter has already been referred for adjudication, the authorised officer will notify the Adjudication Unit, acting for and on behalf of the Chief Adjudicator, by email to adjudications@comreg.ie (or such other email address as may be specified from time to time) of the withdrawal of the referral and the matter shall be deemed to have been referred for adjudication on consent.

4.3 Notification by Adjudicator on referral

As soon as practicable after a referral for adjudication on consent is made, the Adjudicator will serve on the notified person a copy of section 83 of the 2023 Act and a notice in writing (a “consent notice”) stating that the matter has been referred for an adjudication on consent and asking the notified person to confirm the matters set out in the settlement report prepared within the period of 15 days from the date of service of the notice, or such further period, not exceeding 7 days, as the Adjudicator may specify in the notice.

4.4 Sanctions following adjudication on consent

Where a notified person served with a consent notice confirms in writing the matters set out in the settlement report (whether through countersigning the consent notice or by separate document), an Adjudicator will, save where not practicable to do so, within 28 days following such confirmation, impose on the person, in accordance with the report, any of the following:

- (a) a requirement to cease the regulatory breach or to take specified measures to remedy the breach;
- (b) a financial penalty;
- (c) a requirement to pay a refund;
- (d) a requirement to pay compensation;
- (e) a suspension or withdrawal of authorisation or rights of use for radio spectrum or rights of use for numbers.

5 PROCEDURE FOLLOWING REFERRAL FOR AN ADJUDICATION NOT ON CONSENT

5.1 Notification by Adjudicator on referral

As soon as practicable after a referral for adjudication is made, the Adjudicator will, through the Adjudication Unit, serve on the notified person a copy of section 83 of the 2023 Act and a notice in writing (an “adjudication notice”) stating that the notified person may make written submissions to the Adjudicator on the referral report within the period of 30 days beginning on the date of service of the notice, or such further period, not exceeding 15 days, as the Adjudicator may specify in the notice. The Adjudicator will, as soon as practicable after receipt of such written submissions on the referral report, provide the Commission with a copy of those submissions.

5.2 Powers of Adjudicator following referral

The Adjudicator may, on application by the Commission or the notified person or of the Adjudicator’s own motion, do any of the following where he or she considers it necessary to resolve an issue of fact or otherwise to enable the Adjudicator to make an adjudication:

- (a) where the Adjudicator is satisfied that such direction is necessary for the determination of the issues before the Adjudicator—
 - (i) direct authorised officers of the Commission or the notified person to answer (whether on oath or affirmation or otherwise) an identified question or questions in whatever manner or form the Adjudicator may specify;
 - (ii) direct the authorised officers of the Commission or notified person to adduce evidence or produce books, documents and records in its power or control; and
 - (iii) direct the authorised officers of the Commission or notified person to clarify any issue of fact that an Adjudicator may deem necessary;
- (b) request further information from the person concerned;
- (c) request further information from any other person, and may, for the purposes of doing so, provide a copy of the referral report to the person. When providing a copy of the referral report, the Adjudicator shall have all due regard for the protection of commercially sensitive information therein and the person to whom the referral report is provided must not, without the prior authorisation of the Adjudicator, disclose the existence or content of the report to any other person; and/or
- (d) conduct an oral hearing.

5.3 Information requested and received from third parties

The Adjudicator will as soon as practicable:

- (a) after making a request for further information from any person other than the notified person, give to the Commission, and, with due regard for the protection of commercially sensitive information, give to the notified person, a copy of the request;
- (b) after receiving any information pursuant to such a request, with due regard for the protection of commercially sensitive information, give to the Commission and the notified person:
 - (i) a copy of the information or, where commercial confidentiality means that such information cannot be provided in full, a summary of such information; and
 - (ii) written notice stating that the Commission and the notified person may make written submissions to the Adjudicator on the information within the period of 21 days beginning on the date of service of the notice, or such further period, not exceeding 14 days, as the Adjudicator may specify in the notice.

6 CASE MANAGEMENT & ORAL HEARINGS

6.1 Case management hearings

An Adjudicator may, of his or her own motion or at the request of a party, conduct a case management hearing or hearings if the Adjudicator considers that such a hearing or hearings would assist in determining the adjudication proceedings in a manner which is fair, expeditious, and likely to minimise the overall costs of the adjudication proceedings. Where the Chief Adjudicator has assigned multiple Adjudicators to a division for the purpose of a particular adjudication, one Adjudicator of that division may sit alone for the purpose of conducting the case management hearing. The Adjudication Unit, acting for and on behalf of the Chief Adjudicator will, insofar as practicable, provide the parties with no less than 14 days' advance notice of the day, time and location assigned for any case management hearing.

6.2 Case management directions

At a case management hearing, or at any point during adjudication proceedings, having heard the parties, an Adjudicator may issue such directions as the Adjudicator considers necessary or appropriate to facilitate the conduct of the adjudication proceedings in a manner which is fair, expeditious, and likely to minimise the overall costs of the adjudication proceedings, including, but not limited to, directions:

- (a) as to the manner in which the adjudication proceedings are to be conducted, including any time limits to be observed for any step not otherwise specified in the 2023 Act, the 2023 Regulations, or these Guidelines;
- (b) in relation to the filing of any further documents or evidence either generally or in respect of any issue;
- (c) to identify, clarify and/or agree the matters at issue between the parties, through joint position papers, memoranda or otherwise;
- (d) requiring additional documentation or information in relation to any matter which the Adjudicator considers relevant to the adjudication proceedings;
- (e) for the filing of a list of issues by each or either party or jointly;
- (f) for the preparation and exchange of written submissions not otherwise specified in these Guidelines, the 2023 Act or the 2023 Regulations;
- (g) as to the evidence which may be required or admitted in the adjudication proceedings or any oral hearings and the extent to which such evidence may be given orally or in writing;
- (h) to identify any matters in respect of which expert evidence may be required, for the appointment and instruction of experts by the parties, as to the manner in which expert evidence is to be adduced, as to conferrals or meetings between experts and the production of a joint expert report or memoranda recording points of agreement and disagreement, and as to how expert evidence may be adduced at any oral hearing;
- (i) in relation to how an oral hearing is to be conducted including whether it is to take place in person, remotely or on a hybrid basis and any arrangements (including accessibility arrangements) that are necessary or appropriate in that regard;
- (j) in relation to any matter in connection with the holding of an oral hearing;
- (k) as to the submission in advance of any oral hearing of any witness statements or expert reports;
- (l) that a witness statement may be treated as the evidence-in-chief of a witness and that an expert report may be treated as the evidence-in-chief of an expert;
- (m) as to the examination and cross-examination of witnesses;
- (n) requiring persons to attend and give evidence or to produce documents;
- (o) for the compilation of, and as to the form of, hard copy and/or electronic books or files for any oral hearing or case management hearing;
- (p) as to the fixing of time limits with respect to any aspect of the adjudication proceedings;
- (q) to address any issues relating to confidentiality, including, but not limited to, the

creation of a confidentiality ring;

- (r) as to the abridgement or extension of any time limits, whether or not expired;
- (s) that the whole or part of any oral hearing be stayed either generally or until a specified date or event;
- (t) for the disclosure and the production by a party or third party of documents or classes of documents;
- (u) for the hearing and determination of any issues as preliminary issues in advance of any substantive hearing; and
- (v) for hearing a person who is not a party where, in any oral hearing, it is proposed to make any direction in relation to that person.

6.3 Failure to comply with directions

If any party fails to comply with any direction made by an Adjudicator, the Adjudicator may, after considering submissions from the parties, make any further direction considered necessary or appropriate, including a direction:

- (a) specifying that the failure be remedied by such party and how it is to be remedied;
- (b) waiving or relieving such party from the requirements of any direction;
- (c) that such party be debarred from taking any further part in the adjudication proceedings without the permission of the Adjudicator; or
- (d) that such party (or its agents) be subject to an order for costs on such terms as the Adjudicator considers appropriate.

6.4 Conduct of oral hearing by Adjudicator

Other than in the case of a referral for adjudication on consent, an Adjudicator may conduct an oral hearing to resolve an issue of fact or otherwise to enable him or her to make an adjudication. If an Adjudicator decides to conduct an oral hearing, the Adjudication Unit, acting for and on behalf of the Chief Adjudicator, will, insofar as practicable, provide the parties with no less than 42 days' advance notice of the day, time and location assigned for such hearing.

6.5 Request by notified person for oral hearing

Without limitation of the Adjudicator's power to conduct an oral hearing, where there is a dispute of fact which cannot be successfully resolved through the Adjudicator's powers set out at paragraph 6.2 above, the Adjudicator will, on the request of the notified person, conduct an oral hearing in order to resolve the dispute.

6.6 Rules and procedure for oral hearings

Adjudicators will conduct oral hearings in accordance with:

- (a) section 86 of the 2023 Act;
- (b) the Rules for Adjudication Oral Hearings adopted by the Commission pursuant to section 86(17) of the 2023 Act; and
- (c) natural and constitutional justice.

6.7 Requests for confidential treatment

Any request for the confidential treatment of any document or part thereof provided in the course of adjudication proceedings should be made in writing and should:

- (a) indicate the relevant words, figures or passages for which confidentiality is claimed; and
- (b) be supported in each case by specific reasons.

If so directed by an Adjudicator, the person making such request will supply a non-confidential version of the relevant document. In the event of any dispute as to whether any document or part thereof should be treated confidentially, the Adjudicator's decision will be final and binding upon the parties for the purpose of the adjudication proceedings. The Adjudicator may direct that any document or part thereof containing confidential information be disclosed within a confidentiality ring.

7 DECISIONS BY ADJUDICATORS

7.1 Decision on breach

In any matter referred for adjudication not on consent, the Adjudicator shall decide whether, on the balance of probabilities, a notified person has committed or is committing a regulatory breach. When making such a decision, the Adjudicator will consider the following:

- (a) the notice of suspected non-compliance (and any supplementary notice of suspected non-compliance);
- (b) the referral report;
- (c) any written submissions made by the notified person on the notice of suspected non-compliance, any supplementary notice of suspected non-compliance, and the referral report;
- (d) any submissions, statements, admissions, information, records or other evidence

provided to the Adjudicator in the course of the proceedings, whether at oral hearing or otherwise; and

- (e) any prior relevant adjudication that has been confirmed by the High Court.

7.2 Form of decision on breach

A decision made by an Adjudicator as to whether a notified person has committed or is committing a regulatory breach will be in writing, dated and include:

- (a) the reasons for the decision;
- (b) the notice of suspected non-compliance and any supplementary notice of suspected non-compliance;
- (c) the evidence, including any information, records, documents, statements, admissions, evidence, and written and oral submissions, considered by the Adjudicator;
- (d) information regarding the right of appeal provided for under section 106 of the 2023 Act where a final decision has been made;
- (e) the name of the person found to have committed, or to be committing, a regulatory breach, and the nature of the breach; and
- (f) such other particulars or material as the Adjudicator considers appropriate.

7.3 Provision of decision on breach

The Adjudicator will, after making a decision on breach and prior to making a decision on any administrative sanction, provide a copy of the decision to the Commission and to the person to whom the decision relates.

If a finding of infringement is made, the Adjudicator will inform the Commission and the notified person of the Adjudicator's intention as to whether to impose one or more administrative sanctions and will invite each of those parties to make written submissions in that regard.

In the event that the decision finds no infringement, the Adjudicator will bring the adjudication to an end.

7.4 Submissions on administrative sanctions by the Commission

The Commission may, within 15 working days from the date on which the Adjudicator invites it to make submissions (or such further period as may be allowed by the Adjudicator), make written submissions to the Adjudicator in relation to:

- (a) the application of the criteria relating to financial penalties specified in section 94 of the 2023 Act;
- (b) the amount of any financial penalty that may be imposed; and
- (c) the application of any guidelines made by the Commission under section 98(1)(b) to (e) of the 2023 Act.

Where the Commission considers that there are, or have been, serious or repeated breaches of conditions by the notified person found to have committed or to be committing a regulatory breach, the Commission may recommend to the Adjudicator in writing the suspension or withdrawal on a temporary or permanent basis of either or both of:

- (d) the notified person's general authorisation to provide electronic communications networks or services (other than number-independent interpersonal communications services);
- (e) some or all of the person's rights of use for radio spectrum and of use for numbering resources.

The Adjudicator will provide the notified person with a copy of any written submissions made by the Commission or will otherwise confirm that the Commission did not make any written submissions.

7.5 Submissions on administrative sanctions by notified person

The notified person may:

- (a) within 15 working days from the date by which the Adjudicator confirms to the notified person that the Commission has not made submissions;

- (b) where the Commission makes submissions on any administrative sanction, within 15 working days from the date on which the notified person is provided with a copy of those submissions; or
- (c) within such further period as may be allowed by the Adjudicator; make written submissions to the Adjudicator in relation to:
 - (i) the application of the criteria relating to financial penalties specified in section 94 of the 2023 Act;
 - (ii) the amount of any financial penalty that may be imposed; and
 - (iii) the application of any guidelines made by the Commission under section 98(1)(b) to (e) of the 2023 Act.

7.6 Further information to determine administrative sanction

An Adjudicator may, by notice in writing, request the notified person to provide, in writing, information which the Adjudicator considers appropriate for the purpose of determining the administrative sanction to be imposed.

7.7 Decision on administrative sanction

If an Adjudicator decides that a notified person has committed or is committing a regulatory breach, the Adjudicator may, having regard to the submissions delivered on behalf of the Commission and the notified person in relation to administrative sanctions:

- (a) require the notified person to cease the regulatory breach or to take specified measures to remedy the breach;
- (b) impose a financial penalty on the notified person;
- (c) require the notified person to pay a refund to a third party;
- (d) require the notified person to pay compensation to a third party; and/or
- (e) suspend or withdraw the notified person's authorisation to provide electronic communications networks or services (other than number-independent interpersonal communications services) or some or all of the notified person's rights of use for radio spectrum and of use for numbering resources.

Any decision by an Adjudicator in respect of administrative sanctions will specify the time period within which the notified person is required (subject to any appeal) to cease a regulatory breach, to take specified measures to remedy the breach, or to pay any financial penalty, refund or compensation.

7.8 Publication of decision finding no breach

In circumstances where the Adjudicator makes a finding of no breach, the Commission will publish a copy of the Adjudicator's decision on breach on the website of the Commission, subject to such redactions as the Adjudicator may consider necessary and appropriate in order to protect the rights of the parties or any other person, to protect commercially sensitive information, or for any other good and sufficient reason. Prior to publication, the Commission and/or the notified person (in this section, each a **"Requester"**) will be entitled to review the Adjudicator's decision for the purposes of considering whether such redactions as may be required for the purposes of section 93(6) of the Act have been made. The Requester will make any request for further redactions in writing to the Adjudicator not later than 7 days after the date on which the Requester received a copy of the Adjudicator's decision under section 91(4) of the Act. The Adjudicator will ordinarily only consider such requests where the Requester has identified the information requested for redaction, the basis upon which such information in the opinion of the Requester ought to be redacted, and the occasions(s) during the Adjudication proceedings on which the Requester submitted that the information in question ought not be specified in the Adjudicator's decision, whether pursuant to a request for confidential treatment under section 6.7 of these Guidelines or otherwise. The final decision as to whether such information will be published will rest with the Adjudicator.

8 NOTICE OF ADJUDICATION

8.1 Provision of decision on administrative sanction to the Commission

As soon as practicable after the Adjudicator has decided whether to impose any administrative sanctions on the notified person, the Adjudicator will provide the decision to the Commission.

8.2 Notice to notified person

Within 7 days of receipt of any decision on administrative sanctions, the Commission will give notice in writing of the decision to the notified person. That notice will:

- (a) include a copy of the Adjudicator's decision on breach;
- (b) state that, insofar as it imposes any administrative sanction, the adjudication will not take effect unless it is confirmed by the High Court; and
- (c) state that, if the notified person does not appeal any administrative sanction to the High Court within 28 days, the Commission will, as soon as practicable after the expiration of the period allowed for such an appeal, apply to the High Court for

confirmation of the adjudication.

8.3 Publication of decisions on breach and administrative sanction

The Commission will publish a copy of the Adjudicator's decisions on breach and any administrative sanction on the website of the Commission, subject to such redactions as the Adjudicator may consider necessary and appropriate in order to protect the rights of the parties or any other person, to protect commercially sensitive information, or for any other good and sufficient reason. Prior to publication, the Commission and/or the notified person (in this section, each a "**Requester**") will be entitled to review the Adjudicator's decision for the purposes of considering whether such reactions as may be required for the purposes of section 93(6) of the Act have been made. The Requester will make any request for further redactions in writing to the Adjudicator no later than 7 days after the date on which the Requester receives a copy of the Adjudicator's decision under section 93(2) of the Act. The Adjudicator will ordinarily only consider such requests where the Requester has identified the information requested for redaction, the basis upon which such information in the opinion of the Requester ought to be redacted, and the occasion(s) during the adjudication proceedings on which the Requester submitted that the information in question ought not be specified in the Adjudicator's decision, whether pursuant to a request for confidential treatment under section 6.7 of these Guidelines or otherwise. The final decision as to whether such information will be published will rest with the Adjudicator.

9 COSTS

Ordinarily no orders as to costs will be made in proceedings before an Adjudicator. An Adjudicator may, however, in his or her discretion, award the costs of proceedings before an Adjudicator against a respondent person or, as the case may be, the Commission, if the Adjudicator finds that the person or the Commission has engaged in improper, irregular, unfair, or unsatisfactory conduct in connection with the investigation of the alleged regulatory breach or in the conduct of proceedings before the Adjudicator. Any such orders as to costs will be proportionate to the nature and extent of the conduct that the notified person or the Commission is found to have engaged in and may be limited to a proportion of the overall costs of proceedings or to the costs of a particular part of the proceedings.

10 MATTERS CONSEQUENT TO ADJUDICATION

10.1 Appeal against adjudication

A person the subject of an adjudication may appeal to the High Court against that adjudication not later than 28 days after the date of service of the notice under paragraph 8.2. The respondent to an appeal will be the Commission.

10.2 Court confirmation of adjudication

Where a person does not appeal to the High Court within 28 days after the date of service of the notice under paragraph 8.2, the Commission will as soon as practicable thereafter make an application to the High Court for the confirmation of the adjudication. That application will include a copy of the adjudication, together with the documents and evidence referred to in the adjudication, and may include any other documents which were before the Adjudicator. Notice of that application will be served by the Commission on the person the subject of the adjudication within 7 days of lodging the application in Court, together with all documents lodged in Court. Prior to making that application, the Commission will seek the consent in writing of the notified person to the confirmation of the adjudication and, where the notified person so consents, the application by the Commission (and any remaining steps in such application) may be made ex parte.

10.3 Publication of adjudication confirmed by the High Court

Save where publication would, in the opinion of the Commission, prejudice the achievement of the objectives of the 2023 Act, the Commission will publish an adjudication confirmed by the High Court subject to such redactions as the Commission may consider necessary and appropriate in order to protect the rights of the parties or any other person, to protect commercially sensitive information, or for any other good and sufficient reason, on the website of the Commission as soon as practicable after the adjudication is confirmed. Prior to publication, the notified person will be entitled to review the adjudication confirmed by the High Court for the purposes of considering whether such redactions as may be required for the purposes of section 110 of the Act have been made. The notified person will make any request for further redactions in writing to the Commission within 7 days from the date on which the Court confirms the adjudication pursuant to section 109(10) of the Act. The Commission will ordinarily only consider such requests where the notified person has identified the information requested for redaction, the basis upon which such information in the opinion of the notified person ought to be redacted, and the occasion(s) during the adjudication proceedings on which the notified person submitted that the information in question ought not be specified in the Adjudicator's decision, whether pursuant to a request for confidential treatment under section 6.7 of these Guidelines or otherwise. The final decision as to whether such

information will be published will rest with the Commission.

11 CRIMINAL OFFENCES

Participants in adjudication proceedings should note that Part 7 of the 2023 Act creates the following criminal offences and penalties:

SECTION	OFFENCE
73(4)	Disclosing the existence or the content of the document or materials to any other person without prior authorisation of the Commission
85(7)	Disclosing the existence or the content of a referral report to any other person without prior authorisation of the Commission
87(5)(a)	Not complying with a notice under section 86(2)
87(5)(b)	Failing to comply with a direction under section 87(1)
87(5)(c)	Failing without reasonable excuse to attend at the time and place indicated on a witness summons
87(5)(d)	Refusing to: (i) give evidence in the manner lawfully required by the adjudicator to be taken, (ii) produce any record in the person's power or control that the person is lawfully required by the adjudicator to produce, or (iii) answer any question that the person is lawfully required by the adjudicator to answer
87(5)(e)	Engaging in any conduct that, if the adjudicator were a court of law having power to punish for contempt, would be contempt of court
87(7)	Having been, or in anticipation of being, required to produce a book, document or record under section 87(1) or under section 86(2), intentionally or recklessly destroying or otherwise disposing of, falsifying or concealing such book, document or record or causing or permitting its destruction, disposal, falsification or concealment
87(8)	Providing information or evidence to an adjudication which is false or misleading in a material respect and the person knows, or ought reasonably to know, that it is false or misleading in a material respect

87(9)	Providing any information to another person, knowing the information to be false or misleading in a material respect, or recklessly providing any information to another person which is false or misleading in a material respect, knowing the information is to be used for the purpose of providing information to an adjudicator in connection with any of his or her functions under the 2023 Act
93(9)	Disclosing the existence or the content of an adjudication notice to any other person
93(9)	Disclosing the content of redacted material contained in an adjudication notice
101(5)	Disclosing without reasonable excuse (i) any confidential information obtained by virtue of the exercise of powers conferred by or under the 2023 Act or (ii) any information obtained by virtue of the exercise of powers conferred by or under Part 7 of the 2023 Act or the Principal Act in relation to an investigation under Part 7 of the 2023 Act or the Principal Act where that information was given under power of compulsion
102(3)	Allowing a document provided under a confidentiality ring to be viewed by, or shared with, a person other than in accordance with section 102