

Procedures for Special Meeting of Council Called to Hear an Appeal of the Registration Committee Decision

The Special Meeting of Council

A Constituted Special Meeting of Council called to hear an appeal of the Registration Committee Decision will be as follows:

The Chair of the Special Meeting of Council

Appointed member of the APGO council as described in 'Practice and Procedures of the Council on an Appeal of a Decision of the Registration Committee' Section 2.1.

The Councillors for the panel of the Special Meeting of Council

Four councillors of the APGO will be appointed by The Chair as described in 'Practice and Procedures of the Council on an Appeal of a Decision of the Registration Committee' Section 2.2.

The Registrar of the APGO

The Special Meeting of Council's Lawyer

The Applicant

The Applicants Legal Council (if requested by The Applicant)

Witnesses

T.B.A.

_____ Starting the Hearing:

- A. Special Meeting of Council enters the room
- B. Chairperson:
 - i. states that this is a hearing pursuant to [Section 14 (1) Geoscientists Act, 2000]
 - ii. introduces **Special Meeting of Council members**
 - iii. introduces **Special Meeting of Council's lawyer** as the lawyer advising the Special Meeting of Council but not a member of the Special Meeting of Council
 - iv. clarifies that the Special Meeting of Council's lawyer will not participate in the deliberations of the Special Meeting of Council
 - v. asks either the Special Meeting of Council's lawyer or The Registrar to introduce the other people in the room (except any public observers)
 - vi. sets out any **expectations** for the conduct of the hearing

Appeal

- vii. deals with issue of whether the hearing is **open or closed** to the public. See “Practice and Procedures for Appeal of Registration Committee Decision, Section 2, No. 5” for further information on this matter.
- viii. requests that The Registrar formally files the **notice of hearing**
- ix. sets out **practices** of Special Meeting of Council in respect of approximate times of breaks and conclusion of day
- x. asks both lawyer if there are any **preliminary matters** to be dealt with before the hearing proceeds
- xi. invites The Applicant to **proceed**

OATH

AFFIRMATION

“I (Do you) solemnly affirm that the evidence to be given by me (you) at this hearing touching the matters in question shall be the truth, the whole truth, and nothing but the truth”

THE ORDER OF THE HEARING

The Applicant, who has initiated the hearing, leads his or her evidence first, The Registrar calls his or her evidence second, and The Applicant then calls any reply witnesses.

I. Witnesses:

A. Calling Witnesses:

- i. The party who **calls** a particular witness (even if it is The Registrar) leads that witness’ evidence first;
- ii. The other party **cross-examines** that witness second;
- iii. The party calling the witness **re-examines** that witness third.

B. Closing Arguments:

- i. The Applicant goes first;
- ii. The Registrar goes second;
- iii. The Applicant may reply third.

C. Objections and Motions:

- i. Whenever a party makes an objection or brings a motion, the objector (whether The Registrar or The Applicant) goes first;
- ii. The responder second;
- iii. The objector replies third.

II. Intervention by Special Meeting of Council:

Appeal

Where there is some intervention from the Special Meeting of Council (e.g. the Special Meeting of Council asks questions of a witness, the Special Meeting of Council asks questions of a party during submissions or the Special Meeting of Council's independent lawyer gives advice), it is customary to **allow the parties to respond** to the intervention afterwards. As there is no point in allowing either party to respond twice to the intervention (in effect the Special Meeting of Council went first), **each party only responds once**. Normally, the party whose stage of proceeding is interrupted goes last. For example, the party calling the witness who has been questioned by the Special Meeting of Council goes last in re-examining the witness on the point. Similarly, if at the end of submissions the Special Meeting of Council's lawyer offers advice, The Registrar responds first and The Applicant last.

III. Re-Examination:

With the privilege of going last there is a duty upon the party to confine himself or herself to responding to the new points raised by the other side. The **responding party should not:**

- (A) **raise new points** that were not raised by the other party;

OR

- (B) **repeats points** that he or she already covered when he or she went first.

These suggestions are rules of thumb only, and the courts may afford some flexibility in allowing Special Meeting of Councils to diverge from these guidelines where appropriate. For example, if The Applicant raises a new point in the reply of his or her closing argument, the Special Meeting of Council may permit The Registrar to respond to this new point. Likewise, if The Registrar has by inadvertence forgotten to ask a question of his or her witness, the Special Meeting of Council may permit The Registrar to do so even after the re-examination by The Applicant (however, it may be appropriate to allow The Applicant further re-examination in connection with the issue raised by The Registrar's supplementary question.)

What follows is an outline of the order of a hearing, which provides an overview of the order of an entire hearing.

OUTLINE OF THE ORDER OF A HEARING

I. The Case for The Applicant:

A. Opening Statements:

- i. The Applicant makes opening statement
- ii. [optional opening statement by The Registrar)

B. The Applicant's Witnesses:

Appeal

- i. The Applicant calls witness
- ii. Special Meeting of Council member swears or affirms witness
- iii. The Applicant examines the witness in-chief
- iv. The Registrar cross-examines the witness
- v. The Applicant re-examines the witness
- vi. Special Meeting of Council may question the witness
- vii. both parties given opportunity to ask questions arising out of the Special Meeting of Council's questions (first The Registrar and then The Applicant)

II. The Case for The Registrar:

A. Opening Statements:

- i. [The Registrar makes opening statement, if desired]

B. The Registrar's Witnesses:

- i. The Registrar calls his or her witnesses
- ii. Special Meeting of Council member swears or affirms witness
- iii. The Registrar examines the witness in-chief
- iv. The Applicant cross-examines the witness
- v. The Registrar re-examines the witness
- vi. Special Meeting of Council may ask the witness questions
- vii. both parties given opportunity to ask questions arising out of the Special Meeting of Council's questions (first The Applicant and then The Registrar)

III. Reply:

- i. The Applicant calls his or her witnesses
- ii. Special Meeting of Council member swears or affirms witness
- iii. The Applicant examines the witness in-chief
- iv. The Registrar cross-examines the witness
- v. The Applicant re-examines the witness
- vi. Special Meeting of Council may ask the witness questions

Appeal

- vii. both parties given opportunity to ask questions arising out of the Special Meeting of Council's questions (first The Registrar and then The Applicant)

IV. Finding:

A. Submissions:

- i. Special Meeting of Council calls for submissions on finding
- ii. The Applicant makes submissions
- iii. The Registrar makes submissions
- iv. The Applicant makes submissions in reply

B. Questions:

- i. Special Meeting of Council is given opportunity to ask questions on the applicable law or the position of the parties on an issue
- ii. Special Meeting of Council may seek advice on questions of law from independent lawyer both parties have an opportunity to respond to advice of independent lawyer (first The Registrar and then The Applicant)

C. Decision:

- i. Special Meeting of Council announces recess
- ii. Special Meeting of Council retires
- iii. Special Meeting of Council returns and announces its decision

or

that its decision will be forthcoming (i.e. mailed)

I. Prior to the Hearing:

A. Pre-Hearing Conference: a pre-hearing conference between the parties can resolve non-contentious points and lead to agreement on certain documents and facts etcetera ahead of time. See Section 5.3 of the *Statutory Powers and Procedures Act* for further particulars regarding Pre-Hearing Conferences. It is important to note that, as provided ins. 5.3(3), a member who presides at a prehearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent.

B. Practice Directions: practice directions issued by the Special Meeting of Council and sent to each party ahead of time, while not binding, can encourage efficiency. For example:

Appeal

- i. requesting that documents be copied or briefs submitted ahead of time (see s.5.4 of the *S.P.A.* regarding documentary and other forms of disclosure)
- ii. requesting that motions be brought before the first day of actual hearing
- iii. indicating to parties the procedure for requesting adjournments if they are to receive maximum consideration
- iv. setting out the Special Meeting of Council's expectations for having witnesses available for the hearing to avoid unnecessary adjournments
- v. requesting that all preliminary motions be brought in writing and delivered to all parties before being argued

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