



de Nederlandse Orde van Belastingadviseurs  
The Dutch Association of Tax Advisers

*Note on translation:*

*This is an English translation of a document drawn up in Dutch. Every effort has been made to render the source text as literally as possible without compromising continuity. In the event of any disparity between the Dutch original and this translation, the Dutch text will prevail.*

*In this translation, Dutch legal concepts are expressed in English terms and may not be identical to the concepts described by those English terms as understood under the laws of other jurisdictions.*

## **Rules for Disciplinary Proceedings**

The Rules for Disciplinary Proceedings as stated in article 17 of the Charter of the NOB as last modified and approved on 11 June 2014 at the General Membership Meeting.

### **Article 1 Definitions**

The following definitions apply to these rules:

- (a) **“General Membership Meeting”:**  
the General Membership Meeting of the association is the body that consists of members entitled to vote;
- (b) **“candidate member”:**  
a candidate member of the association;
- (c) **“Board”:**  
the Board of the association;
- (d) **“extraordinary member”:**  
an extraordinary member of the association;
- (e) **“Admission Committee”:**  
the Admission Committee of the association is the committee that decides on the admission of members;
- (f) **“honorary member”:**  
an honorary member of the association;
- (g) **“ordinary member”:**  
an ordinary member of the association;

- (h) **“member of the association”**:  
a candidate member, ordinary member or extraordinary member of the association;
- (i) **“Charter”**:  
the Charter of the association;
- (j) **“association”**:  
the Dutch Association of Tax Advisers.

## **GENERAL**

### **Article 2**

#### **Disciplinary proceedings**

1. In accordance with the stipulations of the Charter, a member is obliged to perform his or her work in an honest, careful and acceptable manner, to observe rules and legislation and to refrain from anything that may conflict with the honour and dignity of the profession. Candidate members, ordinary and extraordinary members will be subject to disciplinary proceedings if they act in conflict with these standards. Honorary members are subject to disciplinary proceedings only if they are also candidate members, ordinary members or extraordinary members.
2. Members also remain subject to disciplinary proceedings after termination of their membership with regard to actions or events that took place during their period of membership.
3. Complaints may be submitted by:
  - a. members;
  - b. non-members, if their own interests are concerned;
  - c. the Board;
  - d. the Director-General of the Tax and Customs Administration or his/her official representative;
  - e. the supervisory body under the Money Laundering and Terrorist Financing Act.
4. In the first instance, disciplinary proceedings are conducted by the Disciplinary Board and appeals are heard by the Board of Appeal. There is no provision for appeal against the rulings of the Board of Appeal.

### **Article 3**

#### **Composition**

1. The Disciplinary Board consists of a chair, one or more deputy chairs and at least eight members of the association.

2. The Board of Appeal consists of a chair, one or more deputy chairs, at least two members of the association and at least two members who are not members of the association (external members).  
The Board decides on how many members of the association and external members will be appointed to the Board of Appeal in consultation with the chair of the Board of Appeal.
3. The chairs and deputy chairs may not be members of the association and must satisfy the eligibility requirements for membership of the Dutch judiciary and must have or have had at least five years' experience in case law. Persons aged 66 years and older are not eligible for appointment or re-appointment as chair or deputy chair of the Disciplinary Board and Board of Appeal .
4. Candidate members, extraordinary members and persons aged 66 years and older are not eligible for appointment or re-appointment to the Disciplinary Board and the Board of Appeal. Honorary members are eligible only if they are also ordinary members.
5. The external members of the Board of Appeal must have completed a university training in tax law or tax economics and must be involved or must have been involved in some way with Dutch tax law.
6. Membership of the Disciplinary Board or the Board of Appeal is not compatible with membership of the Board and the Admission Committee of the association.

#### **Article 4**

##### **Appointment**

1. The chair and the deputy chairs of the Disciplinary Board shall be appointed by the Board, following consultation with the Disciplinary Board. The other members of the Disciplinary Board shall be appointed by the General Membership Meeting on the recommendation of the Board.
2. The chair and deputy chairs of the board of appeal and the external members of the Board of Appeal shall be appointed by the Board, following consultation with the Board of Appeal. The other members of the Board of Appeal shall be appointed by the General Membership Meeting on the recommendation of the Board.
3. Article 21 of the Charter regarding the recommendation of the board shall apply accordingly.
4. The chairs, deputy chairs and members of the Boards shall be appointed for a term of four years. After their resignation, the chairs and deputy chairs may be re-appointed for two further terms of four years. After their resignation, the other members may be re-appointed for only one further period of four years. A member of the association who becomes an extraordinary member during the term for which he or she has been

appointed shall remain a member of the Board until his or her term of office has elapsed.

## **Article 5 Dismissal**

The chairs, deputy chairs and members of the Disciplinary Board and the Board of Appeal may be dismissed from the Board on the recommendation of at least two members of the Board of which they are members on the grounds of articles 46c paragraph two, 46l paragraph one and 46m of the Act on the Legal Status of Judicial Officer.

## **Article 6 Chambers**

1. The Disciplinary Board hears disciplinary proceedings in Chambers consisting of the chair or a deputy chair and two other members of the Board, including one extraordinary member.
2. The Board of Appeal hears appeals in Chambers consisting of the chair or deputy chair, a member of the board who is a member of the association and an external member of the Board.
3. The chair shall determine which members of the Disciplinary Board or the Board of Appeal shall constitute the Chamber responsible for hearing a complaint.
4. If the term for which a chair, deputy chair or member of one or both Boards has been appointed should elapse while he or she is sitting on the Board, and the Chamber has not yet ruled in the case assigned to it, he or she shall remain chair, deputy chair or member of the Board until the Chamber has completed its work.

## **Article 7 (Deputy) clerk**

1. The Disciplinary Board will be assisted in carrying out its work by a clerk and a deputy clerk to be appointed by the Board in consultation with the Disciplinary Board.
2. The Board of Appeal will be assisted in carrying out its work by a clerk and, if necessary, a deputy clerk to be appointed by the Board in consultation with the Board of Appeal.
3. The clerks and deputy clerks will be appointed for a term of four years. Following their resignations, they may be re-appointed for a further term of four years.

**Article 8  
Confidentiality**

The chairs, deputy chairs and members of the Disciplinary Board, the Board of Appeal and the clerks are obliged to observe confidentiality with regard to all information that has come into their possession in their handling of a complaint.

**Article 9  
Remuneration**

The chairs, deputy chairs, clerks and deputy clerks of the Disciplinary Board and the Board of Appeal, as well as the external members of the Board of Appeal will receive fixed remuneration as established by the Board.

**Article 10  
Office**

The Boards and clerks will be assisted in their work by one or more employees of the office of the NOB assigned by the board. Article 8 shall apply to them accordingly.

**HANDLING OF COMPLAINTS BY THE DISCIPLINARY BOARD****Article 11  
Submitting a complaint**

1. Every party as referred to in article 2, paragraph 3 of these rules must submit a written complaint to the Disciplinary Board regarding a breach of the standards described in article 2 of these rules and article 16 of the Charter.
2. A complaint must be submitted in writing in six copies, in the Dutch language, and must contain the following:
  - name and full address of the complainant;
  - name and business address of the (former) member of the association against whom the complaint is directed;
  - a full description of the complaint;
  - the relevant facts and circumstances on which the complaint is based;
  - the date.Any enclosure must also be submitted in six copies.
3. Complaints submitted more than ten years after the end of the year in which the alleged actions or omissions took place will not be considered.

**Article 12**  
**Dealing with the complaint**  
**Copies**

The Disciplinary Board will deal with every complaint alleging a breach of standards by a member or former member of the association. The Board will send the complainant a confirmation of receipt; at the same time, the Board will send a copy of the complaint to the defendant.

**Article 13**  
**Mediation**

1. In the case of a dispute regarding an invoice, the chair may propose that the dispute be resolved by means of mediation by the Board or by a person assigned by the Board. If the parties have not agreed to this mediation proposal within fourteen days of the proposal being made, the Disciplinary Board will continue to deal with the complaint.
2. If the nature of the complaint lends itself to this in the opinion of the chair, he or she may propose that the parties resolve their dispute through the mediation of an MfN/NMI-registered mediator. If the parties have not agreed to this mediation proposal within fourteen days of the proposal being made, the Disciplinary Board will continue to deal with the complaint.
3. In the event of the parties agreeing to mediation, the Disciplinary Board will postpone the disciplinary procedure for a period of three months, in principle. If the mediation is not successful during this period, the Disciplinary Board will continue to deal with the complaint.
4. If the parties decide in favour of mediation, the cost of the first half day session will be paid by the association, up to a maximum of €1,000.

**Article 14**  
**Statement of defence**

On receiving the copy referred to in article 12 or once the periods referred to in article 13 have elapsed, the defendant will be given an opportunity to submit a statement of defence within one month of sending the complaint. The chair may decide to extend this period. The statement of defence with any enclosures must be submitted to the Disciplinary Board in six copies. The Board will send a copy of the statement of defence to the complainant.

## **Article 15**

### **Simplified procedure**

After the disciplinary board has received the statement of defence or once the period for submitting this has elapsed, the chair may decide in favour of closing the investigation and in favour of simplified procedure by the chamber if:

- a. the Disciplinary Board is clearly unqualified;
- b. the complaint is clearly inadmissible;
- c. the complaint is clearly unfounded; or
- d. the complaint is clearly well-founded.

## **Article 16**

### **Reply and rejoinder**

On receipt of the statement of defence, the chair may allow the complainant the opportunity to reply in writing, either on request or not. In such a case, the defendant will also be allowed the opportunity to rejoin in writing. The chair shall decide the period for reply and rejoinder.

## **Article 17**

### **Composition of Chamber, exclusion and challenging**

1. The chair will assemble the Chamber that will handle the case within a month of the statement of defence being submitted or, if the defendant has exceeded the period for submitting the statement of defence, within one month of the end of the period set.
2. The chair will inform the parties regarding the composition of the Chamber. Within a month of this date, each of the parties is entitled to challenge one or more members of the Chamber without giving a reason. The chairman will inform each party of their right to do this when announcing the composition of the Chamber.
3. A member of the chamber must exclude him/herself and may be rejected if, in his/her view, there are facts or circumstances that could prejudice his or her required impartiality.
4. The facts and circumstances referred to in the third paragraph include the following:
  - a. the member of the Chamber and one of the parties are closely related by affinity or consanguinity to the fourth degree;
  - b. the member of the Chamber and one of the parties exercise their professions directly or indirectly for common account or in joint name, or there is a contract of employment existing between them;
  - c. the member of the Chamber has a personal interest in the case, for example if he or she:
    1. has provided written advice in the case;
    2. has been involved as a party in a similar dispute;
    3. is involved in legal proceedings with one of the parties;

4. was the counterparty of one of the parties in a previous complaint procedure;
  5. has a (business) relationship with one of the parties.
5. The request for exclusion must be submitted as soon as the facts or circumstances are known to the requestor. The request must be submitted in writing, giving reasons. The request may be made verbally during the hearing if wished.
  6. If the request is made during the hearing, the hearing will be suspended.
  7. The member of the Chamber who is challenged may concede the challenge or not.
  8. The request for exclusion will be dealt with as quickly as possible by a Chamber other than the Chamber in which the member whose exclusion is sought sits. The requestor and the member of the Chamber whose exclusion is sought will be allowed an opportunity to provide testimony.
  9. The Chamber will reach a decision as quickly as possible. The reasons behind the decision will be given and the decision will be imparted to the parties and the member whose exclusion is sought as quickly as possible.
  10. The decision is not open to appeal.

## **Article 18**

### **Withdrawal of complaint**

1. If the complaint is withdrawn, it will no longer be handled and the chair will inform the parties of this as soon as possible.
2. In the event of important interests, the Chamber may decide to inform the Board of the withdrawn complaint.

## **Article 19**

### **Hearing**

1. Following the written procedure, the chair will set a date for the oral handling of the complaint unless the chair of the Chamber considers that the complaint does not merit an oral procedure. In such a case, the chair will inform the parties of this and also that oral proceedings will take place only if one of the parties expresses this wish within two weeks of the date of this notification.
2. Hearings of the Disciplinary Board are not public.

3. The chair may summon parties to appear in person or in the person of an authorised representative. The chair may exempt parties from this on request. The name of the authorised representative must be sent to the clerk in writing before the hearing.
4. The parties may be assisted during the hearing or be represented by an authorised representative.
5. The Chamber may refuse assistance or representation by a person for whom there are serious objections. In the case of such a refusal, the Chamber may postpone the case to a subsequent hearing if it wishes.

## **Article 20**

### **Witnesses and experts**

1. The Chamber is authorised, officially or at the request of one of the parties, to call witnesses and experts and to hear their testimony. A request for summoning witnesses must be submitted to the clerk no later than one week before the hearing, stating the name and address of the witness and/or expert concerned and the reason for the summons.
2. The Chamber shall summon witnesses and experts by means of a registered letter.
3. The Chamber shall request witnesses to confirm that they will tell the truth and nothing but the truth and request experts to present their reports to the best of their knowledge.
4. If he or she wishes, the chair of the Chamber may indemnify a witness or expert up to a sum established by the chair.

## **Article 21**

### **Ruling and measures**

1. The ruling may be one of the following:
  - a. the complaint is inadmissible;
  - b. the complaint is groundless;
  - c. the complaint is well-founded, with or without imposing a penalty.
2. Notwithstanding the stipulations of article 11, paragraph 3, the complaint can be declared groundless if it is not submitted within a reasonable timeframe after the disputed actions or omissions.
3. Every ruling of the Chamber shall be properly justified.

4. The Disciplinary Board shall send a copy of its ruling as soon as possible:
  - a. to the defendant;
  - b. to the complainant; and
  - c. to the Board.
  
5. In accordance with stipulations in the Charter, the Disciplinary board may impose the following measures:
  - a. written warning;
  - b. written reprimand;
  - c. suspension as a member of the association for a maximum of six months;
  - d. termination of membership of the association.Measures as referred to in c and d will be disclosed to members of the association if necessary.
  
6. In its ruling, the Disciplinary Board may require that the member on whom a disciplinary measure has been imposed or the complainant, as a present or former member of the association, reimburses the costs incurred by the counterparty if his or her complaint is declared unfounded. Such a ruling may also include reimbursement of costs incurred by the association in handling the case.
  
7. If necessary, the Board will ensure the implementation of the measures imposed and possible disclosure within two months of the ruling becoming final and irrevocable.
  
8. After the ruling of the Disciplinary Board has come into force, it will be published on the website of the association and in the magazine and/or newsletter of the association without mentioning the name of the person involved.
  
9. With regard to the consequences of suspension and termination as described in the Charter, the Board will also inform the NOB-recognised tax advisory practice for which the suspended or expelled member works regarding the suspension or termination and the consequences of this.

## **BOARD OF APPEAL**

### **Article 22 Appeal**

1. An appeal against a ruling of the Disciplinary Board may be made by either of both parties within two months from the date on which the ruling was delivered by post.
  
2. In the lack of an appeal against a ruling by either of the two parties, the Board is authorised to lodge an appeal in the interests of settling the disciplinary proceedings. The ruling of the Board of Appeal will have no disciplinary consequences for either party.

3. The appeal will be lodged by submitting a notice of appeal in six copies to the Board of Appeal. In the event of the appeal being lodged by the Board, if not a party itself, the period of notice will be four months.
4. If an appeal is lodged, the other party may lodge an incidental appeal within six weeks after receiving the grounds of the appeal. The stipulations regarding the appeal will apply correspondingly.

### **Article 23**

#### **Procedure of the Board of Appeal**

1. Article 11, with the exception of paragraph 1, up to and including article 20, will apply correspondingly to the procedure of the Board of Appeal, in which “appeal” should be read for “complaint”.
2. The Board of Appeal shall also send notifications as referred to in article 12, article 18 and article 21 paragraph 4 to the Disciplinary Board.

### **Article 24**

#### **Ruling Referral**

1. The Board of Appeal will confirm the ruling of the Disciplinary Board either adopting or confirming the grounds or actions, entirely or partially abrogate the ruling, or rule as the Disciplinary Board should have done.
2. By way of derogation from the stipulations of the preceding paragraph, in the event that it abrogates the ruling because the complaint has been unjustly deemed inadmissible, and in other cases in which it deems necessary, the Board of Appeal may refer the case to the Disciplinary Board for further process and ruling.
3. After referral of a case by the Board of Appeal, the chair of the Disciplinary Board will allow both parties the opportunity to reply to the ruling of the Board of Appeal within a period set by him/her of at least one month and, within this period, will assemble a Chamber to handle the case.

## **TRANSITIONAL PROVISIONS**

### **Article 25**

#### **Transitional provision**

1. These rules shall be effective as of 11 June 2014. The Rules for Disciplinary Proceedings as adopted by the General Membership Meeting of 15 June 2011 shall apply to the handling of complaints submitted before these rules entered into force.

2. Irrespective of the stipulations of article 4, paragraph 4, the current chair and deputy chairs who have already been re-appointed more than twice shall remain in their posts until the current term of four years has elapsed.