

Kiwa Appeal Procedure

Version 15-10-2017



▶ **Trust
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1. Definitions

1.1. Decision

A decision by Kiwa to grant, withdraw, suspend, restrict or not to extend a certificate or declaration of conformity

1.2. Decision on an appeal

The appeal procedure will culminate in a decision on the appeal in question. It could be decided to uphold an appeal, which will usually result in a new decision by Kiwa.

1.3. Appeal

The contestation of a decision that Kiwa has made, not being a complaint.

1.4. Appeal Committee

An internal committee that was not involved in the preparation of the decision arrived at by Kiwa and that handles the ensuing appeal, hears the client and makes a decision on the appeal.

1.5. Client

A natural person or legal person, or its authorised representative, that is protesting against a decision by Kiwa.

1.6. Complaint

An expression of dissatisfaction, other than an appeal, about the way in which Kiwa, or a person who carries out work under the responsibility of Kiwa, conducted it/her/himself towards the complainant, or another party, in a certain situation.

1.7. Statutory certification scheme

A scheme under which Kiwa attests and certifies products, processes, systems and individuals, which Kiwa does in its capacity as an independent administrative body on the basis of a designation by the government.

2. To what are clients able to submit appeals?

2.1. Clients are able to object to decisions made by Kiwa if they disagree with the content of a decision or the way in which it was reached. Clients are required to submit their appeals to Kiwa in writing.

2.2. In case of appeals against a Kiwa decision based on a statutory certification scheme, the General Administrative Law (Awb) is followed.

2.3. If an appeal is justified, the Kiwa decision that has been contested will be reconsidered.

2.4. The Appeal Committee will make a reasoned decision on appeals as referred to in Article 7.1 of this procedure.

2.5. The submission of an appeal to a decision by Kiwa will not have any suspensive effect. Clients will be able to request the court with competence, or the court that gains competence, in summary proceedings, to grant interim relief should the situation require immediate relief, given the interests involved.

3. To which address should clients submit appeals and within which period of time?

3.1. Clients will be able to send their appeals to the following address by registered letter:
The Kiwa Appeal Committee
For the attention of
The Quality Manager
P.O. Box 70
2280 AB Rijswijk
The Netherlands

3.2. All appeals must be submitted within 30 calendar days. This time limit will commence with effect from the date following that on which a client was notified of the decision by Kiwa, the said decision having been sent to it.

3.3. If an appeal is submitted after the time limit has expired, it must be declared inadmissible, except where the client cannot, in all reasonableness, be deemed to be in default.

3.4. All appeals must have been signed by the clients and contain the following at the very least: the name and address of the client in question, the date, a copy of the decision to which the appeal relates and also the grounds for the appeal.

3.5. When submitting an appeal, a transfer must also be made for an amount of € 250,00 to bank account number NL32 RABO 0115 3899 03 in the name of Kiwa Nederland B.V. Any costs incurred, such as travel costs or the costs of legal assistance, will not be reimbursed.

4. The Kiwa Appeal Committee

- 4.1.** Kiwa has set up an internal Appeal Committee to handle appeals.
- 4.2.** The Appeal Committee consists of a Chair and at least two members. The size and composition of the committee may vary from case to case.
- 4.3.** None of the members of the Appeal Committee may have been involved in arriving at the Kiwa decision for which the appeal was submitted.
- 4.4.** The Quality Assurance Department will act as the secretariat for the Appeal Committee.

5. Duties of the Appeal Committee

- 5.1.** The Appeal Committee is responsible for deciding on appeals submitted to Kiwa in response to decisions that Kiwa has made and also for giving clients the opportunity to be heard in this context. The duties and procedure of the Appeal Committee are as follows:
 - 5.1.1.** The Secretary confirms receipt of an appeal with the client in question.
 - 5.1.2.** The Secretary contacts the client to make arrangements about the handling of its appeal (asking for an explanation of the grounds for the appeal, informing the client of the composition of the Appeal Committee, hearing and agreeing on the date, place and time on which the appeal will be handled in a hearing). When establishing the hearing date, the parties will be given a period of at least 14 calendar days to prepare themselves for the handling of the appeal.
 - 5.1.3.** If the Secretary believes that a client has provided insufficient information and/or if the amount referred to in Article 3.5 has not been transferred before the expiry of the time limit referred to in Article 3.2, he will give the client the opportunity to complete its appeal or to transfer the amount referred to in Article 3.5, within a period of time to be specified by the Appeal Committee; failure to do either of the aforementioned will cause an appeal to be declared non-admissible.
 - 5.1.4.** The Secretary notifies the decision-maker and responsible manager at Kiwa of the appeal submitted and requests a response to it, together with the full file in question within five working days.
 - 5.1.5.** The Secretary notifies the client of the date on which its appeal will be handled.
 - 5.1.6.** The secretary prepares a report on the hearing.

6. Hearing

- 6.1.** The Appeal Committee will hear clients during the oral hearing of their appeals and give them the opportunity to explain their appeals in more detail.
- 6.2.** Clients will be permitted to arrange their representation by a lawyer or an authorised representative during their hearings.
- 6.3.** Clients will be heard by more than one person at their hearings, the majority of whom, including those leading the hearing, will not have been involved in the making of the Kiwa decisions in question.

7. Decisions on appeals

- 7.1.** The Appeal Committee will be required to decide on appeals within a period of six weeks. This time limit will start on the date on which the appeal referred to in Articles 3.2 up to and including 3.5 was received and declared admissible by Kiwa.
- 7.2.** It will be possible to postpone the decision time-limit for a period of four weeks at the very most.
- 7.3.** The Secretary will notify the client or his authorized representative of the reasoned decisions arrived by the Appeal Committee in writing, by registered post.
- 7.4.** If the Appeal Committee upholds all or part of an appeal, it will be able to specify that Kiwa is to withdraw or amend the decision contested, or that Kiwa is to make or refrain from making a decision, this with due regard to the decision of the Appeal Committee.