

1974/319



**THE RADIATION PROTECTION (APPEALS) REGULATIONS
1974**

DENIS BLUNDELL, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 16th day of December 1974

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Radiation Protection Act 1965, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Radiation Protection (Appeals) Regulations 1974.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Interpretation—In these regulations, the expression “the Act” means the Radiation Protection Act 1965.

3. Notice of Director-General’s decision—Where the Director-General—

- (a) Refuses to grant any person a licence under section 16 of the Act; or
- (b) Grants any such licence subject to any conditions, or varies, adds to, or revokes any condition so imposed, under section 17 of the Act; or
- (c) Makes any decision adverse to an applicant for a licence in respect of any provision of section 18 of the Act; or
- (d) Cancels or suspends any such licence under section 20 of the Act; or
- (e) Refuses to grant a renewal of any such licence under section 21 of the Act,—

the Director-General shall forthwith give notice in writing of his decision and of the reasons therefor to the applicant for the licence or the licensee, as the case may be.

4. Notice of appeal and of name of assessor appointed by appellant—Where the applicant for the licence or the licensee to whom that notice is given wishes to appeal from the decision to which the notice relates, he shall, within the time prescribed by subsection (1) of section 23 of the Act, give to the Minister notice of appeal in the form in the Schedule hereto, and shall specify therein the name of the person whom he has appointed to act as assessor on his behalf on the Board of Appeal, and that assessor shall give in writing his consent to act.

5. Appointment of assessor by Director-General—The assessor to be appointed on behalf of the Director-General on the Board of Appeal shall be appointed in writing by the Director-General, and that assessor shall give in writing his consent to act.

6. Notice of names of assessor appointed by Director-General and of presiding Magistrate—Within 31 days after receiving the notice of appeal, the Minister shall inform the appellant of the name of the person appointed to act as assessor on behalf of the Director-General on the Board of Appeal and of the name of the Magistrate who will be a member and the Chairman of the Board of Appeal, and shall at the same time send to the Magistrate a copy of the decision of the Director-General and of the notice of appeal.

7. Power of another Magistrate to act—If by reason of death, sickness, resignation, absence, or any other cause the Magistrate named as provided by regulation 6 of these regulations is unable to perform the preliminary duties hereinafter referred to, or is not present at the time and place fixed for the hearing of the appeal, any other Magistrate may act in the place of the Magistrate so named, and, if no other Magistrate is available for the hearing of the appeal, the assessors may from time to time adjourn the hearing for such period not exceeding 14 days and to such place as they think fit.

8. Appointment of other assessors—If by reason of death, sickness, or any other cause any assessor appointed as aforesaid is not able to be present at the time and place fixed for the hearing of the appeal, the Director-General or the appellant, as the case may be, shall either at the hearing or previously thereto make a fresh appointment of an assessor and give notice in writing thereof forthwith to the Magistrate and to the other party, and the Magistrate may adjourn the hearing of the appeal for such period not exceeding 14 days as he thinks fit.

9. Place and time of hearing—The Board of Appeal shall hear and determine the appeal at such convenient place and time as may be decided by the Magistrate.

10. Notice of place and time of hearing—The Magistrate shall cause at least 7 days' previous notice of the place and time of the hearing to be given to the assessors, the Director-General, and the appellant.

11. Evidence—The Board of Appeal may, in its discretion, receive any evidence it thinks fit (whether on oath or otherwise), and may act on any statement, document, information, or matter which in the opinion of the Board of Appeal may assist it to deal with the matters before it, whether the same would be legally admissible in a Court of law or not.

12. Procedure—In matters not expressly provided for in the Act or by these regulations, the Board of Appeal shall follow such procedure as the Magistrate may determine.

13. Adjournment—The Board of Appeal may from time to time adjourn the hearing or consideration or determination of the appeal as it thinks fit.

14. Representation at hearing—At the hearing of the appeal the appellant may himself appear and give evidence and may either be heard in person or be represented by some other person or by a solicitor or counsel; and evidence may be given on behalf of the Director-General by any person appointed by him, and any such person may be heard on behalf of the Director-General, or the Director-General may be represented by a solicitor or counsel.

15. Method of taking evidence and determination—If the appellant or his representative appears at the hearing, the evidence shall be taken in his presence or in the presence of his representative, or both. If the appellant or his representative fails to appear at the hearing, the Board of Appeal may determine the appeal in his absence on such evidence as is available.

16. Decision of Board of Appeal—The order made by the Board of Appeal in respect of the appeal shall be in writing signed by the Magistrate and at least one of the assessors. A copy of the order shall be given to the appellant and a copy shall also be given to the Director-General, who shall forthwith give effect to the order.

17. Costs—The costs that may be allowed by the Board of Appeal under subsection (4) of section 23 of the Act may include allowances to witnesses at a rate not exceeding the scale of allowances to witnesses for the time being in force under the Magistrates' Courts Act 1947.

18. Method of giving notice—Any notice required by these regulations to be given to any person may be given by sending the notice by registered post addressed to him at his last known address, and shall be deemed to have been received when in the ordinary course of post it would be delivered.

19. Revocation—The Radioactive Substances Appeals Regulations 1954* are hereby revoked.

SCHEDULE

Reg. 4

NOTICE OF APPEAL

To the Minister of Health

Take notice that I,.....of.....hereby appeal under section 23 of the Radiation Protection Act 1965 against the decision of the Director-General of Health conveyed to me by letter dated the..... day of.....19.....

I make my appeal on the following grounds:.....

And I hereby appoint.....of.....as assessor on my behalf for the purposes of this appeal.

Dated at.....this.....day of.....19.....

Signature of Appellant:.....

I hereby consent to act as assessor for the purposes of this appeal.

Signature of Assessor:.....

P. G. MILLEN,

Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide for the procedure on appeals from decisions of the Director-General of Health under the Radiation Protection Act 1965.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 December 1974.

These regulations are administered in the Health Department.