

Serial Number **1954/69**



**THE RADIOACTIVE SUBSTANCES APPEALS
REGULATIONS 1954**

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 5th day of May 1954

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Radioactive Substances Act 1949, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Radioactive Substances Appeals Regulations 1954.

2. In these regulations, unless the context otherwise requires,—
“The Act” means the Radioactive Substances Act 1949:
Expressions defined in the Act have the meanings so defined.

3. Where the Minister—

- (a) Decides for the purposes of the Act that any person has not special knowledge in the use or application of X-rays or radioactive substances for the purpose of diagnosing, treating, or alleviating any abnormal condition of the human body; or
- (b) Refuses to grant any person a licence under section 14 of the Act; or
- (c) Imposes any special condition in respect of any such licence under section 15 of the Act; or
- (d) Makes a decision in respect of any such licence under section 16 of the Act; or
- (e) Cancels or suspends any such licence or refuses to renew any such licence,—

the Minister shall forthwith give notice in writing of his decision and of the reasons therefor to the person in respect of whom the decision was made or, as the case may be, the applicant for the licence or the licensee.

4. Where the person to whom that notice is given wishes to appeal from that decision, he shall, within the time prescribed by section 21 (1) of the Act, give to the Director-General notice of appeal in the form in the Schedule hereto, or to the like effect, 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. The assessor to be appointed to represent the Minister on the appeal shall be appointed in writing by the Minister, and that assessor shall give in writing his consent to act.

6. Within thirty-one days after receiving the notice of appeal the Director-General shall inform the appellant of the name of the person appointed to act as assessor on behalf of the Minister at the hearing 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 Minister's decision and of the notice of appeal.

7. If by reason of death, sickness, resignation, absence, or any other cause the Magistrate named as provided by regulation 6 hereof shall be unable to discharge the duties hereinafter referred to, any other Magistrate may discharge those duties in the place of the Magistrate so named.

8. If by reason of death, sickness, resignation, absence, or any other cause the Magistrate so named as aforesaid is not present at the time and place fixed for the hearing of the appeal, any other Magistrate for the time being present may act in the place of the Magistrate so named, and if no other Magistrate be available, the assessors may from time to time adjourn the hearing of the appeal for such period not exceeding fourteen days and to such place as they think fit.

9. If by reason of death, sickness, or any other cause any assessor appointed as aforesaid is not present at the time and place fixed for the hearing of the appeal, then the Minister or the appellant, as the case may be, shall either at the time of 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 time not exceeding fourteen days as he thinks fit.

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

11. The Magistrate shall cause at least seven days' previous notice of the place and time of the hearing to be given to the assessors, the Minister, and the appellant.

12. 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.

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

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

15. 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 solicitor or counsel; and evidence may be given on behalf of the Minister by any person appointed by him, and any such person may be heard on behalf of the Minister or the Minister may be represented by solicitor or counsel.

16. 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. If he appears, the evidence shall be taken in his presence or in the presence of his representative, or both.

17. The order made 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 to the Minister, and the Minister shall forthwith give effect to the order.

18. The costs that may be allowed by the Board of Appeal under section 21 (4) 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.

19. There shall be paid to the assessors out of money appropriated by Parliament remuneration by way of fees or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the assessors were members of a statutory Board within the meaning of that Act.

20. Any notice required by these regulations to be given to any person may be given by sending the same 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.

SCHEDULE

NOTICE OF APPEAL

To the Director-General of Health,
Department of Health,
Wellington.

TAKE NOTICE that I,, of, hereby appeal under section 21 of the Radioactive Substances Act 1949 against the decision of the Minister of Health conveyed to me by letter dated the day of 19.....

The following are the grounds on which I make my appeal:

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 an assessor for the purposes of this appeal.

Signature:

T. J. SHERRARD,
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 the decisions of the Minister of Health under the Radioactive Substances Act 1949.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 May 1954.

These regulations are administered in the Department of Health.