

1993 No. 55

RADIOACTIVE SUBSTANCES

**The Radioactive Substances (Appeals) Regulations
(Northern Ireland) 1993**

Made 11th February 1993

Coming into operation 1st April 1993

The Department of the Environment, in exercise of the powers conferred on it by sections 11D(6) and (11), 15(1), 19(1) and 21(2) of the Radioactive Substances Act 1960(a) and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Radioactive Substances (Appeals) Regulations (Northern Ireland) 1993 and shall come into operation on 1st April 1993.

Interpretation

2.—(1) In these regulations—

“the Act” means the Radioactive Substances Act 1960; and

“the Department” means the Department of the Environment.

(2) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Notice of appeal

3.—(1) A person who wishes to appeal to the Department under section 11D of the Act shall give written notice of the appeal to the Department.

(2) The notice of appeal shall be accompanied by the following—

(a) a full statement of the appellant’s case;

(b) a copy of any relevant application;

(c) a copy of any relevant certificate of registration or authorisation;

(d) a copy of any relevant correspondence between the appellant and the chief inspector;

(a) 1960 c. 34; section 11D was inserted by the Environmental Protection Act 1990 (c. 43) Schedule 5, paragraph 10; section 15(1) was amended by section 100(3) of the Environmental Protection Act 1990 c. 43; section 19(1) is cited because of the meaning assigned in that provision to the word “prescribed”; section 21(2) was amended by paragraph 20(a) of Schedule 5 to the Environmental Protection Act 1990 and is cited because it provides that any reference to the Secretary of State is to be construed as a reference to the Department of the Environment for Northern Ireland.

(b) 1954 c. 33 (N.I.)

- (e) a copy of any decision or notice which is the subject matter of the appeal; and
 - (f) a statement indicating whether the appellant wishes the appeal to be disposed of on the basis of written representations or to be in the form of a hearing.
- (3) Any request by the appellant to withdraw an appeal shall be made to the Department in writing.

Time limit for bringing an appeal

4.—(1) Subject to paragraph (2), notice of appeal pursuant to regulation 3(1) shall be given within 2 months from the date on which—

- (a) a copy of the decision or notice which is the subject matter of the appeal is sent to the appellant; or
- (b) the relevant application is treated as having been refused by virtue of section 1(3A), 3(4B) or 8(3B) of the Act(a),

or before the expiry of such longer period as the Department may allow.

(2) Where the appeal is against the decision of the chief inspector to cancel a registration or to revoke an authorisation, notice of appeal shall be given within 28 days from the date on which notice of the decision is given to the appellant under section 5(2) or 8(8) of the Act or before the expiry of such longer period as the Department may allow.

Action upon receipt of notice of appeal

5.—(1) Upon receipt of a notice of appeal accompanied by the documents specified in regulation 3(2), the Department shall send to the chief inspector a copy of the notice of appeal, the statement of the appellant's case and the appellant's statement indicating whether he wishes the appeal to be disposed of on the basis of written representations or to be in the form of a hearing.

(2) Where the appeal is against a decision in respect of an application for an authorisation under section 6 of the Act on which the chief inspector consulted a public or local authority under section 9(3) of the Act, the chief inspector shall inform the Department of the names of the authorities consulted.

(3) The Department shall send to any authority whose name is notified to it under paragraph (2) a notice stating that an appeal has been lodged and that within 21 days from the date of service of that notice the authority may make representations to it with respect to the subject matter of the appeal.

Written representations

6.—(1) Where the appellant informs the Department that he wishes the appeal to be disposed of on the basis of written representations, the chief inspector may submit written representations to the Department not later than 28 days after receiving a copy of the appellant's statements.

(a) 1960 c. 34; sections 1(3A), 3(4B) and 8(3B) were inserted by the Environmental Protection Act 1990 (c. 43) Schedule 5, paragraph 11

(2) The appellant may make further representations by way of reply to any representations from the chief inspector not later than 17 days after the date of submission of those representations by the chief inspector.

(3) Any representations made by the chief inspector or the appellant shall be dated and submitted to the Department on the date they bear.

(4) When the appellant or the chief inspector submits any representations to the Department under paragraph (3) he shall at the same time send a copy to the other party.

(5) The Department shall send to the appellant and the chief inspector a copy of any representations made to it by the authorities mentioned in regulation 5(2) and shall allow the appellant and the chief inspector a period of not less than 14 days in which to make representations thereon.

(6) The Department may in a particular case set later time limits than those mentioned in this regulation.

Hearings

7.—(1) The Department shall give the appellant and the chief inspector at least 28 days written notice of the date, time and place for the holding of any hearing unless they agree to a shorter period of notice:

(2) Subject to paragraph (3), in the case of a hearing which is to be held wholly or partly in public, the Department shall, at least 21 days before the date fixed for the hearing—

(a) publish a copy of the notice mentioned in paragraph (1) in at least one newspaper circulating in the locality in which the activity which is the subject matter of the appeal is or would be carried on; and

(b) in a case where the Department is informed under regulation 5(2) that the chief inspector has consulted any authority, serve a copy of that notice on every authority which was consulted.

(3) The Department may vary the date fixed for the holding of any hearing and paragraphs (1) and (2) shall apply to the variation of a date as they apply to the date originally fixed.

(4) The Department may vary the time or place fixed for the holding of a hearing and shall give such notice of any such variation as appears to it to be reasonable.

Reports

8. A person appointed by the Department to consider written representations or conduct a hearing shall make a report in writing to the Department which shall include his conclusions together with his recommendations or his reasons for not making any recommendations.

Notification of determination

9.—(1) The Department shall notify the appellant in writing of its determination of the appeal and of its reasons for that determination and shall provide him with a copy of the report made pursuant to regulation 8.

(2) The Department shall at the same time send a copy of those documents to the chief inspector and to any authority to which it was required to give notice of the appeal under regulation 5(3).

Sealed with the Official Seal of the Department of the Environment on
11th February 1993.

(L.S.)

R. W. Rogers

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for the procedure regarding appeals to the Department of the Environment against certain decisions of the chief inspector appointed by it under the Radioactive Substances Act 1960. The decisions of the chief inspector under that Act which may be appealed against include decisions in relation to applications for registration under section 1 or 3 of that Act, and applications for authorisation under section 6 or 7 of that Act. Decisions of the chief inspector to impose any limitation or condition on, or to vary, cancel or revoke any such registration or authorisation, or to serve enforcement or prohibition notices, may also be appealed against.

Regulation 3 deals with the procedure and documentation required for giving notice of or withdrawing an appeal to the Department. Regulation 4 sets out the time limits for bringing an appeal, and regulation 5 details the action to be taken by the Department and the chief inspector upon receipt of a notice of appeal.

Regulation 6 specifies the procedure for dealing with an appeal on the basis of written representations, and regulation 7 specifies the procedure for dealing with an appeal in the form of a hearing.

Regulation 8 requires the person appointed to consider written representations or conduct a hearing to report in writing to the Department. Regulation 9 provides that the Department must notify the appellant and the chief inspector, and any other public or local authority which has been consulted, of its determination of the appeal, and of its reasons for that determination.