

1990 No. 2504

**ATOMIC ENERGY AND RADIOACTIVE
SUBSTANCES**

The Radioactive Substances (Appeals) Regulations 1990

Made - - - - - 10th December 1990

Laid before Parliament 11th December 1990

Coming into force 1st January 1991

The Secretary of State for the Environment as respects England, the Secretary of State for Wales as respects Wales and the Secretary of State for Scotland as respects Scotland, in exercise of their powers under sections 11D(6) and (11) of the Radioactive Substances Act 1960(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Radioactive Substances (Appeals) Regulations 1990 and shall come into force on 1st January 1991.

(2) In these Regulations “the 1960 Act” means the Radioactive Substances Act 1960.

Notice of appeal

2.—(1) A person who wishes to appeal to the Secretary of State under section 11D of the 1960 Act shall give written notice of the appeal to the Secretary of State.

(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;
- (e) a copy of any decision or notice which is the subject-matter of the appeal;
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) Any request by the appellant that an appeal be withdrawn shall be made to the Secretary of State in writing.

Time limit for bringing appeal

3.—(1) Subject to paragraph (2) below, notice of appeal pursuant to regulation 2(1) above is to be given before the expiry of the period of two months beginning with 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 pursuant to section 1(3A), 3(4B) or 8(3B)(b) of the 1960 Act,

or before the expiry of such longer period as may be allowed by the Secretary of State.

(a) 1960 c.34; See the definition of “prescribed” in section 19(1). Section 11D was inserted by paragraph 10 of Schedule 5 to the Environmental Protection Act 1990 (c. 43).

(b) Sections 1(3A), 3(4B) and 8(3B) were inserted by paragraph 11 of Schedule 5 to the Environmental Protection Act 1990.

(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 before the expiry of the period of 28 days beginning with the date on which notice of the decision is given to the appellant under section 5(2) or 8(8)(a) of the 1960 Act or before the expiry of such longer period as may be allowed by the Secretary of State.

Action upon receipt of notice of appeal

4.—(1) Upon receipt of a notice of appeal accompanied by the documents specified in regulation 2(2) above, the Secretary of State 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 in the form of a hearing or to be disposed of on the basis of written representations.

(2) Where the appeal is against a decision in respect of an application for an authorisation under section 6 of the 1960 Act on which the chief inspector consulted any local authority, local fisheries committee, river purification authority, statutory water undertakers or other public or local authority under section 9(3) of the 1960 Act(b), the chief inspector shall notify the Secretary of State of the names of the authorities consulted.

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

Written representations

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

(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 Secretary of State on the date they bear.

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

(5) The Secretary of State shall send to the appellant and the chief inspector a copy of any representations made to him by the authorities mentioned in regulation 4(2) above 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 Secretary of State may in a particular case set later time limits than those mentioned in this regulation.

Hearings

6.—(1) The Secretary of State 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) below, in the case of a hearing which is to be held wholly or partly in public, the Secretary of State shall, at least 21 days before the date fixed for the hearing—

- (a) publish a copy of the notice mentioned in paragraph (1) above 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

(a) Section 5(2) was amended by section 100(2) of the Environmental Protection Act 1990 and section 8(8) was amended by paragraph 1(5) of Schedule 5 to that Act.

(b) Section 9(3) was amended as respects England and Wales by paragraph 27(2)(b) of Schedule 25 to the Water Act 1989 (c.15). It was further amended by section 100(2) of, and paragraph 2(1) of Schedule 5 to, the Environmental Protection Act 1990.

(b) in a case where the Secretary of State is informed under regulation 4(2) above that the chief inspector has consulted any authority, serve a copy of that notice on every authority which was consulted.

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

(4) The Secretary of State may also vary the time or place for the holding of a hearing but shall give such notice of any such variation as appears to him to be reasonable.

(5) After the conclusion of the hearing the person appointed to conduct the hearing shall make a report in writing to the Secretary of State which shall include his conclusions together with his recommendations or his reasons for not making any recommendations.

Notification of determination

7.—(1) The Secretary of State shall notify the appellant in writing of his determination of the appeal and of his reasons for it and, if a hearing is held, shall at the same time provide him with a copy of the report of the person who conducted the hearing.

(2) The Secretary of State shall at the same time send a copy of those documents to the chief inspector and to any authority to which he was required to give notice of the appeal under regulation 4(3) above.

7th December 1990

Michael Heseltine
Secretary of State for the Environment

10th December 1990

David Hunt
Secretary of State for Wales

Signed by authority of
the Secretary of State for Scotland

10th December 1990

James Douglas-Hamilton
Parliamentary Under-Secretary of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make procedural provision with respect to appeals to the Secretary of State against certain decisions of the chief inspector appointed by him under the Radioactive Substances Act 1960. The decisions of the chief inspector under that Act which can be appealed against include decisions in relation to applications for registration under section 1 or 3 of that Act and applications for an authorisation under section 6 or 7 of that Act. A decision of the chief inspector to impose any limitation or condition on such a registration or authorisation or to vary, cancel or revoke one may also be appealed against, as may his decisions to serve enforcement and prohibition notices.

95p net

ISBN 0 11 005653 1

Printed in the UK by HMSO

850/WO2202 C11 452/4 1/91 3204325 19542