

Environmental Impact Assessment (Appeal Board) Regulation
- Chapter 499a (Section 32)

[1 April 1998] (L.N. 71 of 1998)
(L.N. 455 of 1997)

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 1
(Omitted as spent): 01/04/1998

(Omitted as spent)

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 2
Interpretation VerDate: 01/04/1998

In this Regulation-

"Appellant" means a person who lodges a notice of appeal in accordance with section 3;

"Determine" in relation to such form as the Director may determine, Means set by the Director under section 33 of the Ordinance;

"Respondent", in relation to an appeal for the purposes of section 17(1) of the Ordinance, means the Director; and, in relation to an appeal for the purposes of section 17(2) of the Ordinance, means the Secretary.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 3
Form of notice of appeal: 01/04/1998

Notice of appeal-

(a) For the purposes of section 17(1) of the Ordinance, in the case of an environmental permit holder or an applicant, shall be in such form as the Director may determine;

(b) For the purposes of section 17(2) of the Ordinance, in the case of a person whose project is specified by the Secretary as a designated project under section 4(4) of the Ordinance, shall be in such form as the Director may determine; and

(c) Shall be lodged with the Chairman.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 4
Service of copy of notice of appeal and statement of particulars:
01/04/1998

(1) When lodging a notice of appeal under section 3 the appellant shall at the same time serve a copy of such notice on the respondent; and shall at the same time serve on the respondent and the Chairman a statement of particulars which shall include-

(a) The name, address, telephone and facsimile number, if any, of the appellant;

(b) The name, address, telephone and facsimile number, if any, of the appellant's authorized representative;

(c) Details of the decision appealed against;

(d) The grounds of appeal;

(e) The name, title, address, telephone and facsimile number, if any, of all proposed witnesses; and

(f) Particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the appellant sufficient to ensure that the Appeal Board is fully and fairly informed of the grounds of appeal.

(2) The respondent shall within 60 days of receipt of a copy of a notice under subsection (1) serve notice on the Chairman and the appellant of-

(a) The name, address, telephone and facsimile number, if any, of the respondent's authorized representative;

(b) the name, title, address, telephone and facsimile number, if any, of all proposed witnesses; and

(c) particulars of the evidence to be given by the witnesses and documents and any other thing to be produced by or on behalf of the respondent sufficient to ensure that the appellant and the Appeal Board are fully and fairly informed of the grounds of opposing the appeal.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 5
Further particulars: 01/04/1998

If any party to any appeal requires further particulars from the other party relating to the appeal he may, within 21 days after the service on the respondent of a copy of the notice of appeal under section 4 or such longer period as the Chairman, on application, may allow in any particular case, serve notice on the other party specifying the further particulars required, and the other party shall, within 21 days after notice is served under this section or such longer period as the Chairman, on application, may allow in any particular case, furnish such particulars to the other party and lodge a copy of such particulars with the Chairman.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 6
Inspection of documents :01/04/1998

(1) Any party to any appeal may at any time serve notice on the other party to produce, within 21 days after the notice is served, any document relating to the appeal for the inspection of the party serving the notice and to permit him to take copies thereof.

(2) Any party who fails to comply with a notice under subsection

(1) shall not afterwards be allowed to put any such document in evidence unless he satisfies the Appeal Board that he had a reason for his failure to comply which the Appeal Board deems sufficient.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 7
Date, time and place of hearing :01/04/1998

Following the expiration of the 60 day period referred to in section 4(2) or the compliance by the respondent with the requirements of that section, whichever is the earlier, the Chairman shall fix the date, time and place of the hearing of the appeal so as to enable the hearing to commence as soon as is reasonably practicable and shall, not less than 28 days before the date so fixed, serve on the appellant and on the respondent notice of the date, time and place in such form as the Director may determine.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 8
Summons to witness:01/04/1998

Upon application by any party to an appeal in such form as the Director may determine, the Chairman may issue a witness summons in such form as the Director may determine to any person named in the application requiring him to appear before the Appeal Board to produce any document relating to the appeal and to give evidence.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 9
Procedure before hearing:01/04/1998

Not less than 7 days before the date and time fixed under section 7 for the hearing of the appeal, the appellant and the respondent shall-

(a) lodge with the Chairman a copy of witness statements, documents and any other thing to be given or produced in evidence at the hearing of the appeal;

(b) serve on each other a copy of witness statements and documents and shall give details of any other thing lodged with the Chairman which

statement, document or thing is to be given or produced in evidence at the hearing of the appeal.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 10
Appeal to be conducted in public VerDate:01/04/1998

The hearing of an appeal shall be conducted in public unless the Chairman of his own motion, or upon application by any party to the appeal, orders that all or any persons should be excluded from the whole or any part of the hearing.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 11
Representation VerDate:01/04/1998

At the hearing of an appeal-

(a) the appellant may be represented by a barrister or solicitor;
and

(b) the respondent may be represented by a barrister, solicitor
or
legal officer.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 12
Abandonment of appeal VerDate:01/04/1998

(1) The appellant may abandon the whole or any part of the appeal by notice in writing lodged with the Chairman.

(2) When lodging a notice under subsection (1), the appellant shall at the same time serve a copy of such notice on the respondent.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 13
Failure of any party to attend hearing VerDate:01/04/1998

(1) If on the date and time fixed for the hearing of an appeal any party to the appeal fails to attend the hearing either in person or by a barrister or solicitor, the Appeal Board may-

(a) if satisfied that the party's failure to attend was due to sickness or other reasonable cause, postpone or adjourn the hearing for such period as it thinks fit;

(b) proceed to hear the appeal;

(c) in the case of a failure by the appellant to so attend other than by reason of sickness or other reasonable cause, dismiss the appeal.

(2) Where the appeal is dismissed by the Appeal Board under subsection (1)(c) the appellant may, within 30 days after the making of the order for dismissal, by notice in writing lodged with the Chairman, apply to the Appeal Board to review its order and the Appeal Board may, if satisfied that the appellant's failure to attend the hearing was due to sickness or any other reasonable cause, set aside the order for dismissal.

(3) When lodging a notice under subsection (2), the appellant shall at the same time serve a copy of such notice on the respondent.

(4) Where the Appeal Board sets aside an order for dismissal under subsection (2), the Chairman shall fix the date, time and place for the hearing of the appeal so as to enable the hearing to commence as soon as is reasonably practicable and shall, not less than 14 days before the date so fixed, serve on the appellant and on the respondent notice of the date, time and place in such form as the Director may determine.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 14
Failure to serve notice of appeal or to furnish particulars
VerDate:01/04/1998

(1) Where an Appeal Board is satisfied that the appellant has failed-

(a) to serve a copy of the notice of appeal on the respondent under section 4(1);

(b) to furnish a statement of particulars to the respondent and the Chairman under section 4(1); or

(c) to furnish further particulars to the respondent under section 5, the Appeal Board may dismiss the appeal.

(2) Where an Appeal Board is satisfied that the respondent has failed-

(a) to serve a copy of the notice of any of the matters referred to in section 4(2) on the appellant and the Chairman; or

(b) to furnish particulars to the appellant under section 5, the Appeal Board may allow the appeal.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 15
Record of proceedings VerDate:01/04/1998

The Chairman shall take or cause to be taken in writing a full minute, so far as circumstances permit, of the following matters in respect of every appeal heard by the Appeal Board-

- (a) the grounds of the appeal;
- (b) the name of the appellant;
- (c) the name of any person who appears as a witness for the appellant;
- (d) the name of any person who appears as a witness for the respondent;
- (e) the name of any person summonsed as a witness before the Appeal Board;
- (f) the evidence of any person who gives evidence;
- (g) the decision of the Appeal Board;
- (h) the amount of any sum awarded under section 19 of the Ordinance in respect of the costs of the appeal; and the name of the person in favour of whom the award was made.

ENVIRONMENTAL IMPACT ASSESSMENT (APPEAL BOARD) REGULATION - SECT 16
Service of notices by Chairman, respondent or appellant VerDate:01/04/1998

Any notice or copy of a notice required to be served under this Regulation-

- (a) by the Chairman on the appellant or the respondent;
 - (b) by the respondent on the appellant; or
 - (c) by the appellant on the respondent,
- may be served by serving a copy personally or by registered post addressed to the last known address of the appellant or to the respondent, as the case may be.