

# RADIATION PROTECTION BILL

## EXPLANATORY NOTE

THIS Bill consolidates and amends the Radioactive Substances Act 1949.

*Clause 1* relates to the Short Title and commencement of the Bill. It is to come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

*Clause 2* defines terms that are used in the Bill. The definitions of the terms "radioactive substance" and "irradiating apparatus" have been revised in the light of corresponding definitions in the Radiation Protection Regulations 1951 (S.R. 1951/155), and new definitions have been inserted of the terms "radioactive material" and "radionuclide". *Subclause (2)* has been varied so as to provide that, for the purposes of the Bill, any question as to whether any person has special knowledge in the safe use or application of irradiating apparatus or radioactive substances for the purpose of diagnosing, treating, or alleviating any abnormal condition of the human body shall be decided by the Minister after consultation with the Radiological Advisory Council. The Minister's decision is in future to be final.

*Clause 3* declares that the Bill shall bind the Crown.

*Clause 4* gives the Director-General of Health power to delegate all or any of the powers exercisable by him under the legislation. This is necessary in view of the powers being given to the Director-General to grant, renew, cancel, or suspend licences. In practice these functions are at present exercised by an officer of the Department of Health under powers delegated to him by the Minister under section 9 of the Health Act 1956. The Bill transfers the licensing powers to the Director-General because appeals to a Board of Appeal under *clause 23* lie more fittingly against a decision of the Director-General than against a decision of the Minister. In view of the right of appeal and the present licensing practice, it is unnecessary for the licensing powers to be exercised in the name of the Minister.

### *Radiological Advisory Council*

*Clause 5* provides for the continuation without material change of the present Radiological Advisory Council. In *subclause (1)* the reference to the Senate of the University of New Zealand has been dropped in view of the abolition of that University.

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Price 1s. 6d.

*Clauses 6 and 7* repeat without material change existing provisions governing the chairmanship of the Council and meetings thereof. There is a minor change in *clause 6 (2)*. Under the existing provision, if the Director-General of Health is absent from a meeting, his deputy at the meeting takes the chair. In future the Director-General may, if he chooses, nominate another member of the Council to take the chair.

*Clauses 8 and 9* substantially repeat existing provisions relating to the appointment of advisory and technical committees, and the payment of remuneration and travelling allowances to members of the Council and committees and also to assessors appointed under *clause 23* to serve on any Board of Appeal. The existing legislation does not provide for the remuneration and travelling expenses of assessors.

*Clause 10* follows the existing section which defines the functions of the Council, except that *paragraph (a)* has been consequentially amended so as to refer to the Director-General instead of the Minister in connection with licensing matters, and the scope of *paragraph (d)* has been extended by the use of the word "or" instead of the word "and" which appears in the corresponding existing provision.

*Clause 11* declares that the Minister, on behalf of Her Majesty, shall have power to manufacture or otherwise produce, buy, or otherwise acquire, treat, store, transport, use, and dispose of any radioactive material, or use any irradiating apparatus, and to do all such things as appear to the Minister to be necessary or expedient for the exercise of any such power as aforesaid. This repeats an existing provision, except that it refers to radioactive material instead of a radioactive substance.

#### *Radioactive Materials*

*Clause 12* provides that no person other than the Minister shall, except with the prior consent in writing of the Minister or in accordance with or as permitted by regulations, manufacture or sell or import or export or store or transport any radioactive material. The clause substantially follows the existing section, except that *paragraph (e) of subclause (1)* is new, and *subclauses (3) and (4)* have been amplified to cover cases where radioactive material is transferred from one aircraft to the next suitable outgoing aircraft.

*Subclause (2)* is new and provides that any consent given by the Minister under the legislation may be expressed to be subject to such conditions and qualifications as the Minister may see fit to impose.

*Clause 13* requires that a person who uses or administers any radioactive material shall either be licensed to do so or act under the supervision or instructions of a person who is so licensed.

#### *Irradiating Apparatus*

*Clauses 14 and 15* substantially repeat existing provisions for the control of the sale and use of irradiating apparatus. Purchasers and users must be licensed, and notice of every sale must be given to the Director-General. *Paragraph (b) of clause 13 (2)* is new and requires the purchaser to give the notice to the Director-General if the vendor is not in New Zealand at the date of the sale.

### *Licences*

*Clauses 16 and 17* make provision for the granting of licences under the legislation and for the imposition of conditions where licences are granted. In future licences are to be granted by the Director-General instead of by the Minister. Apart from this change the clauses substantially follow the existing provisions.

*Clause 18* specifies the classes of licences which may be granted, and states to whom various classes of licences may be granted. The clause departs substantially from the existing provision as regards its wording and arrangement, and omits the provision for licences for all purposes.

*Clauses 19 to 21* substantially follow existing provisions in respect of the registration, cancellation, suspension, and renewal of licences, except that the functions formerly exercised in this connection by the Minister are in future to be exercised by the Director-General.

*Clause 22* follows an existing provision and requires licensees to notify any change of address.

### *Miscellaneous Provisions*

*Clause 23* makes provision for appeals to a Board of Appeal consisting of a Magistrate and two assessors against decisions of the Director-General in connection with the granting, cancellation, suspension, or renewal of licences. The decision of the Minister under *clause 2 (2)* is in future to be final and not subject to appeal.

*Clause 24* substantially follows an existing provision, and gives any authorised officer of the Department of Health the right to enter at all reasonable hours any premises, vehicle, ship, or aircraft in which he has reasonable grounds for believing that there is any radioactive material or irradiating apparatus for the purpose of examining or testing that material or examining or calibrating that apparatus, as the case may be.

*Clause 25* makes provision for the taking of samples and the testing of radioactive materials and radioactive substances, and the testing of irradiating apparatus.

*Clause 26* follows an existing provision relating to offences against the legislation.

*Clause 27* imposes a liability on a licensee where his agent or servant or a person whom he is supervising commits an offence. The clause will take the place of regulation 35 of the Radiation Protection Regulations 1951.

*Clause 28* provides that where any company is convicted of an offence against the legislation, every director and every officer concerned in the management of the company shall be guilty of a like offence unless he proves either—

- (a) That the offence was committed without his knowledge or consent; or
- (b) That he took all reasonable steps to prevent the commission of the offence.

The provision is based on section 51 (2) of the Poisons Act 1960.

*Clause 29* follows an existing provision, and provides that a Magistrate may order the forfeiture to the Crown of any radioactive materials or irradiating apparatus in respect of which an offence against this legislation has been committed.

*Clause 30* provides that fees and other money received under the legislation shall be paid into the Consolidated Revenue Account, and that expenses incurred in the administration of the legislation or in the exercise by the Minister of any of the powers conferred by *clause 11* shall be paid out of money appropriated by Parliament.

*Clause 31* gives wide powers of making regulations for the purposes of the legislation.

*Clause 32* declares that nothing in the Bill shall be so construed as to limit or in any way affect the provisions of any other Act.

*Clause 33 and the Schedule* provide for consequential repeals.

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Hon. Mr McKay

## RADIATION PROTECTION

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## A BILL INTITULED

**An Act to consolidate and amend the Radioactive Substances Act 1949**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

**1. Short Title and commencement**—(1) This Act may be cited as the Radiation Protection Act 1965.

(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation. 10

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Council” means the Radiological Advisory Council constituted under this Act: 15

“Director-General” means the Director-General of Health under the Health Act 1956; and includes any person to whom his powers are for the time being delegated under this Act:

“Irradiating apparatus” means any apparatus that can be used for the production of X-rays or gamma rays or for the acceleration of atomic particles in such a way that it produces a dose equivalent rate of or exceeding 0·25 millirem per hour at a point which could be reached by a living human being: 20 25

“Medical practitioner” means a person for the time being registered as a medical practitioner under the Medical Practitioners Act 1950:

“Minister” means the Minister of Health:

“Prescribed” means prescribed by regulations made under this Act: 30

“Radioactive material” means any article containing a radioactive substance giving it a specific radioactivity exceeding 0·002 microcurie per gram and a total radioactivity exceeding 0·1 microcurie: 35

“Radioactive substance” means a radionuclide or mixture of radionuclides, either alone or in chemical combination with other elements:

“Radiologist” means a medical practitioner having special knowledge in the safe use or application of irradiating apparatus for the purpose of diagnosing any abnormal condition of the human body:

5 “Radionuclide” means an isotope of any element which spontaneously emits ionising radiation:

10 “Radiotherapist” means a medical practitioner having special knowledge in the safe use or application of irradiating apparatus or radioactive materials for the purpose of treating or alleviating any abnormal condition of the human body:

15 “Sell” includes supplying or otherwise dealing in or disposing of, whether by way of sale, loan, or gift; and also includes barter; and also includes offering or attempting to sell, or receiving for sale, or exposing for sale, or having in possession for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and “sale”, “buying”, “vendor”, and “purchaser” have corresponding  
20 meanings.

(2) For the purposes of this Act, if any question arises as to whether any person has special knowledge in the safe use or application of irradiating apparatus or radioactive materials for the purposes of diagnosing, treating, or alleviating any  
25 abnormal condition of the human body, the question shall be decided by the Minister after consultation with the Radiological Advisory Council, and every decision so given by the Minister shall be final:

30 Provided that, in making any recommendation under this subsection, the Council shall act on the advice of an advisory committee appointed by it under this Act, of which not less than one half of the members (exclusive of the Chairman) shall, in the case of a question relating to diagnosis by the safe use or application of irradiating apparatus, be radio-  
35 logists, and shall, in the case of any other question, be radiotherapists.

(3) Every recommendation made by the Council under subsection (2) of this section shall be based on the consideration of the experience and qualifications of the person  
40 concerned. Every such person shall submit to the Council such evidence of his qualifications and experience as the Council may require, and the Council may, if it thinks fit, require him to verify his evidence by statutory declaration.

(4) Before making an unfavourable recommendation under subsection (2) of this section, the advisory committee shall notify the person concerned of its intention so to do, and shall give him an opportunity of appearing before it and giving or adducing further evidence on the matter. 5

Cf. 1949, No. 42, s. 2

**3. Act to bind the Crown**—This Act shall bind the Crown.

Cf. 1949, No. 42, s. 31

**4. Delegation of powers by Director-General**—(1) The Director-General may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers of the Department of Health as he thinks fit all or any of the powers exercisable by him under this Act. 10

(2) Subject to any general or special directions given or conditions attached by the Director-General, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation. 15

(3) Every person purporting to act pursuant to any delegations under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary. 20

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class or to the holder or holders for the time being of a specified office or class of offices. 25

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General. 30

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Director-General. 35

*Radiological Advisory Council*

**5. Radiological Advisory Council**—(1) There shall continue to be a Council to be known as the Radiological Advisory Council.

(2) The Council shall consist of— 40

(a) The Director-General:



- (b) A medical practitioner:
  - (c) Two persons, each of whom shall be either a radiologist or a radiotherapist:
  - (d) A person having special knowledge in the use or application of radioactive materials:
  - (e) An officer of the Department of Scientific and Industrial Research nominated by the Minister of Science:
  - (f) One other person, being a qualified physicist.
- (3) The members of the Council, other than the Director-General, shall be appointed by the Governor-General, on the recommendation of the Minister, and shall hold office for a period of five years, save that any such member may from time to time be reappointed, or may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Minister.
- (4) If any appointed member of the Council dies, or resigns, or is removed from office, the vacancy so created shall be filled by the appointment of some qualified person in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.
- (5) Unless he sooner vacates his office as provided in subsection (4) of this section, every appointed member of the Council shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.
- (6) The powers of the Council shall not be affected by any vacancy in the membership thereof.
- (7) The persons holding office immediately before the date of the commencement of this Act as appointed members of the Radiological Advisory Council, as constituted before the commencement of this Act, shall cease to hold office as such on that date:
- Provided that any such person may be appointed to be a member of the Council pursuant to this Act.

Cf. 1949, No. 42, s. 3

- 40 **6. Chairman of Council**—(1) The Director-General shall be the Chairman of the Council.
- (2) The Chairman shall preside at all meetings of the Council at which he is present. If at any meeting of the Council the Director-General is not present, the officer of

the Department of Health authorised to attend the meeting in his stead pursuant to section 7 of this Act, or such other member of the Council as the Director-General may specify, shall act as the Chairman in respect of that meeting, and shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting. 5

Cf. 1949, No. 42, s. 4

**7. Meetings of Council**—(1) Meetings of the Council shall be held at such times and places as the Council or the Chairman may from time to time appoint. 10

(2) At any meeting of the Council four members shall form a quorum.

(3) Every question before any meeting of the Council shall be determined by a majority of the votes of the members present and voting thereon. 15

(4) The Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(5) In the absence from any meeting of the Council of the Director-General, he may appoint an officer of the Department of Health to attend the meeting in his stead. Every person so appointed by the Director-General shall be a medical practitioner. While any person is attending any meeting of the Council pursuant to this subsection he shall be deemed for all purposes to be a member of the Council. The fact that any person so attends shall be sufficient evidence of his authority so to do. 20 25

(6) Except as expressly provided in this Act or in any regulations thereunder, the Council may regulate its procedure in such manner as it thinks fit.

Cf. 1949, No. 42, s. 5 30

**8. Advisory and technical committees**—The Council may from time to time appoint such advisory or technical committees as it thinks fit to advise the Council on such matters within the scope of its functions as are referred to them by the Council. Any person may be appointed to be a member of any such committee, notwithstanding that he is not a member of the Council. 35

Cf. 1949, No. 42, s. 6

**9. Allowances and travelling expenses of members of Council and committees**—(1) There shall be paid to the members of the Council or of any advisory or technical committee of the Council and to any assessors appointed under section 23 5 of this Act, remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such assessors and the members of any such committee (as well as the members 10 of the Council) were members of a statutory Board within the meaning of that Act.

(2) For the purposes of subsection (1) of this section, the Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 15 Cf. 1949, No. 42, s. 7; 1951, No. 79, s. 10 (1)

**10. Functions of Council**—The functions of the Council shall be to advise and make recommendations to—

- (a) The Director-General in respect of applications for licences under this Act which are referred to it by the Director-General for its advice and recommendations thereon: 20
- (b) The Minister in respect of the exercise of any powers vested in the Minister by this Act:
- (c) The Minister in respect of any regulations made or proposed to be made under this Act: 25
- (d) The Minister in respect of any other matter to which this Act relates or which is referred to the Council by the Minister.

Cf. 1949, No. 42, s. 8

**11. Powers of Minister**—The Minister, on behalf of Her Majesty, shall have power to manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport, use, and dispose of any radioactive material, or use any irradiating apparatus, and to do all such things as appear 30 to the Minister to be necessary or expedient for the exercise of any such power as aforesaid. 35

Cf. 1949, No. 42, s. 9

*Radioactive Materials*

**12. Control of manufacture, etc. of radioactive materials**— 40 (1) No person other than the Minister shall, except with the prior consent in writing of the Minister or in accordance with or as permitted by regulations made under this Act,—

- (a) Manufacture or otherwise produce; or
- (b) Sell; or
- (c) Bring or cause to be brought or sent into New Zealand;  
or
- (d) Take or send out of New Zealand; or 5
- (e) Store or transport—

any radioactive material.

(2) Any consent given by the Minister under this section may be expressed to be subject to such conditions and qualifications as the Minister may see fit to impose. 10

(3) For the purposes of this section, any radioactive material shall be deemed to have been brought into New Zealand when, in any manner whatsoever, it is brought or comes within the territorial limits of New Zealand from any place outside those limits. 15

(4) For the purposes of this section, any radioactive material shall be deemed to have been sent out of New Zealand when it is placed upon any ship or aircraft for the purpose of being taken or carried to any place outside the territorial limits of New Zealand. 20

Cf. 1949, No. 42, s. 10

**13. Control of use and administration of radioactive materials**—(1) Subject to such exemptions as may be prescribed, no person, other than the Minister, shall use any radioactive material unless that person is the holder of a licence for the time being in force under this Act authorising him to do so or is a person acting under the supervision or instructions of a person so licensed. 25

(2) No person shall administer any radioactive material to a human being, unless that person is the holder of a licence for the time being in force under this Act authorising him to do so, or is acting under the supervision or instructions of a person so licensed. 30

Cf. 1949, No. 42, s. 11

#### *Irradiating Apparatus* 35

**14. Control of sale of irradiating apparatus**—(1) No person shall sell any irradiating apparatus to any person, unless at the time of sale the purchaser produces to the vendor a licence for the time being in force under this Act authorising him to use irradiating apparatus of the kind to which that irradiating apparatus belongs or evidence in writing that he is exempt from obtaining such a licence pursuant to regulations made under this Act. 40

(2) Notice of every sale of irradiating apparatus, together with the name and address of the person to whom it is sold, shall forthwith be given to the Director-General by—

- 5 (a) The person selling the apparatus if he is in New Zealand at the date of the sale; or  
(b) The person buying the apparatus in any other case.

Cf. 1949, No. 42, s. 12

**15. Control of use of irradiating apparatus**—Subject to such exemptions as may be prescribed, no person shall use  
10 any irradiating apparatus for any purpose unless he is the holder of a licence for the time being in force under this Act authorising him to use irradiating apparatus for that purpose, or is a person acting under the supervision or instructions of a person so licensed.

15 Cf. 1949, No. 42, s. 13

*Licences*

**16. Director-General may grant licences**—(1) On application in the prescribed manner by any person desiring to obtain  
20 a licence under this Act, the Director-General may grant to the applicant a licence in the prescribed form, or may, if he thinks fit, refuse to grant a licence to the applicant.

(2) Every application for a licence under this Act shall be made to the Director-General, and shall be accompanied by such information or particulars as may be prescribed  
25 or as the Director-General in any case may require.

(3) The Director-General may, if he thinks fit, refer any such application to the Council for its advice and recommendations thereon.

(4) Every licence granted under this section shall, unless  
30 previously cancelled under this Act, or unless some earlier expiry date is specified therein, continue in force until the thirtieth day of April next following the date on which it commences to have effect, but may from time to time be renewed pursuant to this Act.

35 (5) Subject to section 23 of this Act, the decision of the Director-General on any application under this section shall be final.

Cf. 1949, No. 42, s. 14

**17. Conditions in licences**—(1) Any licence granted under section 16 of this Act may be granted subject to such conditions, in addition to any conditions that may be prescribed in respect of licences generally, as the Director-General thinks fit to impose. Any conditions so imposed by the Director-General may at any time be varied, added to, or revoked by the Director-General. 5

(2) Without limiting the general powers conferred by subsection (1) of this section, licences may be granted subject to any of the following conditions: 10

(a) Any licence required under section 13 of this Act may be restricted to radioactive materials of a specified kind or specified kinds, or may be restricted to specified uses, limited in their type and nature, or may be restricted to use at a specified place or specified places: 15

(b) Any licence required under section 15 of this Act may be restricted to a specified apparatus or to apparatus of a specified kind or specified kinds, or may be restricted to specified uses limited in their type and nature, or may be restricted to use at a specified place or specified places. 20

Cf. 1949, No. 42, s. 15

**18. Classification of licences**—(1) Licences granted under this Act shall be classified as follows: 25

- (a) Licences for diagnostic purposes:
- (b) Licences for therapeutic purposes:
- (c) Licences for dental diagnostic purposes:
- (d) Licences for chiropractic diagnostic purposes:
- (e) Licences for industrial, experimental, testing, demonstration, veterinary, research, or other specified purposes. 30

(2) Licences for diagnostic purposes may be granted only to radiologists and other persons who, in the opinion of the Minister have special knowledge in the safe use or application of radioactive materials or irradiating apparatus for the purpose of diagnosing any abnormal condition of the human body. 35

(3) Licences for therapeutic purposes may be granted only to radiotherapists. 40

(4) Licences for dental diagnostic purposes may be granted only to dentists registered under the Dental Act 1963 or to medical practitioners.

5 (5) Licences for chiropractic diagnostic purposes may be granted only to chiropractors registered under the Chiropractors Act 1960.

(6) No person shall use any radioactive material or irradiating apparatus for any purpose other than that specified in his licence in respect of that material or apparatus.

10 Cf. 1949, No. 42, s. 16; 1960, No. 123, s. 32

**19. Register of licences**—(1) The Director-General shall keep or cause to be kept such registers of licences issued under this Act as may be prescribed.

15 (2) The contents of every such register may be evidenced in any proceedings by a certificate under the hand of the Director-General, and every such certificate shall be sufficient evidence of the matters stated therein in the absence of proof to the contrary.

20 (3) A certificate under the hand of the Director-General that on a date specified in the certificate the name of any person did or did not appear in any register as the holder of a licence or any specified class of licence under this Act shall, until the contrary is proved, be sufficient evidence of the matters therein specified.

25 Cf. 1949, No. 42, s. 17

**20. Cancellation or suspension of licences**—The Director-General may, in his discretion, cancel or suspend for such period as he thinks fit any licence granted under this Act if the holder of the licence commits an offence against this Act or commits a breach of any of the conditions of his licence or if for any other reason the Director-General considers it in the public interest to do so. Subject to the provisions of section 23 of this Act, every decision of the Director-General under this section shall be final.

35 Cf. 1949, No. 42, s. 18

**21. Renewal of licences**—(1) On application being made to the Director-General in the prescribed manner, the Director-General may grant to the applicant a renewal of any licence held by the applicant under this Act, or may, if he  
40 thinks fit, refuse to grant a renewal of the licence.

(2) Sections 16, 17, and 18 of this Act shall apply to every application for the renewal of a licence as if it were an application for a new licence.

(3) In granting any renewal of a licence the Director-General may endorse the existing licence or he may issue a new licence instead thereof. 5

(4) Every application under this section shall be made not later than the first day of April in any year, or within such further time as may be allowed by the Director-General in any particular case. 10

(5) The renewal of a licence shall, unless previously cancelled under this Act, or unless some earlier expiry date is fixed by the Director-General, take effect from the expiry of the licence in renewal of which it is granted, but any such renewal may be granted in advance to take effect as aforesaid. 15

(6) Where application for renewal of a licence is duly made under this section the licence shall, where the application is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of.

(7) Subject to the provisions of section 23 of this Act, every decision of the Director-General on an application for renewal of a licence under this section shall be final. 20

Cf. 1949, No. 42, s. 19

**22. Licensees to notify changes of address**—Every holder of a licence under this Act who at any time changes his address as appearing in the register of licences shall, within three months thereafter, send to the Director-General a notice of his new address, and the Director-General shall thereupon correct the entry in the register relating to that licensee accordingly. 25 30

Cf. 1949, No. 42, s. 20

#### *Miscellaneous Provisions*

**23. Appeals**—(1) Every person who is dissatisfied with any decision of the Director-General under any of the provisions of sections 16, 17, 18, 20, and 21 of this Act may, within one month after the date on which notice of the decision has been given to him by the Director-General, give notice of appeal in the prescribed manner to the Minister. 35



(2) Upon receipt of the notice of appeal, the Minister shall forthwith take all steps necessary for the constitution of a Board of Appeal, consisting of a Magistrate and two assessors. The assessors shall be appointed in accordance with regulations under this Act to represent the Director-General and the appellant respectively.

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm the decision of the Director-General, or may make such other order as the case may require.

(4) On any appeal under this section the Board of Appeal may make such order with respect to the costs of the appeal as it considers just and equitable in the circumstances of the case.

(5) On any appeal under this section the decision of the Board of Appeal shall be final and conclusive.

Cf. 1949, No. 42, s. 21

**24. Entry and inspection—**(1) Any officer of the Department of Health authorised by the Minister to act under this section shall, on producing if so required a duly authenticated document showing his authority, have the right to enter at all reasonable hours any premises, vehicle, ship, or aircraft in which he has reasonable grounds for believing that there is any radioactive material or irradiating apparatus for the purpose of examining or testing that material or examining or calibrating that apparatus, as the case may be.

(2) If a Justice of the Peace is satisfied on oath by a person authorised as aforesaid that—

(a) Entry in exercise of the right conferred by subsection (1) of this section has been refused; or

(b) There are reasonable grounds for suspecting that an offence against this Act has been or is being committed in or in connection with any premises, vehicle, ship, or aircraft,—

the Justice may, by warrant under his hand, authorise any person named in the warrant together with any constable to enter and search any premises, vehicle, ship, or aircraft, if necessary by force.

(3) Every warrant granted under this section shall continue in force until the purpose for which it was granted has been satisfied.

Cf. 1949, No. 42, s. 22

**25. Taking of samples and testing of radioactive materials and substances, and testing of irradiating apparatus**—Any person authorised by the Minister to act under section 24 of this Act may—

- (a) Take without payment such samples of any material or substance which he believes to be a radioactive material or to contain a radioactive substance as are necessary for the examination and testing thereof: 5
- (b) Examine and calibrate any irradiating apparatus or any apparatus which he believes to be an irradiating apparatus. 10

Cf. 1949, No. 42, s. 23

**26. Offences**—(1) Every person commits an offence against this Act who— 15

- (a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulation under this Act:
- (b) Wilfully obstructs any person exercising or attempting to exercise any power under section 24 of this Act: 20
- (c) Discloses any information obtained by means of the exercise of any power under section 24 of this Act, being information with regard to any manufacturing process or trade secret, unless the disclosure was made in accordance with the directions of the Minister or for the purpose of proceedings for an offence against this Act or any report of those proceedings: 25
- (d) For the purpose of obtaining, whether for himself or any other person, the grant of any licence under this Act, or for any other purpose in relation to this Act, makes any declaration or statement which to his knowledge is false in any particular, or utters, produces, or makes use of any such declaration or statement or any document containing the same, or knowingly utters, produces, or makes use of any document which is not genuine. 30 35

(2) Every person who commits an offence against this Act is liable on summary conviction to a fine not exceeding one hundred pounds, and, where the offence is a continuing one, to a further fine not exceeding five pounds for every day or part of a day during which the offence continues. 40

Cf. 1949, No. 42, s. 26

**27. Liability of licensee**—Where an offence is committed against this Act by any person who is the agent or servant of a person licensed under this Act, or is otherwise subject to the supervision or instructions of a person so licensed, the person  
5 so licenced shall, without restricting the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he had personally committed the offence:

10 Provided that, in any proceedings which are taken against a person licensed under this Act by virtue of this subsection, it shall be a defence for that person to prove that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Cf. Radiation Protection Regulations 1951, reg. 35

15 **28. Offences by companies**—Where any company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of a like offence unless he proves either—

- 20 (a) That the offence was committed without his knowledge or consent; or  
(b) That he took all reasonable steps to prevent the commission of the offence.

Cf. 1960, No. 97, s. 51 (2)

**29. Forfeiture of radioactive materials or irradiating apparatus on conviction**—(1) Where any person is convicted of any offence against this Act in relation to any radioactive material, the Magistrate may, in addition to imposing any penalty under section 26 of this Act, order that all radioactive materials owned by that person and in respect of which the  
30 offence was committed shall be forfeited to Her Majesty, and all such materials shall thereupon be deemed to be forfeited to Her Majesty accordingly.

(2) Where any person is convicted of any offence by reason of his having acted in contravention of or having failed to  
35 comply with any provision of section 15 or subsection (6) of section 18 of this Act, the Magistrate may, in addition to imposing any penalty under section 26 of this Act, order that the irradiating apparatus in respect of which the offence was committed shall be forfeited to Her Majesty, and every such  
40 irradiating apparatus shall thereupon be deemed to be forfeited to Her Majesty accordingly.

(3) All radioactive materials and every irradiating apparatus forfeited under subsection (1) or subsection (2) of this section shall be sold or otherwise disposed of in such manner as the Minister directs.

Cf. 1949, No. 42, s. 27

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**30. Application of fees, etc.**—All fees and other money received under this Act shall be paid into the Consolidated Revenue Account, and all expenses incurred in the administration of this Act or in the exercise by the Minister of any of the powers conferred by section 11 of this Act shall be paid out of money to be from time to time appropriated by Parliament for the purpose.

Cf. 1949, No. 42, s. 28

**31. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Granting or providing for the exemption, whether absolutely or in such circumstances or subject to such conditions or in relation to such purpose or use as may be prescribed, of persons or things or classes of persons or things, specified or described in the regulations, from all or any of the provisions of sections 12, 13, and 15 of this Act and of any regulations made under this Act: 20
- (b) Prescribing fees payable in respect of any application or licence under this Act: 25
- (c) Regulating the procedure of the Council:
- (d) Prescribing precautions to be taken to prevent injury from being caused by ionising radiations to the health of persons employed in places where radioactive materials are manufactured, produced, treated, stored, or used, or where irradiating apparatus is used, or of other persons likely to be exposed to harmful radiation: 30
- (e) Prescribing precautions to be taken to prevent injury from being caused by or through the establishment or operation of nuclear reactors or of processing plants for nuclear fuel to the health of persons employed in connection therewith and of other persons: 40

- (f) Making provision to ensure that waste products from any source whatever which contain any radioactive substance are disposed of safely:
- 5 (g) Imposing requirements as to the erection or structural alteration of buildings in which any radioactive material is manufactured, produced, treated, used, or stored, or where irradiating apparatus is used:
- 10 (h) Prescribing precautions to be taken to prevent injury from being caused by the transport of radioactive materials to the health of persons engaged therein and other persons, prescribing the method of packaging any radioactive material, and prescribing the marks to be placed on the vessels or receptacles or transport containers containing any radioactive material:
- 15 (i) Prescribing the method of treatment or disposal of any package, container, or vessel that has been used to convey, hold, or store any radioactive material:
- 20 (j) Prescribing the manner in which and the conditions subject to which radioactive materials may be stored or used:
- (k) Prescribing the purposes for which any radioactive material or irradiating apparatus may be used:
- 25 (l) Prohibiting or restricting the use of any specified radioactive material or class of radioactive material:
- (m) Prohibiting or restricting the use of any specified type of irradiating apparatus:
- (n) Prescribing the maximum working hours of persons employed in the manufacture, production, treatment, storage, or use of radioactive materials or the use of irradiating apparatus, prescribing the minimum holidays to be taken by those persons, and providing for the medical examination of those persons:
- 30 (o) Regulating the issue by medical practitioners of prescriptions containing any radioactive substance:
- 35 (p) Regulating the dispensing and compounding of any prescription containing any radioactive substance:
- 40 (q) Providing for the making of returns by owners of radioactive materials of the quantities and classes of radioactive materials held by them:

- (r) Providing for the keeping by purchasers of radioactive materials of records specifying the purposes to which those materials are put, and for the inspection of those records, and for the making of returns of entries in those records: 5
- (s) Providing for the keeping of records relating to the use of irradiating apparatus or radioactive materials for therapeutic purposes:
- (t) Prescribing the forms of applications, licences, registers, notices, and other documents required for the purposes of this Act, or authorising the Director-General to prescribe such forms: 10
- (u) Providing for the appointment of assessors and regulating the conduct of appeals under section 23 of this Act: 15
- (v) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

Cf. 1949, No. 42, s. 29

**32. Saving of other Acts**—Nothing contained in this Act shall be so construed as to limit or in any way affect the provisions of any other Act. 20

Cf. 1949, No. 42, s. 30.

**33. Repeals**—The enactments specified in the Schedule to this Act are hereby repealed. 25

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## SCHEDULE

### Section 33

### ENACTMENTS REPEALED

- 1949, No. 42—The Radioactive Substances Act 1949. (1957 Reprint, Vol. 13, p. 97.)
- 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Radiological Advisory Council, and so much of the Second Schedule as relates to the Radioactive Substances Act 1949. (1957 Reprint, Vol. 13, p. 101.)
- 1960, No. 123—The Chiropractors Act 1960: Section 32.