

Appellate Procedure

1. Appellate Procedure under the National Environmental Act. Under Section 23 of the Act

The regulations shall apply to appeals against the refusal to grant, the refusal to renew the suspension or the cancellation of an environmental protection license under section 23B or 23D of the National Environment Act. No 47 of 1980 (here in after in these regulations referred to as "The Act") by the Authority or any government department, corporation, statutory board, local authority or public officer to whom the Authority may have delegated the power to issue, suspend, renew or cancel such license under and in terms of section 26 of the said Act.

Appeals under section 23E against the refusal, refusal to renew, suspension or cancellation of an environmental protection license shall be lodged with the Secretary to the Ministry of the Minister in charge of the subject of Environment within thirty days after the date of the notification of the decision appealed against.

Every Appeal to which these regulations apply, shall be in writing and be signed by the appellant and where the appellant is a body of person be signed by a Director, Secretary or other authorized officer of that body.

(b).be dated and lodged with the Secretary to the Minister with in the stipulated time.

(c).have annexed to it a copy of the decision appealed against.

(d).set out the concisely in duty numbered paragraphs the ground of appeals

(e).set out the relief which the appellant seeks and

(f).set out the names and addresses of any persons or bodies of persons who were parties to any hearing or inspection carried out by the authority, government department, corporation, statutory body. local authority or public officer as the case may be.

(ii). Any appeal that does not comply with the requirements of regulation 3(1) shall not be processed until the said requirements are complied with The secretary shall notify the appellant of non compliance in writing and where the appellant fails to rectify such omission within the time stipulated in the notice, or within

such extension of time as the Secretary may on application grant the Secretary shall reject the appeal.

All appeals received shall be entered on a register to be maintained by the Secretary for such purpose. Such register or an extract there of duly authenticated by the Secretary shall be a public document open for public inspection at the office of the Ministry of the Minister in charge of the subject of Environment during any working day.

Upon the lodging of an appeal, the secretary shall call for the entire record relating to the decision under appeal from the authority, government department, corporation, statutory body, local authority or public office as the case may be and they shall (on) with forward the said word to the Secretary.

The secretary shall thereafter notify in writing the person whose names and addresses are disclosed in the appeal that an appeal has been lodged and that the appeal, may be perused at his office during a period of ten working days from the date of notice and shall inform such persons that he will entertain written objections or comments to the appeal during that period.

Provided however, where the number of persons disclosed in the appeal exceed 20, the Secretary may, in his discretion, publish the notice in an English, Sinhala or Tamil news paper.

At the end of the period referred to in regulation 6 the Secretary shall notify the appellant, that objection or comments have been received from the persons disclosed in his appeal and that the same may be perused at his office during a period of ten days from the date of such notification and the appellant may respond in writing if he so desires to such objections or comments during that period.

At the conclusion of the period referred to the regulation 7 the Secretary may in his discretion, notify the appellant and the person who have made objections or comments under regulation 6, to appear before him at a formal hearing of the appeal on such date and time as may be set out in such notice.

The appellant and any person notified may be represented by an Attorney –at – Low or by some other Person duly authorized by writing.

The Secretary may also notify the authority, government department, corporation, Statutory body, local authority or public officer as the case may be, to submit its

comments or observations on the appeal, and may require them to be present and make submissions at any hearing through an officer duly authorized in writing or through an Attorney at –Law or the Attorney General.

At the conclusion of the hearing, the Secretary shall make a decision on the appeal within one week of the conclusion there of and shall in writing notify the appellant and all persons disclosed in the appeal and the authority, government department, corporation, statutory body, local authority or public officer as the case may be of the decision together with the reasons therefor.

The secretary shall maintain a journal in respect of every appeal and shall record his reasons for the decision on the appeal in the record. The decision together with the reasons shall be communicated under regulation 11.

The Secretary may also establish an Appeals Advisory Committee consisting of officers in the Ministry and other qualified persons to advise him in making his decision on the appeal. He shall not appoint any person who has any interest in the subject matter or who is a party to the appeal. Members of the Appeals Advisory Committee are entitled to be present during hearings and may be consulted by the Secretary during hearing. The Secretary shall not be bound to follow any or all the advice given by members of the said Committee.

In these regulations unless the context otherwise require;-

(a). "Act." Means The national Environment Act, no 47 of 1980 as amended from time to time

(b). Authority means the Central Environmental Authority Established under the National Environmental Act. No. 47 of 1980

2. Appellate Procedure under the Mines and Mineral Act. Under Section 39 of the Act

The Applicant or licensee, as the Case may be who is aggrieved by a decision of the Bureau - may appeal against the decision to the Secretary to the Ministry of the Minister in charge of the subject within 14 days of the date on which the decision is communicated to him.