

WAIVER REGULATION

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List of regulations that may be waived or mitigated against by request

1(1) A person to whom a provision of any of the following regulations under the Act applies may make a request to the regional health authority for an order waiving or mitigating the application of the provision:

- (a) the *Food and Food Establishments Regulation* (AR 328/2003);
- (b) the *Housing Regulation* (AR 173/99);
- (c) the *Institutions Regulation, 1981* (AR 143/81);
- (d) the *Nuisance and General Sanitation Regulation* (AR 243/2003);
- (e) the *Personal Services Regulation* (AR 20/2003);
- (f) the *Recreation Area Regulation* (AR 245/85);

(g) the *Swimming Pool Regulation* (AR 247/85), except section 10;

(h) the *Work Camps Regulation* (AR 218/2002).

(2) A regional health authority may not grant an order waiving a requirement for a licence, permit or approval in a regulation.

AR 298/2003 s1; 108/2004

Requirements of request

2 A request under section 1 must

(a) be in writing and be made to the chair of the appropriate regional health authority,

(b) refer to the regulation and the provision for which the waiver or mitigation is requested,

(c) state the reason for the request, and

(d) be served on the regional health authority by leaving it at any office of the regional health authority.

Hearing by regional health authority

3(1) The regional health authority shall hold a hearing to consider the request within 30 days after it receives the request.

(2) Notwithstanding subsection (1), the regional health authority may, with the consent of the applicant, extend the time referred to in subsection (1) for additional periods, each not exceeding 30 days.

(3) The regional health authority may adjourn a hearing.

(4) A hearing must be open to the public unless the regional health authority directs otherwise.

(5) The regional health authority shall give reasonable notice of the time, date and place of the hearing to

(a) the applicant, and

(b) any other person who, in the opinion of the regional health authority, is or may be affected by the decision

and shall afford the persons referred to in clauses (a) and (b) and any other person who the regional health authority considers has an interest in the subject-matter of the hearing an opportunity to make oral or written representations to the regional health authority.

Order

4(1) The regional health authority may grant an order waiving or mitigating the application of a provision of a regulation where it is satisfied that

(a) application of the provision would cause a hardship to the applicant in the particular case, and

(b) an adequate degree of protection of the public health would be maintained.

(2) The regional health authority may make an order under subsection (1) subject to any terms and conditions the regional health authority considers appropriate to ensure an adequate degree of protection of the public health.

(3) An order under subsection (1) must be limited to the particular case in respect of which the application was made.

Decision rendered within reasonable time

5 The regional health authority shall, within a reasonable time after the conclusion of a hearing under this Regulation, make a decision and serve a copy of the decision, together with reasons, on the applicant and the persons who made representations at the hearing.

Conflict of interest

6 No member of a regional health authority shall participate in a hearing under this Regulation if the member has a pecuniary interest, whether direct or indirect, in the subject-matter of the application.

Appeal of decision

7 A person who is directly affected by a decision of a regional health authority to grant or refuse an order under this Regulation and considers himself or herself aggrieved by the decision may appeal the decision to the Public Health Appeal Board under section 5 of the Act.

Delegation not authorized

8 A regional health authority shall not delegate to any of its employees or officers any of its powers, duties or functions under this Regulation.

Subcommittee

9 A regional health authority may establish one or more subcommittees of at least 3 members to hear and decide applications under this Regulation.

Repeal

10 The *Waiver Regulation* (AR 249/85) is repealed.

Expiry

11 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on October 31, 2012.