

**Reprint  
as at 7 March 2017**



## **Radiation Protection Act 1965**

Public Act      1965 No 23  
Date of assent    24 September 1965  
Commencement    see section 1(2)

Radiation Protection Act 1965: repealed, on 7 March 2017, by section 96 of the Radiation Safety Act 2016 (2016 No 6).

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Health.**

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

### **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 Order in Council.

Section 1(2): this Act brought into force, on 1 April 1973, by the Radiation Protection Act Commencement Order 1973 (SR 1973/47).

Section 1(2): amended, on 24 September 1965, by section 2(1) of the Radiation Protection Amendment Act 1974 (1974 No 116).

## 2 Interpretation

(1) In this Act, unless the context otherwise requires,—

**chiropractor** means a health practitioner who is, or is deemed to be, registered with the Chiropractic Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of chiropractic

**Council** means the Radiation Protection Advisory Council constituted under this Act

**dentist** means a health practitioner who is, or is deemed to be, registered with the Dental Council established by section 114(2) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of dentistry

**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 2.5 microsieverts per hour at a point which could be reached by a living human being

**medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

**Minister** means the Minister of Health

**prescribed** means prescribed by or under regulations made under this Act

**radioactive material** means any article containing a radioactive substance giving it a specific radioactivity exceeding 100 kilobecquerels per kilogram and a total radioactivity exceeding 3 kilobecquerels

**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

**radionuclide** means an isotope of any element which spontaneously emits ionising radiation

**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

**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 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 abnormal condition of the human body, the question shall be decided by the Minister after consultation with the Radiation Protection Advisory Council, and every decision so given by the Minister shall be final:

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 radiologists, and shall, in the case of any other question, be radiotherapists.

- (3) Every recommendation made by the Council under subsection (2) shall be based on the consideration of the experience and qualifications of the person 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), 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.

Compare: 1949 No 42 s 2

Section 2(1) **chiropractor**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **Council**: replaced, on 23 December 1977, by section 2(1) of the Radiation Protection Amendment Act 1977 (1977 No 171).

Section 2(1) **dentist**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **irradiating apparatus**: amended, on 1 April 1982, by section 2(1) of the Radiation Protection Amendment Act 1981 (1981 No 90).

Section 2(1) **medical practitioner**: replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **prescribed**: amended, on 21 November 1973, by section 2 of the Radiation Protection Amendment Act 1973 (1973 No 89).

Section 2(1) **radioactive material**: replaced, on 1 April 1982, by section 2(2) of the Radiation Protection Amendment Act 1981 (1981 No 90).

Section 2(2): amended, on 23 December 1977, by section 2(2) of the Radiation Protection Amendment Act 1977 (1977 No 171).

### **3 Act to bind the Crown**

This Act shall bind the Crown.

Compare: 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 Ministry of Health as he thinks fit all or any of the powers exercisable by him under this Act.
- (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.
- (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.
- (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.
- (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.
- (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.

Section 4(1): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

### *Radiation Protection Advisory Council*

Heading: replaced, on 23 December 1977, by section 2(3) of the Radiation Protection Amendment Act 1977 (1977 No 171).

### **5 Radiation Protection Advisory Council**

- (1) There shall continue to be a Council to be known as the Radiation Protection Advisory Council.
- (2) The Council shall consist of—
  - (a) the Director-General:

- (b) the Director of the National Radiation Laboratory of the Ministry of Health:
  - (c) *[Repealed]*
  - (d) 2 persons, each of whom shall be either a radiologist or a radiotherapist:
  - (e) a medical practitioner:
  - (f) 2 persons who by reason of academic or technical training have relevant knowledge of, or experience in, the use of ionising or non-ionising radiation, and of whom at least 1 is a qualified physicist.
- (3) The members of the Council specified in paragraphs (d) to (f) of subsection (2) shall be appointed by the Minister.

Section 5: replaced, on 6 November 1986, by section 2 of the Radiation Protection Amendment Act 1986 (1986 No 107).

Section 5(2)(b): amended, on 1 July 1993, pursuant to section 38(3)(a) of the Health Amendment Act 1993 (1993 No 24).

Section 5(2)(c): repealed, on 1 July 1992, by section 46(1) of the Crown Research Institutes Act 1992 (1992 No 47).

Section 5(2)(f): replaced, on 1 July 1992, by section 46(1) of the Crown Research Institutes Act 1992 (1992 No 47).

#### **5A Term of office**

- (1) Except as provided in subsection (2) and in section 5B, every member of the Council appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2) shall hold office for a term of 3 years from the date of the member's appointment or from such other date as may be specified in the instrument by which the member is appointed; but may from time to time be reappointed.
- (2) Upon the completion by any person of 6 years' consecutive service as a member of the Council appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2), that person shall cease to be eligible for appointment as a member of the Council until after the lapse of 1 year during which that person did not hold office as a member of the Council.
- (3) Where the term for which a member has been appointed expires, that member, unless sooner vacating office or being removed from office under section 5B, shall continue to hold office, by virtue of the appointment for the term that has expired, until—
- (a) that member is reappointed; or
  - (b) a successor to that member is appointed.

Section 5A: inserted, on 6 November 1986, by section 2 of the Radiation Protection Amendment Act 1986 (1986 No 107).

#### **5B Vacation of office**

- (1) Any member of the Council appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2) may at any time be removed from office by the

Minister for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

- (2) Any member of the Council appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2) may at any time resign the office of member of the Council by notice in writing addressed to the Minister.
- (3) Every member of the Council appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2) who, by virtue of section 5A(2), becomes ineligible for appointment as a member of the Council shall cease to be a member of the Council.
- (4) The powers of the Council shall not be affected by any vacancy in its membership.

Section 5B: inserted, on 6 November 1986, by section 2 of the Radiation Protection Amendment Act 1986 (1986 No 107).

Section 5B(1): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

#### **5C Substitutes for members**

- (1) If the member specified in section 5(2)(b) is unable to attend any meeting of the Council, that member may appoint another person employed in the National Radiation Laboratory to attend the meeting in that member's place.
- (2) *[Repealed]*
- (3) If any member appointed under paragraph (d) or paragraph (e) or paragraph (f) of section 5(2) is unable to attend any meeting of the Council, that member may appoint any other person who is eligible for appointment under that paragraph to attend the meeting in that member's place.
- (4) Subject to subsection (5), where any person appointed under any of the provisions of subsections (1) to (3) attends a meeting of the Council, that person shall, while so attending, be deemed to be a member of the Council.
- (5) No person appointed under any of the provisions of subsections (1) to (3) shall act as Chairman of the Council.
- (6) No appointment under any of the provisions of subsections (1) to (3), and no act done by a person appointed under any of those provisions, and no act done by the Council while any such person is acting in the place of the member by whom that person was appointed, shall in any proceedings be questioned on the ground that the occasion for that person's appointment had not arisen or had ceased.

Section 5C: inserted, on 6 November 1986, by section 2 of the Radiation Protection Amendment Act 1986 (1986 No 107).

Section 5C(2): repealed, on 1 July 1992, by section 46(1) of the Crown Research Institutes Act 1992 (1992 No 47).

## **6 Chairman of Council**

- (1) The Council, at its first meeting held after 1 January 1978, and at its first meeting held after 1 January in each year thereafter, shall appoint one of its members to be the Chairman of the Council. Any such member may from time to time be reappointed as Chairman of the Council.
- (2) The Chairman shall preside at all meetings of the Council at which he is present.
- (3) The Chairman appointed in each year shall hold office until his successor is appointed, or until he sooner ceases to be a member of the Council.
- (4) If the Chairman ceases to be a member of the Council before the expiration of the period for which he has been appointed as Chairman thereof, the Council shall appoint some other member in his stead to be Chairman until the next occasion on which a Chairman is appointed under subsection (1).
- (5) If at any meeting of the Council the Chairman for the time being is not present or there is no Chairman of the Council, the members present shall appoint one of their number to preside at that meeting. The person so appointed shall have and may exercise all the powers and functions of the Chairman for the purposes of that meeting.
- (6) The Chairman shall have power to act in all matters, including the appointment of committees under section 8, on behalf of the Council when the Council is not meeting:

provided that, in any matter that by this Act requires a decision of the Council, he shall so act only if he reasonably considers an urgent decision to be necessary, and he shall first consult at least 1 other member of the Council, and he shall report to the next meeting of the Council the action that he has taken.

Section 6: replaced, on 23 December 1977, by section 3 of the Radiation Protection Amendment Act 1977 (1977 No 171).

## **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.
- (2) At any meeting of the Council 4 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.
- (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 Ministry 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.

- (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.

Compare: 1949 No 42 s 5

Section 7(5): amended, on 1 July 1993, pursuant to section 38(3)(a) of the Health Amendment Act 1993 (1993 No 24).

## **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.

Compare: 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, 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 of the Council) were members of a statutory board within the meaning of that Act.

- (2) For the purposes of subsection (1), the Council is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

Compare: 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:
- (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:
- (d) the Minister in respect of any other matter to which this Act relates or which is referred to the Council by the Minister.

Compare: 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 to the Minister to be necessary or expedient for the exercise of any such power as aforesaid.

Compare: 1949 No 42 s 9

### *Radioactive materials*

## 12 Control of manufacture, etc, of radioactive materials

- (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
  - (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.
- (2A) Written notice of any conditions imposed in accordance with subsection (2) on any radioactive material which is also a hazardous substance (as defined in section 2 of the Hazardous Substances and New Organisms Act 1996) must be given to the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011.
- (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.
- (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.

Compare: 1949 No 42 s 10

Section 12(2A): inserted, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 12(2A): amended, on 1 July 2011, by section 53(1) of the Environmental Protection Authority Act 2011 (2011 No 14).

### **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.
- (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.

Compare: 1949 No 42 s 11

#### *Irradiating apparatus*

### **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.
- (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—
  - (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.

Compare: 1949 No 42 s 12

### **15 Control of use of irradiating apparatus**

Subject to such exemptions as may be prescribed, no person shall use 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.

Compare: 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 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 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 previously cancelled under this Act, or unless some earlier expiry date is specified in the licence, continue in force for 1 year from the date on which it commences to have effect, but may from time to time be renewed pursuant to this Act.
- (5) Subject to section 23, the decision of the Director-General on any application under this section shall be final.

Compare: 1949 No 42 s 14

Section 16(4): replaced, on 1 April 1982, by section 3(1) of the Radiation Protection Amendment Act 1981 (1981 No 90).

## **17 Conditions in licences**

- (1) Any licence granted under section 16 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.
- (2) Without limiting the general powers conferred by subsection (1), licences may be granted subject to any of the following conditions:
  - (a) any licence required under section 13 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:
  - (b) any licence required under section 15 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.

Compare: 1949 No 42 s 15

## **18 Classification of licences**

- (1) Licences granted under this Act shall be classified as follows:
  - (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.

- (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.
- (3) Licences for therapeutic purposes may be granted only to radiotherapists.
- (4) Licences for dental diagnostic purposes may be granted only to a dentist or to medical practitioners.
- (5) Licences for chiropractic diagnostic purposes may be granted only to chiropractors.
- (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.

Compare: 1949 No 42 s 16; 1960 No 123 s 32

Section 18(4): replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 18(5): replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

## **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.
- (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.
- (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.

Compare: 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, every decision of the Director-General under this section shall be final.

Compare: 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 thinks fit, refuse to grant a renewal of the licence.
- (2) Sections 16, 17, and 18 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.
- (4) Every application under this section shall be made at least 28 days before the expiry of the licence in accordance with section 16(4), or within such further time as may be allowed by the Director-General in any particular case.
- (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.
- (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, every decision of the Director-General on an application for renewal of a licence under this section shall be final.

Compare: 1949 No 42 s 19

Section 21(4): replaced, on 1 April 1982, by section 3(2) of the Radiation Protection Amendment Act 1981 (1981 No 90).

**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 3 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.

Compare: 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 may, within 1 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.

- (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 District Court Judge and 2 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.

Compare: 1949 No 42 s 21

Section 23(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

#### **24 Entry and inspection**

- (1) Any officer of the Ministry 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 an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) is satisfied on an application made in the manner provided in subpart 3 of Part 4 of that Act by a person authorised as aforesaid that—
  - (a) entry in exercise of the right conferred by subsection (1) 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 issuing officer 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.
- (3) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- (4) Despite subsection (3), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Compare: 1949 No 42 s 22

Section 24(1): amended, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 24(2): amended, on 1 October 2012, by section 294(2)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 24(2): amended, on 1 October 2012, by section 294(2)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 24(2): amended, on 1 October 2012, by section 294(2)(c) of the Search and Surveillance Act 2012 (2012 No 24).

Section 24(3): replaced, on 1 October 2012, by section 294(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 24(4): inserted, on 1 October 2012, by section 294(3) of the Search and Surveillance Act 2012 (2012 No 24).

## 24A Building Act 2004

- (1) Where a person referred to in section 24(1) believes that any building or site-work does not comply with the Building Act 2004, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.

- (2) For the purposes of this section, the terms **building**, **sitework**, and **territorial authority** have the meanings ascribed to them by the Building Act 2004.

Section 24A: inserted, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

Section 24A heading: amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 24A(1): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 24A(2): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

## 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 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:
- (b) examine and calibrate any irradiating apparatus or any apparatus which he believes to be an irradiating apparatus.

Compare: 1949 No 42 s 23

## 26 Offences

- (1) Every person commits an offence against this Act who—
- (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:
- (c) *[Repealed]*

- (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.
- (2) Every person who commits an offence against this Act is liable on conviction to a fine not exceeding \$10,000, and, where the offence is a continuing one, to a further fine not exceeding \$500 for every day or part of a day during which the offence continues.

Compare: 1949 No 42 s 26

Section 26(1)(c): repealed, on 1 April 1987, by section 25(1) of the Official Information Amendment Act 1987 (1987 No 8).

Section 26(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 26(2): amended, on 28 July 1997, by section 2(1) of the Radiation Protection Amendment Act 1997 (1997 No 53).

Section 26(2): amended, on 28 July 1997, by section 2(2) of the Radiation Protection Amendment Act 1997 (1997 No 53).

## 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 so licensed 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:

provided that, in any proceedings that are taken against a person licensed under this Act by virtue of this section, 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.

Compare: SR 1951/155 r 35

## 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—

- (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.

Compare: 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 District Court Judge may, in addition to imposing any penalty under section 26, order that all radioactive materials owned by that person and in respect of which the 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 comply with any provision of section 15 or subsection (6) of section 18, the District Court Judge may, in addition to imposing any penalty under section 26, order that the irradiating apparatus in respect of which the offence was committed shall be forfeited to Her Majesty, and every such 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) shall be sold or otherwise disposed of in such manner as the Minister directs.

Compare: 1949 No 42 s 27

Section 29(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 29(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

**30 Application of fees, etc**

All fees and other money received under this Act shall be paid into a Crown Bank 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 shall be paid out of money to be from time to time appropriated by Parliament for the purpose.

Compare: 1949 No 42 s 28

Section 30: amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

**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, 14 and 15 and of any regulations made under this Act:

- (b) prescribing fees payable in respect of any application or licence under this Act:
- (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:
- (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:
- (f) making provision to ensure that waste products from any source whatever which contain any radioactive substance are disposed of safely:
- (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:
- (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:
- (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:
- (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:
- (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:
- (o) regulating the issue by medical practitioners of prescriptions containing any radioactive substance:

- (p) regulating the dispensing and compounding of any prescription containing any radioactive substance:
- (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:
- (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:
- (u) providing for the appointment of assessors and regulating the conduct of appeals under section 23:
- (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.

Compare: 1949 No 42 s 29

Section 31(a): amended, on 21 November 1973, by section 3 of the Radiation Protection Amendment Act 1973 (1973 No 89).

### **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.

Compare: 1949 No 42 s 30

### **33 Repeals**

The enactments specified in the Schedule are hereby repealed.

**Schedule**  
**Enactments repealed**

s 33

**Chiropractors Act 1960 (1960 No 123)**

*Amendment(s) incorporated in the Act(s).*

**Fees and Travelling Allowances Act 1951 (1951 No 79) (1957 Reprint, Vol 13,  
p 101)**

*Amendment(s) incorporated in the Act(s).*

**Radioactive Substances Act 1949 (1949 No 42) (1957 Reprint, Vol 13, p 97)**

## Reprints notes

### 1 *General*

This is a reprint of the Radiation Protection Act 1965 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Radiation Safety Act 2016 (2016 No 6): section 96  
Search and Surveillance Act 2012 (2012 No 24): section 294  
Criminal Procedure Act 2011 (2011 No 81): section 413  
Environmental Protection Authority Act 2011 (2011 No 14): section 53(1)  
Building Act 2004 (2004 No 72): section 414  
Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)  
Human Rights Amendment Act 2001 (2001 No 96): section 70(1)  
District Courts Amendment Act 1998 (1998 No 76): section 7  
Radiation Protection Amendment Act 1997 (1997 No 53)  
Hazardous Substances and New Organisms Act 1996 (1996 No 30): section 149  
Health Amendment Act 1993 (1993 No 24): section 38(3)(a)  
Health Sector (Transfers) Act 1993 (1993 No 23): section 32  
Crown Research Institutes Act 1992 (1992 No 47): section 46(1)  
Building Act 1991 (1991 No 150): section 92(1)  
Public Finance Act 1989 (1989 No 44): section 83(7)  
Official Information Amendment Act 1987 (1987 No 8): section 25(1)  
Radiation Protection Amendment Act 1986 (1986 No 107)  
Radiation Protection Amendment Act 1981 (1981 No 90)  
District Courts Amendment Act 1979 (1979 No 125): section 18(2)  
Radiation Protection Amendment Act 1977 (1977 No 171)  
Radiation Protection Amendment Act 1974 (1974 No 116)  
Radiation Protection Amendment Act 1973 (1973 No 89)

Radiation Protection Act Commencement Order 1973 (SR 1973/47)