

The Public Health Appeals Regulations

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Chapter P-37.1 Reg 8 (effective May 5, 1999) as amended by Saskatchewan Regulations [113/2017](#); and by *the Statutes of Saskatchewan*, [2013, c.27](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER P-37.1 REG 8
The Public Health Act, 1994

PART I
Preliminary Matters

Title

1 These regulations may be cited as *The Public Health Appeals Regulations*.

Interpretation

2(1) In these regulations:

- (a) **“Act”** means *The Public Health Act, 1994*;
- (b) **“head of a local authority”** means:
 - (i) in the case of the provincial health authority, the chief executive officer of the provincial health authority; and
 - (ii) in the case where the minister has delegated powers to public health officers pursuant to sections 8 and 10 of the Act, the minister.

(2) A reference in these regulations to a public health officer is a reference to a public health officer to whom a local authority has delegated powers or responsibilities pursuant to section 10 of the Act or to whom the minister has delegated powers conferred by section 8 of the Act to exercise powers of a local authority.

14 May 99 cP-37.1 Reg 8 s2; 17 Nov 2017 SR
113/2017 s3.

PART II
Reviews of Decisions

Interpretation of Part

3 In this Part:

- (a) **“appellant”** means a person who applies for a review of a decision;
- (b) **“decision”** means a decision pursuant to the Act that is made by a public health officer with respect to the issuance, refusal, amendment, suspension or cancellation of a licence, permit or approval;
- (c) **“relevant local authority”** means the local authority that delegated powers or responsibilities to the public health officer whose decision is the subject of an application for review, and includes the minister where the minister delegated to the public health officer powers conferred by section 8 of the Act.

14 May 99 cP-37.1 Reg 8 s3.

Right to review

4 A person who is directly affected and aggrieved by a decision may apply for a review of the decision in accordance with section 5.

14 May 99 cP-37.1 Reg 8 s4.

Request for review

5(1) An application for a review is to be made by delivering a written request for review to the head of the relevant local authority within 15 days after the decision comes to the attention of the appellant.

(2) A request for review must set out:

- (a) the reasons why the appellant believes the decision is in error;
- (b) the relief sought by the appellant; and
- (c) the appellant's telephone number and address for service.

14 May 99 cP-37.1 Reg 8 s5.

Conduct of review

6(1) Subject to subsection (2), a review of a decision is to be conducted by the head of the relevant local authority.

(2) The head of a local authority that is the provincial health authority may delegate the powers and duties of the head pursuant to this Part to any employee of the provincial health authority who has not been consulted with respect to the decision that is to be reviewed.

(3) Subject to subsection (4), a review of a decision is to be conducted on the basis of written submissions by the appellant and by the public health officer who made the decision.

(4) Where the head of the relevant local authority considers, after reviewing the written submissions, that a hearing is necessary, the head:

- (a) may direct that a hearing be held;
- (b) shall determine the procedures for the conduct of the hearing; and
- (c) may take evidence under oath or affirmation at the hearing.

14 May 99 cP-37.1 Reg 8 s6; 17 Nov 2017 SR 113/2017 s4.

Review is not a stay

7 A review of a decision does not operate as a stay of the decision or otherwise affect the validity of the decision unless, on the application of one of the parties, the head of the relevant local authority makes an order directing a stay.

14 May 99 cP-37.1 Reg 8 s7.

Order of head

8(1) On completing a review of a decision, the head of the relevant local authority may confirm, reverse or vary the decision.

(2) A decision of the head of a relevant local authority pursuant to subsection (1) is final.

14 May 99 cP-37.1 Reg 8 s8.

**PART III
Appeals of Orders**

Interpretation of Part

9 In this Part:

- (a) **“appellant”** means a person who appeals an order;
- (b) **“board”** means a public health appeal board appointed pursuant to section 12 or 13;
- (c) **“Chief Medical Health Officer”** means an employee of the ministry who is a medical health officer and is appointed by the minister as Chief Medical Health Officer;
- (d) **“Deputy Chief Medical Health Officer”** means an employee of the ministry who is a medical health officer and is appointed by the minister as Deputy Chief Medical Health Officer;
- (e) **“order”** means an order pursuant to the Act that is made by a public health officer, other than an order pursuant to section 38 of the Act, and does not include a notice pursuant to section 29 of the Act.

14 May 99 cP-37.1 Reg 8 s9; 17 Nov 2017 SR
113/2017 s5.

Right to appeal

10 A person to whom an order is directed may appeal the order in accordance with section 11.

14 May 99 cP-37.1 Reg 8 s10.

Notice of appeal

11(1) An appeal is to be commenced by serving a written notice of appeal, within 15 days after the order is served on the appellant, on:

- (a) the local authority, where the appeal is from an order made by a public health officer to whom a local authority has delegated powers or responsibilities pursuant to section 10 of the Act; or
- (b) the minister, where the appeal is from an order made by a public health officer to whom the minister has delegated powers conferred by section 8 of the Act.

- (2) A notice of appeal may be in Form 1 of the Appendix, but must set out:
 - (a) the grounds of appeal;
 - (b) the relief sought by the appellant; and
 - (c) the appellant's telephone number and address for service.
- (3) A notice of appeal may be served:
 - (a) on a local authority:
 - (i) by leaving a copy of the notice of appeal with any employee of the local authority at the head office of the local authority; or
 - (ii) by registered mail addressed to the local authority at its head office; or
 - (b) on the minister:
 - (i) by leaving a copy of the notice of appeal with any employee of the ministry at the office of the deputy minister; or
 - (ii) by registered mail addressed to the office of the deputy minister.
- (4) A notice of appeal must be accompanied by any fee required by these regulations.

14 May 99 cP-37.1 Reg 8 s11; 17 Nov 2017 SR 113/2017 s6.

Appointment of board by local authority

12(1) As soon as possible after the day on which a local authority is served with a notice of appeal, but not later than seven days after that day, the head of the local authority shall appoint a public health appeal board consisting of three members, of whom:

- (a) one is a member of the board of the provincial health authority;
 - (b) one is a medical health officer who has not been consulted with respect to the making of the order being appealed; and
 - (c) one is an employee or representative of the ministry chosen from a list prepared for that purpose by the minister.
- (2) The chairperson of a board appointed pursuant to subsection (1) is the member who is an employee or representative of the ministry.

17 Nov 2017 SR 113/2017 s7.

Appointment of board by minister

13(1) As soon as possible after the day on which the minister is served with a notice of appeal, but not later than seven days after that day, the minister shall appoint a public health appeal board consisting of three members, of whom:

- (a) where the local authority is the provincial health authority, one is a member of the board of the provincial health authority;

- (b) one is a medical health officer who:
 - (i) is not an employee of the ministry or under contract with the Crown as represented by the minister; and
 - (ii) has not been consulted with respect to the making of the order being appealed; and
 - (c) one is an employee or representative of the ministry.
- (2) The chairperson of a board appointed pursuant to subsection (1) is the member who is appointed in accordance with clause (1)(b).

17 Nov 2017 SR 113/2017 s7.

Hearing of appeals

14(1) As soon as possible after the date of appointment of a board, but not later than 15 days after that day, the board, if satisfied that the requirements of section 11 have been met, must:

- (a) set a date for the hearing of the appeal that is as early as possible but is not later than 30 days after the date of appointment of the board;
 - (b) set the place and time for the hearing of the appeal; and
 - (c) give written notice of the date, place and time of the hearing to the appellant and the public health officer who made the order being appealed.
- (2) At a hearing, the appellant and the public health officer may make representations personally or with the assistance of counsel.
- (3) A board may determine the procedures by which a hearing is to be conducted.
- (4) A board may accept any evidence that it considers appropriate and is not bound by the rules of law concerning evidence.
- (5) A board has the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

14 May 99 cP-37.1 Reg 8 s14; 2013, c.27, s.47.

Stay

- 15(1)** Subject to this section, an appeal of an order does not operate as a stay of the order.
- (2) An appellant may apply to the Chief Medical Health Officer for a stay of the order being appealed pending the determination of the appeal, by serving the Chief Medical Health Officer with a written request for a stay that sets out the reasons why a stay should be granted and includes a copy of the order being appealed.

(3) Within five days after service of a request for a stay, the Chief Medical Health Officer, the Deputy Chief Medical Health Officer or a medical health officer appointed by the minister for the purpose must:

- (a) investigate the matter in any way that he or she considers advisable;
- (b) obtain any information that he or she considers necessary from any person;
- (c) grant or refuse to grant the stay; and
- (d) provide the appellant and the public health officer whose order is being appealed with written reasons for the decision to grant or refuse to grant the stay.

14 May 99 cP-37.1 Reg 8 s15; 17 Nov 2017 SR 113/2017 s8.

Lateness does not invalidate

16(1) Failure to appoint a board within the time specified in subsection 12(1) or 13(1) does not invalidate the appointment of the board or a decision made by the board.

(2) Failure to comply with subsection 14(1) or 15(3) within the times specified in those subsections does not invalidate decisions made pursuant to those subsections.

14 May 99 cP-37.1 Reg 8 s16.

Decision of board

17(1) On completing an appeal of an order, a board may confirm, reverse or vary the order.

(2) A decision of a board:

- (a) must direct that all fees paid by the appellant pursuant to these regulations be refunded where the appellant is successful in the appeal; and
- (b) may direct that all or any portion of the fees paid by the appellant pursuant to these regulations be refunded where the board considers it appropriate.

(3) A decision of a board pursuant to subsection (1) is final.

14 May 99 cP-37.1 Reg 8 s17.

PART IV
General

Service by registered mail

18 A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing, unless the person to whom it is mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.

14 May 99 cP-37.1 Reg 8 s18.

Fees for certain appeals

19 A fee of \$250 to commence an appeal of an order made pursuant to section 22 of the Act must be paid:

- (a) to the local authority, in the case of an appeal mentioned in clause 11(1)(a); or
- (b) to the minister, in the case of an appeal mentioned in clause 11(1)(b).

14 May 99 cP-37.1 Reg 8 s19.

Information in orders

20 An order of a public health officer must:

- (a) contain a statement with respect to the right of the person to whom the order is directed to appeal the order;
- (b) set out the address for service of the local authority or the minister, as the case may require.

14 May 99 cP-37.1 Reg 8 s20.

Coming into force

21 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

14 May 99 cP-37.1 Reg 8 s21.

Appendix
FORM 1
[Subsection 11(2)]
Notice of Appeal

TO: _____
(name of local authority or the minister who delegated the power to issue the order, as the case may be)

1. I, _____, hereby appeal the
(person named in order)
 order made by the _____ on the ____ day of _____, _____,
(person who made the order) *(month)* *(year)*
 which I received on the _____ day of _____,
(month) *(year)*

A copy of the order is attached to this Notice of Appeal.

2. I appeal the above-noted order on the following grounds:
(Here briefly set out the reasons for your appeal, including the errors that you allege were made by the public health officer in issuing the order)

3. I request the following relief:
(Here briefly set out what action you are requesting the appeal board to take, for example: cancelling the order; amending the order in some fashion.)

4. My address for service of documents is:
(Here list your address and your telephone number.)

Dated this _____ day of _____, _____.

