

AN APPLICANT FOR A LICENSE TO DO BUSINESS AS AN EMPLOYMENT AGENCY OR A LICENSE TO ACT AS AN EMPLOYMENT COUNSELOR WHOSE APPLICATION WAS DENIED BY THE COMMISSIONER MAY FILE AN ORDER FOR APPEAL WITHIN 60 DAYS AFTER A FINAL DECISION OF THE COMMISSIONER.

REVISOR'S NOTE: Subsection (a) of this section is standard language substituted for former Art. 56, § 168B(d), the third sentence of § 163A, as that sentence related to review of a rejection of an application, and the first sentence of § 169(d), as that sentence related to review of an order of the Commissioner.

Subsection (b) of this section is new language derived without substantive change from the third sentence of former Art. 56, § 163A, as it related to time for filing an appeal.

Subsection (a) of this section conforms to SG § 10-215, which provides a right of judicial review of any "final decision" of an agency in a "contested case". A matter is a contested case if a party has a right to a hearing (see the definition of "contested case" in SG § 10-201(c)).

In subsection (a) of this section, the former reference to a 30-day limitation period for filing an order for appeal is deleted as unnecessary in light of Md. Rule B4.

In subsection (b) of this section, the reference to an "order for appeal" is substituted for the former reference to a "written petition" to conform to Md. Rule B2.

The fourth sentence of former Art. 56, § 163A, which required service of the order for appeal on the Commissioner, and the second sentence of § 169(d), which required service of the order for appeal on the Commissioner and other parties, are deleted as unnecessary in light of Md. Rule B2. The fifth sentence of former Art. 56, § 163A and the third sentence of § 169(d), each of which provided that a finding of facts by the Commissioner, supported by substantial evidence, is conclusive on the court, are deleted as unnecessary in light of SG § 10-215. Similarly, the sixth sentence of former Art. 56, § 163A and the fourth sentence of § 169(d), each of which provided that a court shall determine whether the action of the Commissioner is lawful, are deleted.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that subsection (b) of this section is revised to retain the 60-day limitation period for filing an order for appeal. Although this differs from Md. Rule B4, the more specific and later enacted provision prevails. See Farmers & Merchants National Bank v. Schlossberg, 306 Md. 48 (1986); Hemsley v. Bethesda Metal Co., 230 Md. 556 (1963).

Defined terms: "Commissioner" § 9-101

"Employment agency" § 9-101

"Employment counselor" § 9-101

"Person" § 1-101