
ADMINISTRATIVE TRIBUNALS ACT

CHAPTER 45

Assented to May 20, 2004

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions**1** In this Act:

“**applicant**” includes an appellant, a claimant or a complainant;

“**application**” includes an appeal, a review or a complaint but excludes any interim or preliminary matter or an application to the court;

“**appointing authority**” means the person or the Lieutenant Governor in Council who, under another Act, has the power to appoint the chair, vice chair and members, or any of them, to the tribunal;

“**constitutional question**” means any question that requires notice to be given under section 8 of the *Constitutional Question Act*;

“**court**” means the Supreme Court;

“**decision**” includes a determination, an order or other decision;

“dispute resolution process” means a confidential and without prejudice process established by the tribunal to facilitate the settlement of one or more issues in dispute;

“intervener” means a person who is permitted by the tribunal to participate as an intervener in an application;

“member” means a person appointed to the tribunal to which a provision of this Act applies;

“privative clause” means provisions in the tribunal’s enabling Act that give the tribunal exclusive and final jurisdiction to inquire into, hear and decide certain matters and questions and provide that a decision of the tribunal in respect of the matters within its jurisdiction is final and binding and not open to review in any court;

“tribunal” means a tribunal to which some or all of the provisions of this Act are made applicable under the tribunal’s enabling Act;

“tribunal’s enabling Act” means the Act under which the tribunal is established or continued.

Chair’s initial term and reappointment

- 2** (1) The chair of the tribunal may be appointed by the appointing authority, after a merit based process, to hold office for an initial term of 3 to 5 years.
- (2) The chair may be reappointed by the appointing authority for additional terms of up to 5 years.

Member’s initial term and reappointment

- 3** (1) A member, other than the chair, may be appointed by the appointing authority, after a merit based process and consultation with the chair, to hold office for an initial term of 2 to 4 years.
- (2) A member may be reappointed by the appointing authority as a member of the tribunal for additional terms of up to 5 years.

Chair’s absence or incapacitation

- 4** (1) If the chair expects to be absent or is absent, the chair may designate a vice chair as the acting chair.
- (2) If the chair expects to be absent or is absent and there is no vice chair, the chair may designate a member as the acting chair.
- (3) Despite subsections (1) and (2), if the chair is absent or incapacitated for an extended period of time, the appointing authority may designate a vice chair as the acting chair.
- (4) Despite subsections (1) and (2), if the chair is absent or incapacitated for an extended period of time and there is no vice chair, the appointing authority may designate a member as the acting chair.

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- (5) Subsections (3) and (4) apply whether or not a person is designated, under the Act under which the chair is appointed, to act on behalf of the chair.
- (6) A person designated under any of subsections (1) to (4) has all the powers and may perform all the duties of the chair.

Member's absence or incapacitation

- 5 If a member is absent or incapacitated for an extended period of time or expects to be absent for an extended period of time, the appointing authority, after consultation with the chair, may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Temporary, non-renewable appointments

- 6 (1) If the tribunal requires additional members, the chair, after consultation with the minister responsible for the Act under which the tribunal is established, may appoint an individual, who would otherwise be qualified for appointment as a member, to be a member for up to 6 months.
- (2) Under subsection (1), an individual may be appointed to the tribunal only once in any 2 year period.
- (3) An appointing authority may establish conditions and qualifications for appointments under subsection (1).

Powers after resignation or expiry of term

- 7 (1) If a member resigns or their appointment expires, the chair may authorize that individual to continue to exercise powers as a member of the tribunal in any proceeding over which that individual had jurisdiction immediately before the end of their term.
- (2) An authorization under subsection (1) continues until a final decision in that proceeding is made.
- (3) If an individual performs duties under subsection (1), section 10 applies.

Termination for cause

- 8 The appointing authority may terminate the appointment of the chair, a vice chair or a member for cause.

Responsibilities of the chair

- 9 The chair is responsible for the effective management and operation of the tribunal and the organization and allocation of work among its members.

Remuneration and benefits for members

- 10** (1) In accordance with general directives of the Treasury Board, members must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties.
- (2) In accordance with general directives of the Treasury Board, the minister responsible for the tribunal's enabling Act must set the remuneration for those members who are to receive remuneration.

General power to make rules respecting practice and procedure

- 11** (1) Subject to this Act and the tribunal's enabling Act, the tribunal has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.
- (2) Without limiting subsection (1), the tribunal may make rules as follows:
- (a) respecting the holding of pre-hearing conferences, including confidential pre-hearing conferences, and requiring the parties and any interveners to attend a pre-hearing conference;
 - (b) respecting dispute resolution processes;
 - (c) respecting receipt and disclosure of evidence, including but not limited to pre-hearing receipt and disclosure and pre-hearing examination of a party on oath, affirmation or by affidavit;
 - (d) respecting the exchange of records and documents by parties;
 - (e) respecting the filing of written submissions by parties;
 - (f) respecting the filing of admissions by parties;
 - (g) specifying the form of notice to be given to a party by another party or by the tribunal requiring a party to diligently pursue an application and specifying the time within which and the manner in which the party must respond to the notice;
 - (h) respecting service and filing of notices, documents and orders, including substituted service;
 - (i) requiring a party to provide an address for service or delivery of notices, documents and orders;
 - (j) providing that a party's address of record is to be treated as an address for service;
 - (k) respecting procedures for preliminary or interim matters;
 - (l) respecting amendments to an application or responses to it;
 - (m) respecting the addition of parties to an application;
 - (n) respecting adjournments;
 - (o) respecting the extension or abridgement of time limits provided for in the rules;

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- (p) respecting the transcribing or tape recording of its proceedings and the process and fees for reproduction of a tape recording if requested by a party;
 - (q) establishing the forms it considers advisable;
 - (r) respecting the joining of applications;
 - (s) respecting exclusion of witnesses from proceedings;
 - (t) respecting the effect of a party's non-compliance with the tribunal's rules;
 - (u) respecting access to and restriction of access to tribunal documents by any person;
 - (v) respecting witness fees and expenses;
 - (w) respecting applications to set aside any summons served by a party.
- (3) In an application, the tribunal may waive or modify one or more of its rules in exceptional circumstances.
- (4) The tribunal must make accessible to the public any rules of practice and procedure made under this section.

Practice directives tribunal must make

- 12** (1) The tribunal must issue practice directives respecting
- (a) the usual time period for completing an application and for completing the procedural steps within an application, and
 - (b) the usual time period within which the tribunal's final decision and reasons are to be released after the hearing of the application is completed.
- (2) The tribunal is not bound by its practice directives in the exercise of its powers or the performance of its duties.
- (3) Practice directives issued under subsection (1) must be consistent with this Act and with the tribunal's enabling Act, the regulations made under those Acts and any rules of practice and procedure made by the tribunal.
- (4) The tribunal must make accessible to the public any practice directives made under this section.

Practice directives tribunal may make

- 13** (1) The tribunal may issue practice directives consistent with this Act and with the tribunal's enabling Act, the regulations made under those Acts and any rules of practice and procedure made by the tribunal.
- (2) The tribunal is not bound by its practice directives in the exercise of its powers or the performance of its duties.
- (3) The tribunal must make accessible to the public any practice directives made under subsection (1).

General power to make orders

- 14** In order to facilitate the just and timely resolution of an application the tribunal, if requested by a party or an intervener, or on its own initiative, may make any order
- (a) for which a rule is made by the tribunal under section 11,
 - (b) for which a rule is prescribed under section 60, or
 - (c) in relation to any matter that the tribunal considers necessary for purposes of controlling its own proceedings.

Interim orders

- 15** The tribunal may make an interim order in an application.

Consent orders

- 16** (1) On the request of the parties to an application, the tribunal may make a consent order if it is satisfied that the order is consistent with its enabling Act.
- (2) If the tribunal declines to make a consent order under subsection (1), it must provide the parties with reasons for doing so.

Withdrawal or settlement of application

- 17** (1) If an applicant withdraws all or part of an application or the parties advise the tribunal that they have reached a settlement of all or part of an application, the tribunal must order that the application or the part of it is dismissed.
- (2) If the parties reach a settlement in respect of all or part of the subject matter of an application, on the request of the parties, the tribunal may make an order that includes the terms of settlement if it is satisfied that the order is consistent with its enabling Act.
- (3) If the tribunal declines to make an order under subsection (2), it must provide the parties with reasons.

Failure of party to comply with tribunal orders and rules

- 18** If a party fails to comply with an order of the tribunal or with the rules of practice and procedure of the tribunal, including any time limits specified for taking any actions, the tribunal, after giving notice to that party, may do one or more the following:
- (a) schedule a written, electronic or oral hearing;
 - (b) continue with the application and make a decision based on the information before it, with or without providing an opportunity for submissions;
 - (c) dismiss the application.

Service of notice or documents

- 19** (1) If the tribunal is required to provide a notice or any document to a party or other person in an application, it may do so by personal service of a copy of the notice or document or by sending the copy to the person by any of the following means:

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- (a) ordinary mail;
 - (b) electronic transmission, including telephone transmission of a facsimile;
 - (c) if specified in the tribunal's rules, another method that allows proof of receipt.
- (2) If the copy is sent by ordinary mail, it must be sent to the most recent address known to the tribunal and must be considered to be received on the fifth day after the day it is mailed, unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.
- (3) If the copy is sent by electronic transmission it must be considered to be received on the day after it was sent, unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.
- (4) If the copy is sent by a method referred to in subsection (1) (c), the tribunal's rules govern the day on which the copy must be considered to be received.
- (5) If through absence, accident, illness or other cause beyond the party's control a party who acts in good faith does not receive the copy until a later date than the date provided under subsection (2), (3) or (4), that subsection does not apply.

When failure to serve does not invalidate proceeding

- 20** If a notice or document is not served in accordance with section 19, the proceeding is not invalidated if
- (a) the contents of the notice or document were known by the person to be served within the time allowed for service,
 - (b) the person to be served consents, or
 - (c) the failure to serve does not result in prejudice to the person, or any resulting prejudice can be satisfactorily addressed by an adjournment or other means.

Notice of hearing by publication

- 21** If the tribunal is of the opinion that because there are so many parties to an application or for any other reason it is impracticable to give notice of a hearing to a party by a method referred to in section 19 (1) (a) to (d), the tribunal may give notice of a hearing by public advertisement or otherwise as the tribunal directs.

Notice of appeal (inclusive of prescribed fee)

- 22** (1) A decision may be appealed by filing a notice of appeal with the appeal tribunal.
- (2) A notice of appeal must
- (a) be in writing or in another form authorized by the appeal tribunal's rules,
 - (b) identify the decision that is being appealed,
 - (c) state why the decision should be changed,
 - (d) state the outcome requested,

- (e) contain the name, address and telephone number of the appellant, and if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours,
 - (f) include an address for delivery of any notices in respect of the appeal, and
 - (g) be signed by the appellant or the appellant's agent.
- (3) A notice of appeal must be accompanied by payment of the prescribed fee.
- (4) Despite subsection (3), if a notice of appeal is deficient or if the prescribed fee is outstanding, the chair or the chair's delegate may allow a reasonable period of time within which the notice may be corrected or the fee is to be paid.

Notice of appeal (exclusive of prescribed fee)

- 23** (1) A decision may be appealed by filing a notice of appeal with the appeal tribunal.
- (2) A notice of appeal must
- (a) be in writing or in another form authorized by the appeal tribunal's rules,
 - (b) identify the decision that is being appealed,
 - (c) state why the decision should be changed,
 - (d) state the outcome requested,
 - (e) contain the name, address and telephone number of the appellant, and if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours,
 - (f) include an address for delivery of any notices in respect of the appeal, and
 - (g) be signed by the appellant or the appellant's agent.
- (3) If a notice of appeal is deficient the chair or the chair's delegate may allow a reasonable period of time within which the notice may be corrected.

Time limit for appeals

- 24** (1) A notice of appeal respecting a decision must be filed within 30 days of the decision being appealed, unless the tribunal's enabling Act provides otherwise.
- (2) Despite subsection (1), the tribunal may extend the time to file a notice of appeal, even if the time to file has expired, if satisfied that special circumstances exist.

Appeal does not operate as stay

- 25** The commencement of an appeal does not operate as a stay or suspend the operation of the decision being appealed unless the tribunal orders otherwise.

Organization of tribunal

- 26** (1) The chair of the tribunal may organize the tribunal into panels, each comprised of one or more members.

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- (2) If the chair organizes a panel comprised of more than one member, the chair must designate one of those members as chair of the panel.
- (3) The members of the tribunal may sit
 - (a) as the tribunal, or
 - (b) as a panel of the tribunal.
- (4) Two or more panels may sit at the same time.
- (5) If members of the tribunal sit as a panel,
 - (a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the tribunal, and
 - (b) a decision of the panel is a decision of the tribunal.
- (6) The decision of a majority of the members of a panel of the tribunal is a decision of the tribunal and, in the case of a tie, the decision of the chair of the panel governs.
- (7) If a member of a panel is unable for any reason to complete the member's duties, the remaining members of that panel, with consent of the chair of the tribunal, may continue to hear and determine the matter, and the vacancy does not invalidate the proceeding.
- (8) If a panel is comprised of one member and that member is unable for any reason to complete the member's duties, the chair of the tribunal, with the consent of all parties to the application, may organize a new panel to continue to hear and determine the matter on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.
- (9) The chair or the chair's delegate may hear and decide any interim or preliminary matter in an application, and for that purpose may exercise any of the powers of the tribunal necessary to decide the matter.

Staff of tribunal

- 27**
- (1) Employees necessary to carry out the powers, functions and duties of the tribunal may be appointed under the *Public Service Act*.
 - (2) The chair of the tribunal may engage or retain consultants, investigators, lawyers, expert witnesses or other persons the tribunal considers necessary to exercise its powers and carry out its duties under the tribunal's enabling Act and may determine their remuneration.
 - (3) The *Public Service Act* does not apply to a person retained under subsection (2) of this section.

Appointment of person to conduct dispute resolution process

- 28**
- (1) The chair of the tribunal may appoint a member or staff of the tribunal or other person to conduct a dispute resolution process.

- (2) If a member of the tribunal is appointed under subsection (1), that member, in addition to assisting in a dispute resolution process, may make pre-hearing orders in respect of the application but must not hear the merits of the application unless all parties consent.

Disclosure protection

- 29** (1) In a proceeding, other than a criminal proceeding, unless the parties to an application consent, a person must not disclose or be compelled to disclose
- (a) a document or other record created by a party specifically for the purposes of achieving a settlement of one or more issues through a dispute resolution process, or
 - (b) a statement made by a party in a dispute resolution process specifically for the purpose of achieving a settlement of one or more issues in dispute.
- (2) Subsection (1) does not apply to a settlement agreement.

Tribunal duties

- 30** Tribunal members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

Summary dismissal

- 31** (1) At any time after an application is filed, the tribunal may dismiss all or part of it if the tribunal determines that any of the following apply:
- (a) the application is not within the jurisdiction of the tribunal;
 - (b) the application was not filed within the applicable time limit;
 - (c) the application is frivolous, vexatious or trivial or gives rise to an abuse of process;
 - (d) the application was made in bad faith or filed for an improper purpose or motive;
 - (e) the applicant failed to diligently pursue the application or failed to comply with an order of the tribunal;
 - (f) there is no reasonable prospect the application will succeed;
 - (g) the substance of the application has been appropriately dealt with in another proceeding.
- (2) Before dismissing all or part of an application under subsection (1), the tribunal must give the applicant an opportunity to make written submissions or otherwise be heard.
- (3) If the tribunal dismisses all or part of an application under subsection (1), the tribunal must inform the parties and any interveners of its decision in writing and give reasons for that decision.

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Representation of parties to an application

- 32** A party to an application may be represented by counsel or an agent and may make submissions as to facts, law and jurisdiction.

Interveners

- 33** (1) The tribunal may allow a person to intervene in an application if the tribunal is satisfied that
- (a) the person can make a valuable contribution or bring a valuable perspective to the application, and
 - (b) the potential benefits of the intervention outweigh any prejudice to the parties caused by the intervention.
- (2) The tribunal may limit the participation of an intervener in one or more of the following ways:
- (a) in relation to cross examination of witnesses;
 - (b) in relation to the right to lead evidence;
 - (c) to one or more issues raised in the application;
 - (d) to written submissions;
 - (e) to time limited oral submissions.
- (3) If 2 or more applicants for intervener status have the same or substantially similar views or expertise, the tribunal may require them to file joint submissions.

Power to compel witnesses and order disclosure

- 34** (1) A party to an application may prepare and serve a summons in the form established by the tribunal, requiring a person
- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in the application, or
 - (b) to produce for the tribunal, that party or another party a document or other thing in the person's possession or control that is admissible and relevant to an issue in the application.
- (2) A party to an application may apply to the court for an order
- (a) directing a person to comply with a summons served by a party under subsection (1), or
 - (b) directing any directors and officers of a person to cause the person to comply with a summons served by a party under subsection (1).
- (3) Subject to section 29, at any time before or during a hearing, but before its decision, the tribunal may make an order requiring a person
- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or

- (b) to produce for the tribunal or a party a document or other thing in the person's possession or control, as specified by the tribunal, that is admissible and relevant to an issue in an application.
- (4) The tribunal may apply to the court for an order
 - (a) directing a person to comply with an order made by the tribunal under subsection (3), or
 - (b) directing any directors and officers of a person to cause the person to comply with an order made by the tribunal under subsection (3).

Recording tribunal proceedings

- 35** (1) The tribunal may transcribe or tape record its proceedings.
- (2) If the tribunal transcribes or tape records a proceeding, the transcription or tape recording must be considered to be correct and to constitute part of the record of the proceeding.
- (3) If, by a mechanical or human failure or other accident, the transcription or tape recording of a proceeding is destroyed, interrupted or incomplete, the validity of the proceeding is not affected.

Form of hearing of application

- 36** In an application or an interim or preliminary matter, the tribunal may hold any combination of written, electronic and oral hearings.

Applications involving similar questions

- 37** (1) If 2 or more applications before the tribunal involve the same or similar questions, the tribunal may
- (a) combine the applications or any part of them,
 - (b) hear the applications at the same time,
 - (c) hear the applications one immediately after the other, or
 - (d) stay one or more of the applications until after the determination of another one of them.
- (2) The tribunal may make additional orders respecting the procedure to be followed with respect to applications under this section.

Examination of witnesses

- 38** (1) Subject to subsection (2), in an oral or electronic hearing a party to an application may call and examine witnesses, present evidence and submissions and conduct cross examination of witnesses as reasonably required by the tribunal for a full and fair disclosure of all matters relevant to the issues in the application.
- (2) The tribunal may reasonably limit further examination or cross examination of a witness if it is satisfied that the examination or cross examination has been

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sufficient to disclose fully and fairly all matters relevant to the issues in the application.

- (3) The tribunal may question any witness who gives oral evidence in an oral or electronic hearing.

Adjournments

- 39** (1) An application may be adjourned by the tribunal on its own motion or if it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held.
- (2) In considering whether an application should be adjourned, the tribunal must have regard to the following factors:
- (a) the reason for the adjournment;
 - (b) whether the adjournment would cause unreasonable delay;
 - (c) the impact of refusing the adjournment on the parties;
 - (d) the impact of granting the adjournment on the other parties;
 - (e) the impact of the adjournment on the public interest.

Information admissible in tribunal proceedings

- 40** (1) The tribunal may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.
- (2) Despite subsection (1), the tribunal may exclude anything unduly repetitious.
- (3) Nothing is admissible before the tribunal that is inadmissible in a court because of a privilege under the law of evidence.
- (4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence.
- (5) Notes or records kept by a person appointed by the tribunal to conduct a dispute resolution process in relation to an application are inadmissible in tribunal proceedings.

Hearings open to public

- 41** (1) An oral hearing must be open to the public.
- (2) Despite subsection (1), the tribunal may direct that all or part of the information be received to the exclusion of the public if the tribunal is of the opinion that
- (a) the desirability of avoiding disclosure in the interests of any person or party affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or
 - (b) it is not practicable to hold the hearing in a manner that is open to the public.

- (3) The tribunal must make a document submitted in a hearing accessible to the public unless the tribunal is of the opinion that subsection (2) (a) or section 42 applies to that document.

Discretion to receive evidence in confidence

- 42** The tribunal may direct that all or part of the evidence of a witness or documentary evidence be received by it in confidence to the exclusion of a party or parties or any interveners, on terms the tribunal considers necessary, if the tribunal is of the opinion that the nature of the information or documents requires that direction to ensure the proper administration of justice.

Discretion to refer questions of law to court

- 43**
- (1) The tribunal has jurisdiction to determine all questions of fact, law or discretion that arise in any matter before it, including constitutional questions.
 - (2) If a question of law, including a constitutional question, is raised by a party in a tribunal proceeding, on the request of a party or on its own initiative, at any stage of an application the tribunal may refer that question to the court in the form of a stated case.
 - (3) If a constitutional question is raised by a party in an application, on the request of the Attorney General, the tribunal must refer that question to the court in the form of a stated case.
 - (4) The stated case under subsection (2) or (3) must
 - (a) be prepared by the tribunal,
 - (b) be in writing,
 - (c) be filed with the court registry, and
 - (d) include a statement of the facts and relevant evidence.
 - (5) Subject to the direction of the court, the tribunal must
 - (a) to the extent that it is practicable in light of the stated case, proceed to hear and decide all questions except the questions raised in the stated case,
 - (b) suspend the application as it relates to the stated case and reserve its decision until the opinion of the court has been given, and
 - (c) decide the application in accordance with the opinion.
 - (6) A stated case must be brought on for hearing as soon as practicable.
 - (7) Subject to subsection (8), the court must hear and determine the stated case and give its decision as soon as practicable.
 - (8) The court may refer the stated case back to the tribunal for amendment or clarification, and the tribunal must promptly amend and return the stated case for the opinion of the court.

Tribunal without jurisdiction over constitutional questions

- 44** The tribunal does not have jurisdiction over constitutional questions.

Tribunal without jurisdiction over *Canadian Charter of Rights and Freedoms* issues

- 45**
- (1) The tribunal does not have jurisdiction over constitutional questions relating to the *Canadian Charter of Rights and Freedoms*.
 - (2) If a constitutional question, other than one relating to the *Canadian Charter of Rights and Freedoms*, is raised by a party in a tribunal proceeding
 - (a) on the request of a party or on its own initiative, at any stage of an application the tribunal may refer that question to the court in the form of a stated case, or
 - (b) on the request of the Attorney General, the tribunal must refer that question to the court in the form of a stated case.
 - (3) The stated case must
 - (a) be prepared by the tribunal,
 - (b) be in writing,
 - (c) be filed with the court registry, and
 - (d) include a statement of the facts and relevant evidence.
 - (4) Subject to the direction of the court, the tribunal must
 - (a) to the extent that it is practicable in light of the stated case, proceed to hear and decide all questions except the questions raised in the stated case,
 - (b) suspend the application as it relates to the stated case and reserve its decision until the opinion of the court has been given, and
 - (c) decide the application in accordance with the opinion.
 - (5) A stated case must be brought on for hearing as soon as practicable.
 - (6) Subject to subsection (7), the court must hear and determine the stated case and give its decision as soon as practicable.
 - (7) The court may refer the stated case back to the tribunal for amendment or clarification, and the tribunal must promptly amend and return the stated case for the opinion of the court.

Notice to Attorney General if constitutional question raised in application

- 46** If a constitutional question over which the tribunal has jurisdiction is raised in a tribunal proceeding, the party who raises the question must give notice in compliance with section 8 of the *Constitutional Question Act*.

Power to award costs

- 47** (1) Subject to the regulations, the tribunal may make orders for payment as follows:

- (a) requiring a party to pay part of the costs of another party or an intervener in connection with the application;
 - (b) requiring an intervener to pay part of the costs of a party or another intervener in connection with the application;
 - (c) if the tribunal considers the conduct of a party has been improper, vexatious, frivolous or abusive, requiring the party to pay part of the actual costs and expenses of the tribunal in connection with the application.
- (2) An order under subsection (1), after filing in the court registry, has the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken on it as if it were an order of the court.

Maintenance of order at hearings

- 48**
- (1) At an oral hearing, the tribunal may make orders or give directions that it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any order or direction, the tribunal may call on the assistance of any peace officer to enforce the order or direction.
 - (2) A peace officer called on under subsection (1) may take any action that is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.
 - (3) Without limiting subsection (1), the tribunal, by order, may
 - (a) impose restrictions on a person's continued participation in or attendance at a proceeding, and
 - (b) exclude a person from further participation in or attendance at a proceeding until the tribunal orders otherwise.

Contempt proceeding for uncooperative witness or other person

- 49**
- (1) The failure or refusal of a person summoned as a witness to do any of the following makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court:
 - (a) attend a hearing;
 - (b) take an oath or affirmation;
 - (c) answer questions;
 - (d) produce the records or things in their custody or possession.
 - (2) The failure or refusal of a person to comply with an order or direction under section 48 makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court.
 - (3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the court in respect of conduct by a person in a proceeding before the tribunal.

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Decisions

- 50** (1) If the tribunal makes an order for the payment of money as part of its decision, it must set out in the order the principal sum, and if the tribunal has power to award interest and interest is payable, the rate of interest and the date from which it is to be calculated.
- (2) The tribunal may attach terms or conditions to a decision.
- (3) The tribunal's decision is effective on the date on which it is issued, unless otherwise specified by the tribunal.
- (4) The tribunal must make its decisions accessible to the public.

Final decision

- 51** The tribunal must make its final decision in writing and give reasons for the decision.

Notice of decision

- 52** (1) Subject to subsection (2), the tribunal must send each party and any interveners in an application a copy of its final decision.
- (2) If the tribunal is of the opinion that because there are so many parties to an application or for any other reason that it is impracticable to send its final decision to each party as provided in subsection (1), the tribunal may give reasonable notice of its decision by public advertisement or otherwise as the tribunal directs.
- (3) A notice of a final decision given by the tribunal under subsection (2) must inform the parties of the place where copies of that decision may be obtained.

Amendment to final decision

- 53** (1) If a party applies or on the tribunal's own initiative, the tribunal may amend a final decision to correct any of the following:
- (a) a clerical or typographical error;
 - (b) an accidental or inadvertent error, omission or other similar mistake;
 - (c) an arithmetical error made in a computation.
- (2) Unless the tribunal determines otherwise, an amendment under subsection (1) must not be made more than 30 days after all parties have been served with the final decision.
- (3) Within 30 days of being served with the final decision, a party may apply to the tribunal for clarification of the final decision and the tribunal may amend the final decision only if the tribunal considers that the amendment will clarify the final decision.
- (4) The tribunal may not amend a final decision other than in those circumstances described in subsections (1) to (3).

- (5) This section must not be construed as limiting the tribunal's ability, on request of a party, to reopen an application in order to cure a jurisdictional defect.

Enforcement of tribunal's final decision

- 54** (1) A party in whose favour the tribunal makes a final decision, or a person designated in the final decision, may file a certified copy of the final decision with the court.
- (2) A final decision filed under subsection (1) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court.

Compulsion protection

- 55** (1) A tribunal member, a person acting on behalf of or under the direction of a tribunal member or a person who conducts a dispute resolution process on behalf of or under the direction of the tribunal must not be required to testify or produce evidence in any proceeding, other than a criminal proceeding, about records or information obtained in the discharge of duties under the tribunal's enabling Act or this Act.
- (2) Despite subsection (1), the court may require the tribunal to produce the record of a proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

Immunity protection for tribunal and members

- 56** (1) In this section, "**decision maker**" includes a tribunal member, adjudicator, registrar or other officer who makes a decision in an application or an interim or preliminary matter, or a person who conducts a dispute resolution process.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker, the tribunal or the government because of anything done or omitted
- (a) in the performance or intended performance of any duty under this Act or the tribunal's enabling Act, or
- (b) in the exercise or intended exercise of any power under this Act or the tribunal's enabling Act.
- (3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Time limit for judicial review

- 57** (1) Unless this Act or the tribunal's enabling Act provides otherwise, an application for judicial review of a final decision of the tribunal must be commenced within 60 days of the date the decision is issued.
- (2) Despite subsection (1), either before or after expiration of the time, the court may extend the time for making the application on terms the court considers proper, if it is satisfied that there are serious grounds for relief, there is a reasonable

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explanation for the delay and no substantial prejudice or hardship will result to a person affected by the delay.

Standard of review if tribunal's enabling Act has privative clause

- 58**
- (1) If the tribunal's enabling Act contains a privative clause, relative to the courts the tribunal must be considered to be an expert tribunal in relation to all matters over which it has exclusive jurisdiction.
 - (2) In a judicial review proceeding relating to expert tribunals under subsection (1)
 - (a) a finding of fact or law or an exercise of discretion by the tribunal in respect of a matter over which it has exclusive jurisdiction under a privative clause must not be interfered with unless it is patently unreasonable,
 - (b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly, and
 - (c) for all matters other than those identified in paragraphs (a) and (b), the standard of review to be applied to the tribunal's decision is correctness.
 - (3) For the purposes of subsection (2) (a), a discretionary decision is patently unreasonable if the discretion
 - (a) is exercised arbitrarily or in bad faith,
 - (b) is exercised for an improper purpose,
 - (c) is based entirely or predominantly on irrelevant factors, or
 - (d) fails to take statutory requirements into account.

Standard of review if tribunal's enabling Act has no privative clause

- 59**
- (1) In a judicial review proceeding, the standard of review to be applied to a decision of the tribunal is correctness for all questions except those respecting the exercise of discretion, findings of fact and the application of the common law rules of natural justice and procedural fairness.
 - (2) A court must not set aside a finding of fact by the tribunal unless there is no evidence to support it or if, in light of all the evidence, the finding is otherwise unreasonable.
 - (3) A court must not set aside a discretionary decision of the tribunal unless it is patently unreasonable.
 - (4) For the purposes of subsection (3), a discretionary decision is patently unreasonable if the discretion
 - (a) is exercised arbitrarily or in bad faith,
 - (b) is exercised for an improper purpose,
 - (c) is based entirely or predominantly on irrelevant factors, or
 - (d) fails to take statutory requirements into account.

- (5) Questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly.

Power to make regulations

- 60** The Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing rules of practice and procedure for the tribunal;
 - (b) repealing or amending a rule made by the tribunal;
 - (c) prescribing tariffs of fees to be paid with respect to the filing of different types of applications, including preliminary and interim applications;
 - (d) prescribing the circumstances in which an award of costs may be made by the tribunal;
 - (e) prescribing a tariff of costs payable under a tribunal order to pay part of the costs of a party or intervener;
 - (f) prescribing limits and rates relating to a tribunal order to pay part of the actual costs and expenses of the tribunal.

Application of *Freedom of Information and Protection of Privacy Act*

- 61** (1) In this section, “**decision maker**” includes a tribunal member, adjudicator, registrar or other officer who makes a decision in an application or an interim or preliminary matter, or a person who conducts a dispute resolution process.
- (2) The *Freedom of Information and Protection of Privacy Act*, other than section 44 (2), (2.1) and (3), does not apply to any of the following:
- (a) a personal note, communication or draft decision of a decision maker;
 - (b) notes or records kept by a person appointed by the tribunal to conduct a dispute resolution process in relation to an application;
 - (c) any information received by the tribunal in a hearing or part of a hearing from which the public, a party or an intervener was excluded;
 - (d) a transcription or tape recording of a tribunal proceeding;
 - (e) a document submitted in a hearing for which public access is provided by the tribunal;
 - (f) a decision of the tribunal for which public access is provided by the tribunal.
- (3) Subsection (2) does not apply to personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, that has been in existence for 100 or more years or to other information that has been in existence for 50 or more years.

Application of Act to appointments under *Criminal Code*

- 62** Sections 1 to 5, 8 to 10 and 61 apply to the review board established or designated under section 672.38 of the *Criminal Code*.

Consequential Amendments***Agricultural Land Commission Act***

63 *Section 5 of the Agricultural Land Commission Act, S.B.C. 2002, c. 36, is amended by adding the following subsection:*

- (6) Commission members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

64 *Section 5.1 is repealed and the following substituted:*

Application of *Administrative Tribunals Act*

5.1 Sections 1 to 10 of the *Administrative Tribunals Act* apply to the commission.

65 *Section 55 (1) and (4) is repealed and the following substituted:*

- (1) A person who is the subject of a determination, a decision, an order or a penalty under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal.
- (5) For the purposes of an appeal under this section, sections 11 to 15, 17 to 21, 23 to 25, 31 (1) (a) to (e) and (g), (2) and (3), 32, 33, 35 to 37, 39, 40, 44, 48, 50 to 55, 57, 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the commission.

66 *The following sections are added:*

Exclusive jurisdiction of commission

- 55.1**
- (1) The commission has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 55 and to make any order permitted to be made.
 - (2) Without limiting subsection (1), the commission has exclusive jurisdiction to hear and determine the following questions:
 - (a) whether an official acted in accordance with the regulations in issuing an order under section 50;
 - (b) whether the chief executive officer acted in accordance with the regulations in issuing a notice under section 52 (2) (a), issuing an order under section 52 (1), taking any action under section 52 (2) or levying a penalty under section 54 (1).
 - (3) A decision or order of the commission under this Act on a matter in respect of which the commission has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Immunity protection for commission, its members and officers

- 55.2** (1) In this section, “**decision maker**” includes a commission member or other officer who makes a decision in relation to an appeal under section 55.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker or the commission because of anything done or omitted
- (a) in the performance or intended performance of any duty under section 55, or
- (b) in the exercise or intended exercise of any power under section 55.
- (3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Assessment Act

67 *Section 21 (8) of the Assessment Act, R.S.B.C. 1996, c. 20, is repealed and the following substituted:*

- (8) For the purposes of an appeal under this section, sections 50 (4) (b) to (g) and (5), 52 (2), 55, 56, and 59 to 62 and Part 7 apply with all necessary changes.

68 *Section 31 (7) is repealed and the following substituted:*

- (7) Sections 1, 4, 6 to 8, 10, 18, 44, 48, 49, 55, 56 and 61 of the *Administrative Tribunals Act* apply to a review panel.

69 *Section 39 is repealed and the following substituted:*

Power to compel witnesses and order disclosure

- 39** (1) At any time before or during a hearing, but before its decision, a review panel may make an order requiring a person
- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or
- (b) to produce for the review panel or a party a document or other thing in the person’s possession or control, as specified by the review panel, that is admissible and relevant to an issue in an application.
- (2) A review panel may apply to the court for an order
- (a) directing a person to comply with an order made by the review panel under subsection (1), or
- (b) directing any directors and officers of a person to cause the person to comply with an order made by the review panel under subsection (1).

70 Section 43 (3) is repealed and the following substituted:

- (3) Sections 1 to 11, 13 to 16, 17 (2), 18 to 20, 28, 29, 31 (1) (a), (b) and (e), (2) and (3), 32, 33, 34 (3) and (4), 35, 37 to 40, 44, 48, 49, 50 (2) to (4), 51, 53 to 56, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the property assessment appeal board.

71 Section 44 is amended by adding the following subsection:

- (8) If the panel is a single member and that member is unable for any reason to complete the member's duties, with the consent of all parties to the application the chair of the board may organize a new panel to continue to hear and determine the matter on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.

72 Sections 46 (1), 47, 52 (3) and (4), 53 and 54 are repealed.**73 Section 55 (1) is repealed and the following substituted:**

- (1) In a proceeding, the board may hold any combination of written, electronic and oral hearings.

74 Sections 56, 58 and 61 (2) are repealed.**75 Section 64 (1) is repealed and the following substituted:**

- (1) At any stage of a proceeding before it, the board, on its own initiative or at the request of one or more of the persons affected by the appeal, may refer a question of law in the proceeding to the Supreme Court in the form of a stated case.
- (1.1) If the question of law that is referred under subsection (1) is a constitutional question, the party who raises the question must give notice in compliance with section 8 of the *Constitutional Question Act*.

76 Section 67 is amended by striking out "conference under section 54 (2) (f)," and substituting "conference,".**77 Section 74 (2) (t) is repealed and the following substituted:**

- (t) respecting orders that may be made by the board in its proceedings; .

Business Practices and Consumer Protection Act**78 Section 175 of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2, is amended by adding the following subsection:**

- (4) In making a determination under this Act, sections 1, 11, 14 (a) and (c), 15, 18, 28, 29, 33, 35 to 37, 39, 40 (5) and 57 of the *Administrative Tribunals Act* apply to the director as if the director were a tribunal under that Act.

Community Care and Assisted Living Act

79 *Section 29 (1), (1.2), (4), (6) to (10), (14) and (15) of the Community Care and Assisted Living Act, S.B.C. 2002, c. 75, is repealed and the following substituted:*

- (1) The Community Care and Assisted Living Appeal Board is continued consisting of individuals appointed after a merit based process as follows:
 - (a) a member appointed and designated by the Lieutenant Governor in Council as the chair;
 - (b) other members appointed by the Lieutenant Governor in Council after consultation with the chair.
- (1.2) Sections 1 to 20, 22, 24 to 42, 44, 47 (1) (c) and (2), 48 to 55, 57, 58, 60 and 61 of the *Administrative Tribunals Act* apply to the board.
- (4) A fee paid by an applicant to initiate an appeal under subsection (2) or (3) must be remitted to the applicant if the board grants the appeal.
- (6) The board may not stay or suspend a decision unless it is satisfied, on summary application, that a stay or suspension would not risk the health or safety of a person in care.

80 *Sections 30 and 31 are repealed.*

81 *The following section is added:*

Exclusive jurisdiction of board

- 31.1** (1) The board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 29 and to make any order permitted to be made.
- (2) A decision or order of the board on a matter in respect of which the board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

82 *Section 34 (4) (c) is amended by striking out “under section 30” and substituting “of the board”.*

Employment and Assistance Act

83 *Section 19 of the Employment and Assistance Act, S.B.C. 2002, c. 40, is amended by adding the following subsection:*

- (4) The chair and vice chair may be paid the remuneration specified by the Lieutenant Governor in Council in accordance with general directives of Treasury Board.

84 Section 19.1 is repealed and the following substituted:**Application of *Administrative Tribunals Act***

- 19.1** Sections 1 to 6, 7 (1) and (2), 8, 9, 30, 44, 55, 56, 58 and 61 of the *Administrative Tribunals Act* apply to the tribunal.

Maintenance of order at hearings

- 19.2** (1) At an oral hearing, the chair of a panel of the tribunal may make any orders or give any directions considered necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any order or direction, the chair of the panel may call on the assistance of any peace officer to enforce the order or direction.
- (2) A peace officer called on under subsection (1) may take any action that is necessary to enforce the order or direction and may use any force that is reasonably required for that purpose.
- (3) Without limiting subsection (1), the chair of a panel of the tribunal, by order, may impose restrictions on the continued participation in or attendance of a person in a proceeding.

Time limit for judicial review

- 19.3** (1) An application for judicial review of a final decision of the tribunal must be commenced within 60 days of the date the decision is issued.
- (2) Despite subsection (1), either before or after expiration of the time, the court may extend the time for making the application, on terms the court considers proper, if it is satisfied that there are serious grounds for relief, there is a reasonable explanation for the delay and no substantial prejudice or hardship will result to a person affected by the delay.

85 Section 20 is amended

- (a) *in subsection (1) by striking out* “has responsibility for the general administration and management of the tribunal and”, *and*
- (b) *by repealing subsection (2) (b).*

86 Section 24 (5) is repealed and the following substituted:

- (5) A decision of a majority of a panel is the decision of the tribunal.
- (6) The tribunal has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 19 and to make any order permitted to be made.

- (7) A decision or order of the tribunal under this Act on a matter in respect of which the tribunal has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

87 *Section 26 is repealed.*

Employment Standards Act

88 *The Employment Standards Act, R.S.B.C. 1996, c. 113, is amended by adding the following section:*

No jurisdiction to determine constitutional question

- 86.1** Nothing in this Act is to be construed as giving the director or any person acting for or on behalf of the director under this Act jurisdiction over constitutional questions relating to the *Canadian Charter of Rights and Freedoms*.

89 *Section 103 is repealed and the following substituted:*

Application of Administrative Tribunals Act

- 103** Sections 1 to 21, 28 to 30, 32, 34 (3) and (4), 35 to 40, 45, 46, 48, 49, 50 (2) to (4), 51 to 53, 55 to 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the tribunal.

90 *Section 106 (6) is amended by striking out “under section 109 (1) (c)”.*

91 *Sections 107, 108, 109 (1) (c), 110 and 111 are repealed and the following substituted:*

Exclusive jurisdiction of tribunal

- 110** (1) The tribunal has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal or reconsideration under Parts 12 and 13 and to make any order permitted to be made.
- (2) A decision or order of the tribunal on a matter in respect of which the tribunal has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

92 *Section 114 is amended*

(a) by repealing subsection (1) and substituting the following:

- (1) At any time after an appeal is filed and without a hearing of any kind the tribunal may dismiss all or part of the appeal if the tribunal determines that any of the following apply:
- (a) the appeal is not within the jurisdiction of the tribunal;

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- (b) the appeal was not filed within the applicable time limit;
- (c) the appeal is frivolous, vexatious or trivial or gives rise to an abuse of process;
- (d) the appeal was made in bad faith or filed for an improper purpose or motive;
- (e) the appellant failed to diligently pursue the appeal or failed to comply with an order of the tribunal;
- (f) there is no reasonable prospect that the appeal will succeed;
- (g) the substance of the appeal has been appropriately dealt with in another proceeding;
- (h) one or more of the requirements of section 112 (2) have not been met. , *and*

(b) by adding the following subsection:

- (3) If the tribunal dismisses all or part of an appeal under subsection (1), the tribunal must inform the parties of its decision in writing and give reasons for that decision.

93 *Section 115 (2) is repealed.*

Expropriation Act

94 *Sections 26 (2), (4) and (7), 27 (1) and (1.1) and 27.1 of the Expropriation Act, R.S.B.C. 1996, c. 125, are repealed.*

95 *Section 28 (1) is amended by striking out “with leave of a justice of the Court of Appeal”.*

96 *Section 49 is repealed and the following substituted:*

Service of notice or documents

- 49** (1) Subject to section 6 (5), if the board is required to provide a notice or any document to a party or other person in an application, it may do so by personal service of a copy or by sending a copy of the notice or document to the person by any of the following means:
- (a) ordinary mail;
 - (b) electronic transmission, including telephone transmission of a facsimile;
 - (c) if specified in the board’s rules, another method that allows proof of receipt.
- (2) If the copy is sent by ordinary mail, it must be sent to the most recent address known to the board and must be considered to be received on the fifth day after the day it is mailed unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.

- (3) If the copy is sent by electronic transmission it must be considered to be received on the day after it was sent, unless that day is a holiday, in which case the copy must be considered to be received on the next day that is not a holiday.
- (4) If the copy is sent by a method referred to in subsection (1) (c), the board's rules govern the day on which the copy must be considered to be received.
- (5) If through absence, accident, illness or other cause beyond the party's control a party who acts in good faith does not receive the copy until a later date than the date provided under subsection (2), (3) or (4), the board may relieve the party from the consequences.

When failure to serve does not invalidate proceeding

- 49.1** If a notice or document is not served in accordance with section 49, the proceeding is not invalidated if
- (a) the contents of the notice or document were known by the person to be served within the time allowed for service,
 - (b) the person to be served consents, or
 - (c) the failure to serve does not result in prejudice to the person or any resulting prejudice can be satisfactorily addressed by an adjournment or some other means.

97 *Section 53 (4) and (6) is repealed.*

98 *Section 53.1 is repealed and the following substituted:*

Application of Administrative Tribunals Act

- 53.1** Sections 1 to 16, 18, 26 to 32, 34 to 40, 44, 48 to 56, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the board.

Withdrawal of application

- 53.2** If an applicant withdraws all or part of an application or the parties advise the board that they have reached a settlement of all or part of an application, the board may order that the application or part of it is dismissed.

Hearings open to public

- 53.3** (1) An oral hearing must be open to the public.
- (2) Despite subsection (1), the board may direct that all or part of the information be received to the exclusion of the public if the board is of the opinion that
- (a) the desirability of avoiding disclosure in the interests of any person or party affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or
 - (b) it is not practicable to hold the hearing in a manner that is open to the public.

- (3) The board must make a document submitted in a hearing accessible to the public unless the board is of the opinion that subsection (2) (a) applies to that document.

Financial Institutions Act

99 Section 242.1 of the *Financial Institutions Act*, R.S.B.C. 1996, c. 141, is amended

(a) by adding the following subsection:

- (1.1) Tribunal members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member. ,

(b) subsection (4) is repealed and the following substituted:

- (4) Sections 1, 3 to 7, 9 and 10 of the *Administrative Tribunals Act* apply to the tribunal. , **and**

(c) by repealing subsection (6) and adding the following subsection:

- (7) Sections 11 to 16, 18 to 20, 22, 24, 32, 35, 37 to 42, 44, 47, 48 to 57 and 59 to 61 of the *Administrative Tribunals Act* apply to appeals conducted by the tribunal.

100 Section 242.2 is amended

(a) by repealing subsections (1) and (4) (c) and (d),

(b) by repealing subsection (9) (d) and substituting the following:

- (d) require the party requesting the attendance of a witness to pay the costs in connection with the attendance of that witness, and ,

(c) by repealing subsection (10) (b) and (d) and substituting the following:

- (b) at any time before or during a hearing, but before its decision, the member hearing the appeal may make an order requiring a person
- (i) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an appeal, or
 - (ii) to produce for the member hearing the appeal or a party a document or other thing in the person's possession or control, as specified by the member hearing the appeal, that is admissible and relevant to an issue in an appeal,
- (b.1) the member hearing the appeal may apply to the court for an order
- (i) directing a person to comply with an order made by the member hearing the appeal under paragraph (b), or
 - (ii) directing any directors and officers of a person to cause the person to comply with an order made by the member hearing the appeal under paragraph (b), ,

(d) in subsection (10) by adding the following paragraph:

- (e.1) if an appellant withdraws all or part of an appeal or the parties advise the member hearing the appeal that they have reached a settlement of all or part of an appeal, the member may order that the appeal or part of it is dismissed, , **and**

(e) by repealing subsection (13).

Forest and Range Practices Act

101 Section 136 (5) of the Forest and Range Practices Act, S.B.C. 2002, c. 69, is amended by striking out “The Administrative Tribunals Appointment and Administration Act” and substituting “The Administrative Tribunals Act”.

Hospital Act

102 Section 46 (1.1), (1.2), (2), (3), (4.2), and (5) of the Hospital Act, R.S.B.C. 1996, c. 200, is repealed and the following substituted:

- (2) A practitioner may appeal to the Hospital Appeal Board if
 - (a) the practitioner is dissatisfied with the decision of a hospital’s board or
 - (b) a hospital’s board fails to notify the practitioner of its decision within the prescribed time.
- (2.1) A practitioner who wishes to appeal under subsection (2) is not required to first proceed by way of an application to the hospital’s board.
- (2.2) An appeal to the Hospital Appeal Board is a new hearing.
- (3) The Hospital Appeal Board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this section and to make any order permitted to be made.
- (3.1) A decision order of the Hospital Appeal Board under this Act on a matter in respect of which the Hospital Appeal Board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.
- (3.2) A practitioner who wishes to appeal under subsection (2) must deliver the notice of appeal
 - (a) if the appeal concerns a board’s decision under subsection (2) (a), not later than 90 days after the date that the board caused a notice of its decision to be sent to the practitioner, or
 - (b) if the appeal concerns a board’s decision under subsection (2) (b), not later than 210 days after the date that the practitioner applied for a permit in the prescribed manner.

Section 103

- (3.3) A notice of appeal must
- (a) be in writing or in another form authorized by the rules of the Hospital Appeal Board and directed to the chair of that board,
 - (b) set out the grounds for appeal,
 - (c) state whether or not the appellant waives an oral hearing of the matter,
 - (d) state the outcome requested,
 - (e) contain the name, address and telephone number of the appellant, and if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours,
 - (f) include an address for delivery of notices in respect of the appeal,
 - (g) be signed by the appellant or the appellant's agent,
 - (h) include reference to any correspondence, documents and memoranda relating to the matter in issue, and
 - (i) if applicable, include a copy of the order or decision being appealed.
- (3.4) Unless both parties have waived an oral hearing of an appeal, the Hospital Appeal Board must as soon as practicable set a time and place for the hearing and promptly notify the parties in writing.
- (3.5) If the parties have waived an oral hearing of an appeal, or in an interim or preliminary matter, the Hospital Appeal Board may hold any combination of written, electronic or oral hearings.
- (3.6) On written application by either party, the Hospital Appeal Board may extend the time for doing anything required under this section except the time for the bringing of an appeal under subsection (3.2).
- (3.7) If a notice of appeal is deficient, the chair of the Hospital Appeal Board or the chair's delegate may allow a reasonable period of time within which the notice may be corrected.
- (4.2) Sections 1 to 20, 25 to 35, 37 to 39, 42, 44, 47 to 56, 57, 58, 60 (a), (b) and (d) to (f) and 61 of the *Administrative Tribunals Act* apply to the Hospital Appeal Board.

103 The following section is added:**Information admissible in Hospital Appeal Board proceedings**

- 46.1** (1) The Hospital Appeal Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.
- (2) Despite subsection (1), the Hospital Appeal Board may exclude anything unduly repetitious.

- (3) Subject to subsections (6) and (7), nothing is admissible before the Hospital Appeal Board that is inadmissible in a court because of a privilege under the law of evidence.
- (4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence.
- (5) Notes or records kept by a person appointed by the Hospital Appeal Board to conduct a dispute resolution process in relation to a proceeding are inadmissible in Hospital Appeal Board proceedings.
- (6) For the purposes of section 51 of the *Evidence Act*, a proceeding before the Hospital Appeal Board is a proceeding before a board of management.
- (7) Information that is inadmissible before a court under section 51 of the *Evidence Act* is admissible in a proceeding before the Hospital Appeal Board.

Human Rights Code

104 Sections 27.1 (3) and 27.4 of the Human Rights Code, R.S.B.C. 1996, c. 210, are repealed.

105 Section 32 is repealed and the following substituted:

Application of *Administrative Tribunals Act*

- 32** Sections 1, 4 to 10, 17, 29, 30, 34 (3) and (4), 45, 46, 48 to 50, 55 to 57, 59 and 61 of the *Administrative Tribunals Act* apply to the tribunal.

106 Sections 34.1 and 40 (1), (3) and (4) are repealed.

Industry Training Authority Act

107 Section 10 (2) of the Industry Training Authority Act, S.B.C. 2003, c. 34, is repealed and the following substituted:

- (2) Sections 1 to 10 of the *Administrative Tribunals Act* apply to the appeal board.

108 Section 11 is amended by adding the following subsections:

- (6) Sections 11 to 20, 22, 24 to 33, 34 (3) and (4), 35 to 42, 44, 48 to 57, 58, 60 (a) to (c) and 61 of the *Administrative Tribunals Act* apply to an appeal to the appeal board.
- (7) The appeal board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under subsection (4) and to make any order permitted to be made.

- (8) A decision or order of the appeal board on a matter in respect of which the appeal board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Labour Relations Code

109 Section 115.1 of the Labour Relations Code, R.S.B.C. 1996, c. 244, is repealed and the following substituted:

Application of *Administrative Tribunals Act*

115.1 Sections 1 to 10, 43, 46, 47 (1) (c), 48, 49, 56, 57, 58 (1) and (2) and 61 of the *Administrative Tribunals Act* apply to the board.

110 Section 123 is repealed.

Local Government Act

111 Section 693 (9) of the Local Government Act, R.S.B.C. 1996, c. 323, is repealed and the following substituted:

- (9) Sections 1 to 8 and 10 of the *Administrative Tribunals Act* apply to the appeal board.
- (10) In subsections (11) and (12), “**decision maker**” includes a member of the appeal board or other officer who makes a decision in an application or a person who conducts a dispute resolution process in relation to an application.
- (11) Subject to subsection (12), no legal proceeding for damages lies or may be commenced or maintained against a decision maker or the appeal board in a matter before the appeal board because of anything done or omitted
- (a) in the performance or intended performance of any duty under this Act, or
 - (b) in the exercise or intended exercise of any power under this Act.
- (12) Subsection (11) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Manufactured Home Park Tenancy Act

112 Part 6 of the Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77, is amended by adding the following Division:

Division 1.1 – Application of *Administrative Tribunals Act*

Application of *Administrative Tribunals Act*

- 71.1** Sections 1, 30, 44, 48, 56 to 58 and 61 of the *Administrative Tribunals Act* apply to an arbitration and an arbitrator.

113 The following section is added:

Exclusive jurisdiction of arbitrator

- 77.1** (1) An arbitrator has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an arbitration proceeding under Division 1 of this Part or a review under Division 2 of this Part and to make any order permitted to be made.
- (2) A decision or order of an arbitrator under this Act on a matter in respect of which the arbitrator has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

114 Section 80 is repealed and the following substituted:

Compulsion protection

- 80** (1) An arbitrator must not be required to testify or produce evidence in any proceeding, other than a criminal proceeding, about records or information obtained in the discharge of duties under this Act.
- (2) Despite subsection (1), the court may require the director to produce the record of a proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

Mental Health Act

115 Section 1 of the Mental Health Act, R.S.B.C. 1996, c. 288, is amended by adding the following definitions:

“**chair**” means the chair appointed under section 24.1 (1) (a);

“**review panel**” means a review panel established under section 24.1 (2); .

116 Section 16 (g) is repealed.

117 The following sections are added:

Board and review panels

- 24.1** (1) The minister may establish a board consisting of the following members appointed after a merit based process:
- (a) a chair appointed by the minister;

- (b) members appointed by the minister after consultation with the chair.
- (2) From among the members of the board, the chair may establish one or more review panels to conduct hearings and for each review panel may
 - (a) specify the number of its members,
 - (b) appoint its members, and
 - (c) designate a member to chair the panel.
- (3) A review panel must include
 - (a) a medical practitioner,
 - (b) a member in good standing of the Law Society of British Columbia or a person with equivalent training, and
 - (c) a person who is not a medical practitioner or a lawyer.
- (4) For matters heard under this Act by review panels, the chair may
 - (a) schedule the times the matters will be heard,
 - (b) assign a matter for hearing to a review panel,
 - (c) reassign a matter for hearing from one review panel to another review panel, or
 - (d) schedule 2 or more review panels to hear separate matters at the same time.

Application of *Administrative Tribunals Act*

24.2 Sections 1 to 10, 11, 13 to 15, 18 to 20, 26 (5) to (7) and (9), 27, 30, 32, 35, 36, 38, 39, 40 (1) and (2), 44, 48, 49, 55 to 57, 59, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the board and members of review panels.

Power to compel witnesses and order disclosure

- 24.3** (1) At any time before or during a hearing, but before its decision, a review panel may make an order requiring a person
- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or
 - (b) to produce for the review panel or a party a document or other thing in the person's possession or control, as specified by the review panel, that is admissible and relevant to an issue in an application.
- (2) The review panel may apply to the court for an order
- (a) directing a person to comply with an order made by the review panel under subsection (1), or
 - (b) directing any directors and officers of a person to cause the person to comply with an order made by the review panel under subsection (1).

118 *Section 25 is amended*

(a) in subsection (1.1) by striking out “a chair appointed under subsection (7)” and substituting “the chair appointed under section 24.1 (1) (a)”;

(b) by adding the following subsections:

(2.3) A review panel may proceed with a hearing

- (a) despite a defect or apparent defect in any form required under this Act, and
- (b) whether or not the patient has been transferred under section 22 (7) of this Act.

(2.4) A person who satisfies the review panel that he or she has a material interest in or knowledge of matters relevant to the hearing may give evidence or make submissions at the hearing.

(2.5) Unless the review panel orders otherwise, the hearing must be held in private.

(2.6) The chair of a review panel may

- (a) exclude the patient from attendance at the hearing or any part of it, but only if the chair of the review panel is satisfied that the exclusion is in the best interests of the patient, or
- (b) make orders respecting the taking, hearing or reproduction of evidence as the chair of the review panel considers necessary to protect the interests of the patient or any witness.

(2.7) At any time before a hearing begins, a patient may withdraw the request for the hearing.

(2.8) The review panel must issue a determination described in subsection (2) no later than 48 hours after the hearing is completed and must issue its reasons no later than 14 days after the determination has been issued.

(2.9) After a review panel has made a determination referred to in subsection (2.8), the chair of the review panel must, without delay, deliver a copy of the determination to the director and to the patient or the patient’s counsel or agent, and if the patient is to be discharged the director must discharge the patient. ,

(c) in subsection (3) by striking out “A chair appointed under subsection (7)” and substituting “The chair appointed under section 24.1 (1) (a)”, and

(d) by repealing subsections (4) and (5) to (8) and by adding the following subsection:

- (9) Records of the proceedings of a hearing must be kept by the review panel office for at least one year.

119 The following section is added:

Amendment to final decision

- 25.1** (1) If a party applies or on the review panel’s own initiative, the review panel may amend a final decision to correct any of the following:

- (a) a clerical or typographical error;
 - (b) an accidental or inadvertent error, omission or other similar mistake;
 - (c) an arithmetical error made in a computation.
- (2) Unless the review panel determines otherwise, an amendment under subsection (1) must not be made more than 30 days after all parties have been served with the final decision.
- (3) Within 30 days of being served with the final decision, a party may apply to the review panel for clarification of the final decision and the review panel may amend the final decision only if the review panel considers that the amendment will clarify the final decision.
- (4) The review panel may not amend a final decision other than in the circumstances described in subsections (1) to (3).
- (5) This section must not be construed as limiting the review panel's ability, on its own initiative or at the request of a party, to reopen an application in order to cure a jurisdictional defect.

Natural Products Marketing (BC) Act

120 Section 3 (3), (5) and (7) of the Natural Products Marketing (BC) Act, R.S.B.C. 1996, c. 330, is repealed.

121 Section 3.1 is repealed and the following substituted:

Application of *Administrative Tribunals Act* to the board

- 3.1** Sections 1 to 10, 27 to 30, 45, 46, 48, 57, 58 and 61 of the *Administrative Tribunals Act* apply to the Provincial board.

122 The following section is added:

Supervisory power

- 7.1** (1) The Provincial board
- (a) has general supervision over all marketing boards or commissions established under this Act, and
 - (b) must perform the other duties and functions and exercise the authority the Lieutenant Governor in Council prescribes in order to carry out the purposes of this Act.
- (2) The Provincial board may exercise its powers under this section at any time, with or without a hearing, and in the manner it considers appropriate to the circumstances.

- (3) In the exercise of its powers under this section, the Provincial board may make an order requiring a person to do one or more of the following:
 - (a) attend as required;
 - (b) take an oath or affirmation;
 - (c) answer questions;
 - (d) produce records or things in their custody or possession.
- (4) If a person fails to comply with an order under subsection (3), the Provincial board may apply to the Supreme Court for one or both of the following orders:
 - (a) directing the person to comply with the order of the Provincial board;
 - (b) directing any director or officer of the person to cause that person to comply with the order of the Provincial board.
- (5) Subsections (3) and (4) do not limit the conduct for which a finding of contempt may be made by the court in respect of conduct by a person in a proceeding before the Provincial board.
- (6) The failure or refusal of a person to comply with an order under subsection (4) makes the person, on application to the court by the Provincial board, liable to be committed for contempt as if in breach of an order or judgment of the court.
- (7) In the exercise of its powers under this section the Provincial board may make rules governing its procedure and the quorum in supervisory matters, including its meetings, and may make rules and issue orders governing the procedure for any exercise of its supervisory powers.

123 Section 8 (1) to (3), (7) to (8.3), (10) and (11) is repealed and the following substituted:

- (1) A person aggrieved by or dissatisfied with an order, decision or determination of a marketing board or commission may appeal the order, decision or determination to the Provincial board.
- (8) If, after an appeal is filed, an appeal panel considers that all or part of the subject matter of the appeal is more appropriately dealt with in a supervisory process under its supervisory power, the appeal panel, after giving the appellant and the commodity board or commission an opportunity to be heard, may defer further consideration of the appeal until after the supervisory process is completed.
- (8.4) If an appeal is deferred under subsection (8) and the supervisory process has been completed, the appellant may give notice that it intends to proceed with the appeal, and the Provincial board must proceed with and decide the appeal.

124 The following sections are added:

Application of *Administrative Tribunals Act* to board for purpose of appeals

- 8.1** (1) For the purposes of an appeal under section 8 of this Act, sections 11 to 20, 22, 24 to 26, 31 to 33, 34 (3) and (4), 35 to 42, 47, 49 to 52, 55 and 60 of the *Administrative Tribunals Act* apply to the Provincial board.
- (2) A power of the Provincial board to make an order or require a person to do something under this section applies to a commodity board or commission and to a member of the commodity board or commission.

Rules about participation of commodity board or commission in an appeal

- 8.2** The Provincial board may make rules respecting the participation of a commodity board or commission in an appeal under section 8.

Power to correct errors and omissions and to clarify decision

- 8.3** (1) On its own initiative or on the application of a party, the Provincial board may amend a final decision to correct any of the following:
- (a) a clerical or typographical error;
 - (b) an accidental or inadvertent error, omission or other similar mistake;
 - (c) an arithmetical error made in a computation.
- (2) Unless the Provincial board determines otherwise, an amendment under subsection (1) must not be made more than 30 days after all parties have been served with the final decision.
- (3) Within 30 days after being served with the final decision, a party may apply to the Provincial board for clarification of the final decision and the Provincial board may amend the final decision only if the Provincial board considers that the amendment will clarify the final decision.
- (4) The Provincial board may not amend a final decision other than in the circumstances described in subsections (1) to (3).
- (5) This section must not be construed as limiting the Provincial board's ability on its own initiative to reopen an application in order to cure a jurisdictional defect.

Enforcement of Provincial board's final decision

- 8.4** (1) The Provincial board, a party in whose favour the Provincial board makes a final decision or a person designated in the final decision may file a certified copy of the final decision with the Supreme Court.
- (2) A final decision filed under subsection (1) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Supreme Court.

125 Section 9 is repealed and the following substituted:

Review of an order, decision or determination

- 9** (1) The Provincial board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by the Provincial board under this Act or a federal Act and to make any order permitted to be made.
- (2) Without limiting subsection (1), the Provincial board has exclusive jurisdiction to inquire into, hear and determine whether a decision, order or determination of a marketing board or commission accords with either or both of the following:
- (a) sound marketing policy;
 - (b) a scheme or the orders of the marketing board or commission.
- (3) A decision, order or determination of the Provincial board under this Act on a matter in respect of which the Provincial board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

126 Section 19 is repealed and the following substituted:

Immunity protection for Provincial board, its members and others

- 19** (1) In this section, “**decision maker**” includes the Provincial board, a member of the Provincial board or a staff officer of the Provincial board who participates in a dispute resolution process.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker, a marketing board, a commission or an agency or their members appointed under the federal Act or under this Act, because of anything done or omitted
- (a) in the performance or intended performance of any duty under this Act, or
 - (b) in the exercise or intended exercise of any power under this Act.
- (3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

127 Section 22 (4) is repealed.

Parole Act

128 Section 2 (3) of the Parole Act, R.S.B.C. 1996, c. 346, is repealed and the following substituted:

- (3) Sections 1 to 6, 8 to 10, 36, 39, 44, 56, 57, 58 and 61 of the *Administrative Tribunals Act* apply to the board.

129 The following section is added:

Compulsion protection

- 10.1** (1) A member of the board or person acting on behalf of or under the direction of a member of the board is not required to testify or produce evidence, in any civil, administrative or regulatory action or proceeding, about records or information obtained in the discharge of duties under this Act.
- (2) Despite subsection (1), the Supreme Court may require the board to produce the record of a proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

130 *Section 13 is repealed.*

Passenger Transportation Act

131 *Section 6 (3) of the Passenger Transportation Act, S.B.C. 2004, is repealed and the following substituted:*

- (3) The definitions of “**appointing authority**”, “**member**”, “**privative clause**”, “**tribunal**” and “**tribunal’s enabling Act**” in section 1 of the *Administrative Tribunals Act* and sections 2 to 10, 26, 30, 31, 41, 42, 44, 57, 58 and 61 of that Act apply to the board.
- (3.1) A person who participates in a hearing may be represented by counsel or by an agent and may make submissions as to facts, law and jurisdiction.

132 *Section 7 is amended*

(a) by repealing subsection (1) (h), and

(b) by adding the following subsections:

- (1.1) Subject to the regulations, if the board considers that the conduct of a participant in a proceeding has been improper, vexatious, frivolous or abusive, the board may order the participant to pay part of the actual costs and expenses of the board in connection with the proceeding.
- (1.2) An order under subsection (1.1), after filing in the court registry, has the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken on the order as if it were an order of the court.

133 *Sections 8 and 9 are repealed.*

134 *Section 12 (2) and (3) is repealed and the following substituted:*

- (2) At any time during a proceeding, but before its decision, the board may make an order requiring a person

- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in a proceeding, or
 - (b) to produce for the board a document or other thing in the person's possession or control, as specified by the board, that is admissible and relevant to an issue in a proceeding.
- (2.1) The board may apply to the Supreme Court for an order
- (a) directing a person to comply with an order made by the board under subsection (2), or
 - (b) directing any directors and officers of a person to cause the person to comply with an order made by the board under subsection (2).

135 Section 16 (2) is amended by striking out “is deemed” and substituting “must be considered”.

136 Section 18 is repealed.

137 Section 20 (3) is amended by striking out “must” and substituting “may”.

138 Section 22 is repealed and the following substituted:

Exclusive jurisdiction of board

- 22**
- (1) The board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined under this Act and to make any order permitted to be made.
 - (2) A decision or order of the board under this Act on a matter in respect of which the board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

139 Section 27 (6) is amended by striking out “under section 7 (1) (h)”.

140 Section 55 is amended by adding the following subsection:

- (6) If a notice or document is not served in accordance with this section, the proceeding is not invalidated if
 - (a) the contents of the notice or document were known by the person to be served within the time allowed for service,
 - (b) the person to be served consents, or
 - (c) the failure to serve does not result in prejudice to the person or any resulting prejudice can be satisfactorily addressed by an adjournment or other means.

141 Section 59 (2) (h) is repealed and the following substituted:

- (h) prescribing limits and rates respecting the costs that may be recovered by the board under section 7 (1.1); .

Petroleum and Natural Gas Act

142 Section 13 (5) and (6) of the Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, is repealed and the following substituted:

- (6) Sections 1 to 11, 14, 17, 19 to 21, 29, 30, 32, 34 (3) and (4), 36, 38 to 42, 44, 47 to 49, 55 to 57, 59, 60 (a), (b) and (d) to (f) and 61 of the *Administrative Tribunals Act* apply to the board.

143 Section 14 is repealed.

144 Section 15 is amended by adding the following subsections:

- (2.1) If the board transcribes or tape records a proceeding, the transcription or tape recording constitutes part of the record of the proceeding and is deemed to be correct.
- (2.2) If, because of a mechanical or human failure or other accident, the transcription or tape recording is destroyed, interrupted or incomplete, the validity of the proceeding is not affected.

145 Section 16 (2) (a) is amended by adding “directly” before “affected” in both places.

146 Section 17 is amended

- (a) *in subsection (1) by adding “directly” before “affected” and by striking out “the other” and substituting “those”,*
- (b) *in subsection (2) by adding “directly affected” after “persons”, and*
- (c) *in subsection (3) by adding “directly” before “affected”.*

147 Section 18 (1) and (5) is amended by adding “directly” before “affected”.

148 Section 20 (1) is amended by adding “directly” before “affected” in both places.

149 Section 22 (3), (4) and (5) is amended by adding “directly” before “affected”.

150 Sections 23 and 24 are repealed.

151 Section 25 is amended

- (a) *by repealing subsection (1) and substituting the following:*

- (1) If an order is made by the board, the board must provide notice of the order to the applicant and to any other persons directly affected by that order. , *and*

(b) by adding the following subsections:

- (4) An order made by the board is effective on the date it is issued by the board unless the order specifies otherwise.
- (5) If the board is of the opinion that because there are so many parties to an application or for any other reason it is impracticable to give notice of its final order to all or any of the parties individually, the board may give notice of its final order by public advertisement or otherwise as the board directs.
- (6) If the board gives notice under subsection (5) of a final order, the notice must inform the parties where copies of the final order may be obtained.
- (7) The board must provide for public access to its orders.

152 Section 27 is repealed.

Residential Tenancy Act

153 Part 5 of the Residential Tenancy Act, S.B.C. 2002, c. 78, is amended by adding the following Division:

Division 1.1 – Application of Administrative Tribunals Act

Application of Administrative Tribunals Act

- 78.1** Sections 1, 30, 44, 48, 56 to 58 and 61 of the *Administrative Tribunals Act* apply to an arbitration and an arbitrator.

154 The following section is added:

Exclusive jurisdiction of arbitrator

- 84.1** (1) An arbitrator has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an arbitration proceeding under Division 1 of this Part or a review under Division 2 of this Part and to make any order permitted to be made.
- (2) A decision or order of an arbitrator under this Act on a matter in respect of which the arbitrator has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

155 Section 87 is repealed and the following substituted:

Compulsion protection

- 87** (1) An arbitrator must not be required to testify or produce evidence in any proceeding, other than a criminal proceeding, about records or information obtained in the discharge of duties under this Act.

- (2) Despite subsection (1), the court may require the director to produce the record of a proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

Safety Standards Act

156 Section 44 of the Safety Standards Act, S.B.C. 2003, c. 39, is repealed and the following substituted:

Application of *Administrative Tribunals Act*

- 44** Sections 1 to 22, 24, 26 to 30, 31 (1) (a) to (e), (2) and (3), 32, 33, 34 (3) and (4), 35 to 42, 44, 47 to 58, 60 and 61 of the *Administrative Tribunals Act* apply to the appeal board.

157 Sections 46, 48 and 51 (1) and (3) are repealed.

158 Section 51 (4) is amended

- (a) *in paragraph (a) by striking out “the appeal, and” and substituting “the appeal.”, and*
(b) *by repealing paragraph (b).*

159 Sections 54 to 61 are repealed and the following substituted:

Appeal does not operate as a stay unless appeal board otherwise orders

- 54** (1) The commencement of an appeal does not operate as a stay or suspend the operation of the decision being appealed unless the appeal board orders otherwise.
- (2) On application, the appeal board, a panel or a member of the board may order that the decision being appealed is stayed for a period of time or subject to conditions, or both.
- (3) Subsection (2) does not apply if an application under section 39 to the Supreme Court to enforce an order for compliance has been made in respect of the decision under appeal.

Appeal board’s hearing

- 59** The appeal board must decide the matter by confirming, varying or reversing the decision or by dismissing the appeal.

Decision of appeal board is final

- 60** (1) The appeal board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this Act and to make any order permitted to be made.

- (2) A decision or order of the appeal board on a matter in respect of which the appeal board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

160 *Section 89 (d) is repealed.*

Securities Act

161 *Section 65 (4) of the Securities Act, S.B.C. 2004, is repealed.*

162 *Section 136 is repealed and the following substituted:*

Application of Administrative Tribunals Act

- 136** Sections 1 to 6, 7 (1) and (2), 8, 43, 46 and 55 of the *Administrative Tribunals Act* apply to the commission.

Utilities Commission Act

163 *Section 2 (4) of the Utilities Commission Act, R.S.B.C. 1996, c. 473, is repealed and the following substituted:*

- (4) Sections 1 to 3 and 5 to 13, 15, 18 to 21, 28 to 30, 32, 34 (3) and (4), 35 to 42, 44, 48, 49, 54, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the commission, and for that purpose a reference to a deputy chair in this Act is a reference to a vice chair under that Act.

164 *Section 4 is amended*

- (a) *in subsection (1) (a) by striking out “, and”,*
(b) *by repealing subsection (1) (b), and*
(c) *by adding the following subsections:*

- (10) In the case of a tie vote at a sitting of the commission or a division of the commission, the decision of the chair of the commission or the division governs.
- (11) If a division is comprised of one member and that member is unable for any reason to complete the member’s duties, the chair of the commission, with the consent of all parties to the application, may organize a new division to continue to hear and determine the matter on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.

165 *Section 6 is repealed.*

166 *Section 12 (2) is repealed and the following substituted:*

Section 167

- (2) A commissioner, officer or employee of the commission must not be required to testify or produce evidence in any proceeding, other than a criminal proceeding, about records or information obtained in the discharge of duties under this Act.
- (3) Despite subsection (2), the Supreme Court may require the commission to produce the record of a proceeding that is the subject of an application for judicial review under the *Judicial Review Procedure Act*.

167 Section 74 is repealed and the following substituted:**Inspections and depositions**

- 74** For the purposes of this Act, the commission may
- (a) enter on and inspect property, and
 - (b) require the taking of depositions inside or outside of British Columbia.

168 Section 75 is amended by striking out “to follow legal precedent” and substituting “to follow its own decisions”.***169 Section 78 is amended***

- (a) *by repealing subsection (1), and*
- (b) *in subsection (3) by adding “of this Act and section 34 (3) and (4) of the Administrative Tribunals Act” after “section 74”.*

170 Sections 86.1, 93 and 94 are repealed.***171 The following section is added:*****Withdrawal of application**

- 88.1** If an applicant withdraws all or part of an application or the parties advise the commission that they have reached a settlement of all or part of an application, the commission may order that the application or part of it is dismissed.

172 Section 122 is repealed.***173 Section 124 is amended by adding the following subsection:***

- (5) A decision of the commission is effective on the date on which it is issued, unless otherwise specified by the commission.

Workers Compensation Act***174 Section 221 of the Workers Compensation Act, R.S.B.C. 1996, c. 492, is amended by adding the following subsections:***

- (4) If, through absence, accident, illness or other cause beyond the party's control, a party who acts in good faith does not receive the copy until a later date than the date provided under subsection (2) or (3), that subsection does not apply.
- (5) If a notice or document is not served in accordance with this section, the proceeding is not invalidated if
 - (a) the contents of the notice or document were known by the person to be served within the time allowed for service,
 - (b) the person to be served consents, or
 - (c) the failure to serve does not result in prejudice to the person or any resulting prejudice can be satisfactorily addressed by an adjournment or other means.
- (6) If the appeal tribunal is of the opinion that because there are so many parties to a proceeding or for any other reason it is impracticable to give notice of a hearing to a party by a method referred to in subsection (1) (a) to (c), the appeal tribunal may give notice of a hearing by public advertisement or otherwise as the appeal tribunal directs.

175 Section 232 (7) is repealed.

176 Section 234 (2) (d) and (e) is repealed and the following substituted:

- (d) establishing any forms, practices and procedures required for the efficient and cost effective conduct of appeals to the appeal tribunal, including
 - (i) the time periods within which steps must be taken,
 - (ii) requiring pre-hearing conferences, and
 - (iii) employing voluntary alternate dispute resolution processes;
- (e) making any forms, practices and procedures established under paragraph (d) accessible to the public; .

177 Section 235 (2) is repealed and the following substituted:

- (2) The *Public Sector Pension Plans Act* and the *Public Service Benefit Plan Act* apply to the employees of the appeal tribunal.

178 Section 236 is repealed and the following substituted:

Compensation and expenses of members

- 236**
- (1) In accordance with general directives of the Treasury Board, members must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties.
 - (2) In accordance with general directives of the Treasury Board, the minister must set the remuneration for those members who are to receive remuneration.
 - (3) For the purposes of subsection (2), Treasury Board may specify different rates of remuneration for different classes of members.

Section 179

- (4) The chair of the appeal tribunal must determine the class to which a member is assigned for the purposes of remuneration.
- (5) The *Public Sector Pension Plans Act* and the *Public Service Benefit Plan Act* apply to the members of the appeal tribunal.

179 Section 238 is amended by adding the following subsection:

- (11) If a panel is comprised of one member and that member is unable for any reason to complete the member's duties, the chair of the appeal tribunal, with the consent of all parties to the appeal, may appoint a new panel to continue to hear and determine the appeal on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.

180 Section 242 (2) is repealed and the following substituted:

- (2) A notice of appeal must
 - (a) be made in writing or in another form authorized by the appeal tribunal's rules,
 - (b) identify the decision or order that is being appealed,
 - (c) state why the decision or order is incorrect or why it should be changed,
 - (d) state the outcome requested,
 - (e) contain the name, address and telephone number of the appellant, and if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours,
 - (f) include an address for delivery of any notices in respect of the appeal, and
 - (g) be signed by the appellant or the appellant's agent.
- (3) If a notice of appeal is deficient the appeal tribunal may allow a reasonable period of time within which the notice may be corrected.

181 Section 244 is amended by striking out "the chair directs" and substituting "the appeal tribunal orders".***182 The following section is added:*****Application of *Administrative Tribunals Act* to appeal tribunal proceedings**

245.1 Sections 1, 11, 13 to 15, 28 to 32, 35 (1) to (3), 37, 38, 42, 44, 48, 49, 52, 55 to 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the appeal tribunal.

183 Section 246 is amended

- (a) ***in subsection (1) by striking out "in person or by means of teleconference or video-conference facilities," and substituting "in person, by means of teleconference or videoconference facilities or by other electronic means," and***

(b) by repealing subsections (2) (a) and (b) and (5) and substituting the following:

- (5) If a party fails to comply with an order of the appeal tribunal or with the rules of practice and procedure of the appeal tribunal, including any time limits specified for taking any actions, after giving notice to that party the appeal tribunal may do one or more the following:
 - (a) schedule a written, electronic or oral hearing;
 - (b) continue with the appeal and make a decision based on the evidence before it, with or without providing an opportunity for submissions;
 - (c) dismiss the application.

184 The following section is added:

Evidence admissible in appeal tribunal proceedings

- 246.1** (1) The appeal tribunal may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.
- (2) Despite subsection (1), the appeal tribunal may exclude anything unduly repetitious.
 - (3) Nothing is admissible before the appeal tribunal that is inadmissible in a court because of a privilege under the law of evidence.
 - (4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence.
 - (5) Notes or records kept by a person appointed by the appeal tribunal to conduct a dispute resolution process in relation to an appeal are inadmissible in appeal tribunal proceedings.

185 Section 247 is amended

(a) by repealing subsection (1) and substituting the following:

- (1) At any time before or during a hearing, but before its decision, the appeal tribunal may make an order requiring a person
 - (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an appeal, or
 - (b) to produce for the appeal tribunal or a party a document or other thing in the person's possession or control, as specified by the appeal tribunal, that is admissible and relevant to an issue in an appeal.
- (1.1) The appeal tribunal may apply to the Supreme Court for an order
 - (a) directing a person to comply with an order made by the appeal tribunal under subsection (1), or

- (b) directing any directors and officers of a person to cause the person to comply with an order made by the appeal tribunal under subsection (1)., *and*

(b) in subsections (3) and (4) by striking out “Despite subsections (1) and (2),” and substituting “Despite subsections (1) to (2),”.

186 *The following section is added:*

Amendment to final decision

- 253.1** (1) If a party applies or on the appeal tribunal’s own initiative, the appeal tribunal may amend a final decision to correct any of the following:
- (a) a clerical or typographical error;
 - (b) an accidental or inadvertent error, omission or other similar mistake;
 - (c) an arithmetical error made in a computation.
- (2) Unless the appeal tribunal determines otherwise, an amendment under subsection (1) must not be made more than 90 days after all parties have been served with the final decision.
- (3) Within 90 days after being served with the final decision, a party may apply to the appeal tribunal for clarification of the final decision and the appeal tribunal may amend the final decision only if the appeal tribunal considers that the amendment will clarify the final decision.
- (4) The appeal tribunal may not amend a final decision other than in those circumstances described in subsections (1) to (3).
- (5) This section must not be construed as limiting the appeal tribunal’s ability, on request of a party, to reopen an appeal in order to cure a jurisdictional defect.

187 *Section 254 is amended by striking out “fact and law arising or required to be determined under this Part,” and substituting “fact, law and discretion arising or required to be determined under this Part and to make any order permitted to be made,”.*

188 *Section 255 is amended by adding the following subsections:*

- (4) A party in whose favour the appeal tribunal makes a final decision, or a person designated in the final decision, may file a certified copy of the final decision with the Supreme Court.
- (5) A final decision filed under subsection (4) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Supreme Court.

Transitional Provision

Transitional: existing appointments

- 189** (1) Existing designations, made before February 13, 2004, of members of the British Columbia Securities Commission as the chair and vice chairs of the commission and the appointments of those members are continued as expressed in the orders by which they were appointed.
- (2) This section is repealed on a date set by regulation of the Lieutenant Governor in Council.

Repeal

- 190** The *Administrative Tribunals Appointment and Administration Act*, S.B.C. 2003, c. 47, is repealed.

Commencement

- 191** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 to 176	By regulation of the Lieutenant Governor in Council
3	Section 177	March 3, 2003
4	That part of Section 178 enacting 236 (5) of the <i>Workers Compensation Act</i>	March 3, 2003
5	That part of section 178 enacting Section 236 (1) to (4) of the <i>Workers Compensation Act</i>	By regulation of the Lieutenant Governor in Council
6	Sections 179 to 190	By regulation of the Lieutenant Governor in Council