

# ADMINISTRATIVE TRIBUNALS ACT

S.B.C. 2004, c. 45

***NOTE: This is not an official version. Further, this version has been edited to contain only those provisions that apply to the property Assessment Appeal Board as of March, 2018***

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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:

## **Part 1 — Interpretation and Application**

### **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;

**"facilitated settlement process"** means a process established under section 28 [*facilitated settlement*];

**"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;

**"tribunal's enabling Act"** means the Act under which the tribunal is established or continued.

## **Application by incorporation**

- 1.1** (1) The provisions of this Act do not operate, except as made applicable to a tribunal or other body by another enactment.
- (2) If another enactment refers to a provision of that enactment or of a third enactment that incorporates a provision of this Act, the reference is deemed to include a reference to the incorporated provision of this Act.
- (3) If another enactment incorporates section 1 [*definitions*] of this Act,
- (a) the definitions in this Act apply to provisions of this Act incorporated by the other enactment, but
  - (b) unless a contrary intention appears in the other enactment, the definitions in this Act do not apply to a use of a term in the other enactment outside of the incorporated provisions.
- (4) Subsection (1) does not apply to this section or to section 62 [*application of Act to BC Review Board*].

## **Part 2 – Appointments**

### **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, after a merit-based process, 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, after a merit-based process, as a member of the tribunal for additional terms of up to 5 years.

### **Appointment of acting chair**

**4** (1) If the chair expects to be absent or is absent, the chair may designate a vice chair as the acting chair for the period that the chair is absent.

(2) If the chair expects to be absent or is absent and there is no vice chair or if there is a vice chair and the vice chair is not willing or able to act as chair, the chair may designate a member as the acting chair for the period that the chair is absent.

(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 for the period that the chair is absent or incapacitated.

(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 or if there is a vice chair and the vice chair is not willing or able to act as chair, the appointing authority may designate a member, or appoint an individual who would otherwise be qualified for appointment as a member or as the chair, as the acting chair for the period that the chair is absent or incapacitated.

(5) If the tribunal has no chair, the appointing authority may appoint an individual, who is a member, or appoint an individual who would otherwise be qualified for appointment as a member or as the chair, as the acting chair for a term of up to 6 months.

(6) In exceptional circumstances an individual may be appointed as the acting chair under subsection (5) for an additional term of up to 6 months.

(7) Subsections (3), (4) and (5) apply whether or not an individual is designated, under the Act under which the chair is appointed, to act on behalf of the chair.

(8) An individual designated or appointed under any of subsections (1) to (5) has all the powers and may perform all the duties of the chair.

### **Member's absence or incapacitation**

**5** (1) 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 full duty or the member's term expires, whichever comes first.

(2) The appointment of a person to replace a member under subsection (1) is not affected by the member returning to less than full duty.

### **Member's temporary appointment**

**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 twice 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.

### **Validity of tribunal acts**

**7.1** An act of the tribunal is not invalid because of a defect that is afterwards discovered in the appointment of a chair, vice chair or member.

### **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.

## **Part 3 – Clustering**

### **Designating clusters**

**10.1** (1) The Lieutenant Governor in Council may, by regulation, designate 2 or more tribunals as a cluster if, in the opinion of the Lieutenant Governor in Council, the matters that the tribunals deal with are such that they can operate more effectively and efficiently as part of a cluster than alone.

(2) The Lieutenant Governor in Council may, by regulation, do one or both of the following:

(a) remove a tribunal from a cluster;

(b) add a tribunal to a cluster.

(3) If a tribunal is in a cluster, this Part applies to the tribunal despite any other enactment.

### **Executive chair**

**10.2** (1) The Lieutenant Governor in Council may, after a merit-based process, appoint an executive chair to be responsible for the effective management and operation of all of the tribunals in a cluster.

(2) The executive chair has all the powers, duties and immunities of the chair of each tribunal in the cluster under an enactment.

(3) To the extent necessary to give effect to subsection (2), and subject to this Part, if a tribunal is in a cluster, any reference to the chair of the tribunal in an enactment is deemed to be a reference to the executive chair of the cluster.

(4) The executive chair holds office for an initial term of 3 to 5 years.

(5) The executive chair may be reappointed by the Lieutenant Governor in Council, after a merit-based process, for additional terms of up to 5 years.

(6) The executive chair must have all the qualifications required of a chair of any tribunal in the cluster under any enactment.

(7) The executive chair is a member of each of the tribunals in the cluster for which he or she is responsible.

### **Tribunal chairs**

**10.3** (1) Subject to section 10.6 [*transition*], the appointing authority may, after a merit-based process, appoint a tribunal chair for a tribunal in the cluster under the direction of the executive chair of that cluster.



(2) The term of appointment of a tribunal chair is the same as the term of appointment of the chair of the tribunal under the tribunal's enabling Act.

(3) A tribunal chair may be reappointed, after a merit-based process, on the same basis as the chair of the tribunal under the tribunal's enabling Act.

(4) The executive chair may delegate to a tribunal chair a power or duty of the chair of the tribunal under an enactment, including a power under the enactment to delegate a power or duty to another person.

(5) The tribunal chair has all the immunities of the chair of the tribunal under an enactment.

(6) The appointing authority may appoint the executive chair of a cluster to also be the tribunal chair of a tribunal in the cluster.

(7) The tribunal chair is a member of the tribunal for which he or she is appointed.

### **Alternate executive chair**

**10.4** (1) The Lieutenant Governor in Council may designate a member of a tribunal in a cluster, other than the executive chair of the cluster, as an alternate executive chair.

(2) If the executive chair of a cluster is absent or incapacitated, the alternate executive chair has all the powers and immunities and may perform all the duties of the executive chair.

### **Validity of tribunal acts**

**10.5** An act of a tribunal is not invalid because of a defect that is afterwards discovered in the appointment of an executive chair or tribunal chair.

### **Transition**

**10.6** (1) On the designation of a tribunal as part of a cluster under section 10.1 (1) or (2) (b) [*designating clusters*], the individual appointed as chair under the tribunal's enabling Act is no longer

appointed under the tribunal's enabling Act and is deemed to be appointed as tribunal chair under section 10.3 [*tribunal chairs*].

(2) The term of the deemed appointment as tribunal chair under subsection (1) ends on the date the individual's appointment under the tribunal's enabling Act would have ended if the tribunal had not been designated as part of a cluster.

(3) On a tribunal in a cluster ceasing to be in any cluster, the individual appointed as tribunal chair is deemed to be the chair under the tribunal's enabling Act for the remainder of the term of his or her appointment as tribunal chair.

(4) On an individual appointed as tribunal chair being appointed as executive chair of a cluster, the individual remains the tribunal chair until his or her appointment as tribunal chair expires or is terminated.

(5) This section applies despite any other provision in this Part.

## **Part 4 — Practice and Procedure**

### **General power to make rules respecting practice and procedure**

**11** (1) Subject to an enactment applicable to the tribunal, 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 facilitated settlement 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;
  - (i.1) requiring an intervener to provide an address for service or delivery of notices, orders and other documents;
  - (j) providing that a party's address of record is to be treated as an address for service;
  - (j.1) providing that an intervener'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;
  - (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;
  - (v.1) respecting filing and service of a summons to a witness;
  - (w) respecting applications to set aside any summons served by a party;
  - (x) requiring or allowing that a process be conducted electronically, with or without conditions.
- (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.
- (5) Rules for the tribunal may be different for different classes of disputes, claims, issues and circumstances.

### **Practice directives tribunal may make**

- 13** (1) The tribunal may issue practice directives.
- (1.1) Practice directives must be consistent with any enactment applying to the tribunal and any rule of practice or 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 the enactments governing the application.
- (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** (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 the enactments governing the application.

### **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:

- (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.

### **Facilitated settlement**

**28** (1) The chair may appoint a member or staff of the tribunal or another person to conduct a facilitated settlement process to resolve one or more issues in dispute.

(2) The tribunal may require 2 or more parties to participate in the facilitated settlement process, in accordance with the rules of the tribunal.

(3) The tribunal may make the consent of one, all or none of the parties to the application a condition of a facilitated settlement process, in accordance with the rules of the tribunal.

### **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 facilitated settlement process, or

(b) a statement made by a party in a facilitated settlement 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;
- (e) the applicant failed to diligently pursue the application or failed to comply with an order of the tribunal;

## **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** (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.

## **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 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 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) [Repealed 2015-10-18.]

## **Part 5 — Jurisdiction over Legal Questions**

### **Tribunal without jurisdiction over constitutional questions**

- 44** (1) The tribunal does not have jurisdiction over constitutional questions.
- (2) Subsection (1) applies to all applications made before, on or after the date that the subsection applies to a tribunal.

### **Tribunal without jurisdiction to apply the *Human Rights Code***

- 46.3** (1) The tribunal does not have jurisdiction to apply the *Human Rights Code*.
- (2) Subsection (1) applies to all applications made before, on or after the date that the subsection applies to a tribunal.

## **Part 6 – Costs and Sanctions**

### **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.

## **Part 7 – Decisions**

### **Decisions**

- 50** (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.

### **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.

## **Part 8 – Immunities**

### **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 facilitated settlement 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 the member's or person's duties.

(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 facilitated settlement 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 an enactment governing an application, or

(b) in the exercise or intended exercise of any power under an enactment governing an application.

(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.

## **Part 9 – Accountability and Judicial Review**

### **Surveys**

**59.1** For the purposes of evaluating and improving its services, the tribunal may conduct surveys in the course of or after providing those services.

### **Reporting**

**59.2** At the times, and in the form and manner, prescribed by regulation, the tribunal must submit the following to the minister responsible for the tribunal:

(a) a review of the tribunal's operations during the preceding period;

(b) performance indicators for the preceding period;

(c) details on the nature and number of applications and other matters received or commenced by the tribunal during the preceding period;

(d) details of the time from filing or commencement to decision of the applications and other matters disposed of by the tribunal in the preceding period;

(e) results of any surveys carried out by or on behalf of the tribunal during the preceding period;

- (f) a forecast of workload for the succeeding period;
- (g) trends or special problems foreseen by the tribunal;
- (h) plans for improving the tribunal's operations in the future;
- (i) other information as prescribed by regulation.

## **Part 10 – Miscellaneous**

### **Power to make regulations**

**60** (1) 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;
- (g) prescribing the form, manner and timing of reports to the minister responsible for the tribunal;
- (h) prescribing information that must be included in reports to the minister responsible for the tribunal;
- (i) prescribing information the tribunal must make public.

(2) The Lieutenant Governor in Council may make different regulations under subsection (1) for different tribunals.

### **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 facilitated settlement process.

(2) The *Freedom of Information and Protection of Privacy Act*, other than section 44 (1) (b), (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 facilitated settlement 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.

### **Consequential Amendments**

*[Note: See Table of Legislative Changes for the status of sections 63 to 188.]*

<b>Section(s)</b>	<b>Affected Act</b>
63–66	<i>Agricultural Land Commission Act</i>
67–77	<i>Assessment Act</i>
78	<i>Business Practices and Consumer Protection Act</i>
79–82	<i>Community Care and Assisted Living Act</i>
83–87	<i>Employment and Assistance Act</i>
88–93	<i>Employment Standards Act</i>
94–98	<i>Expropriation Act</i>
99–100	<i>Financial Institutions Act</i>
101	<i>Forest and Range Practices Act</i>
102–103	<i>Hospital Act</i>
104–106	<i>Human Rights Code</i>
107–108	<i>Industry Training Authority Act</i>

109-110	<i>Labour Relations Code</i>
111	<i>Local Government Act</i>
112-114	<i>Manufactured Home Park Tenancy Act</i>
115-119	<i>Mental Health Act</i>
120-127	<i>Natural Products Marketing (BC) Act</i>
128-130	<i>Parole Act</i>
131-141	<i>Passenger Transportation Act</i>
142-152	<i>Petroleum and Natural Gas Act</i>
153-155	<i>Residential Tenancy Act</i>
156-160	<i>Safety Standards Act</i>
161-162	<i>Securities Act</i>
163-173	<i>Utilities Commission Act</i>
174-188	<i>Workers Compensation Act</i>

### **Transitional Provision**

#### **Not in force**

**189** [Not in force.]

#### **Repeal**

*[Note: See Table of Legislative Changes for the status of section 190.]*

<b>Section(s)</b>	<b>Affected Act</b>
190	<i>Administrative Tribunals Appointment and Administration Act</i>

#### **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 <b>Provisions of Act</b>	Column 2 <b>Commencement</b>
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

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