



Province of Alberta

ADMINISTRATIVE PROCEDURES AND JURISDICTION ACT

Revised Statutes of Alberta 2000
Chapter A-3

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2011 cN-6.5 s12 repeals ss10(a), 12, 13, 14, 16(c) and (d).

Regulations

The following is a list of the regulations made under the *Administrative Procedures and Jurisdiction Act* that are filed as Alberta Regulations under the Regulations Act

| | Alta. Reg. | <i>Amendments</i> |
|---|-------------------|--|
| Administrative Procedures and Jurisdiction Act | | |
| Authorities Designation..... | 64/2003 | 203/2003, 196/2006, 254/2007, 30/2013, 89/2013, 174/2013 |
| Designation of Constitutional Decision Makers..... | 69/2006 | 254/2007, 170/2012, 89/2013 |

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Chapter A-3

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

Part 1

Administrative Procedures

Definitions

1 In this Act,

- (a) “authority” means a person authorized to exercise a statutory power;
- (b) “party” means a person whose rights will be varied or affected by the exercise of a statutory power or by an act or thing done pursuant to that power;
- (c) “statutory power” means an administrative, quasi-judicial or judicial power conferred by statute, other than a power conferred on a court of record of civil or criminal jurisdiction or a power to make regulations, and for greater certainty, but without restricting the generality of the foregoing, includes a power
 - (i) to grant, suspend or revoke a charter or letters patent,
 - (ii) to grant, renew, refuse, suspend or revoke a permission to do an act or thing that, but for the permission, would be unlawful, whether the permission is called a licence or permit or certificate or is in any other form,
 - (iii) to declare or establish a status provided for under a statute for a person and to suspend or revoke that status,
 - (iv) to approve or authorize the doing or omission by a person of an act or thing that, but for the approval or authorization, would be unlawful or unauthorized,
 - (v) to declare or establish a right or duty of a person under a statute, whether in a dispute with another person or otherwise, or
 - (vi) to make an order, decision, direction or finding prohibiting a person from doing an act or thing that, but for the order, decision, direction or finding, it would be lawful for the person to do,

or any combination of those powers.

RSA 1980 cA-2 s1

Application of Part

2(1) This Part applies to an authority only to the extent provided under this section.

(2) The Lieutenant Governor in Council may, by regulation,

- (a) designate any authority as an authority to which this Part applies in whole or in part;
- (b) designate the statutory power of the authority in respect of which this Part applies in whole or in part;
- (c) designate the provisions of this Part that are applicable to the authority in the exercise of that statutory power, and the extent to which they apply;
- (d) prescribe the form of notices for the purposes of this Part;
- (e) prescribe the length of time that is adequate for the giving of a notice under this Part.

RSA 2000 cA-3 s2;2005 c4 s4

Notice to parties

3 When

- (a) an application is made to an authority, or
- (b) an authority on its own initiative proposes

to exercise a statutory power, the authority shall give to all parties adequate notice of the application that it has before it or of the power that it intends to exercise.

RSA 1980 cA-2 s3

Evidence and representations

4 Before an authority, in the exercise of a statutory power, refuses the application of or makes a decision or order adversely affecting the rights of a party, the authority

- (a) shall give the party a reasonable opportunity of furnishing relevant evidence to the authority,
- (b) shall inform the party of the facts in its possession or the allegations made to it contrary to the interests of the party in sufficient detail
 - (i) to permit the party to understand the facts or allegations, and

- (ii) to afford the party a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations,

and

- (c) shall give the party an adequate opportunity of making representations by way of argument to the authority.

RSA 1980 cA-2 s4

Cross-examination

5 When an authority has informed a party of facts or allegations and that party

- (a) is entitled under section 4 to contradict or explain them, but
- (b) will not have a fair opportunity of doing so without cross-examination of the person making the statements that constitute the facts or allegations,

the authority shall afford the party an opportunity of cross-examination in the presence of the authority or of a person authorized to hear or take evidence for the authority.

RSA 1980 cA-2 s5

When certain representations not permitted

6 Where by this Part a party is entitled to make representations to an authority with respect to the exercise of a statutory power, the authority is not by this Part required to afford an opportunity to the party

- (a) to make oral representations, or
- (b) to be represented by counsel,

if the authority affords the party an opportunity to make representations adequately in writing, but nothing in this Part deprives a party of a right conferred by any other Act to make oral representations or to be represented by counsel.

RSA 2000 cA-3 s6;2005 c4 s5

Written decision with reasons

7 When an authority exercises a statutory power so as to adversely affect the rights of a party, the authority shall furnish to each party a written statement of its decision setting out

- (a) the findings of fact on which it based its decision, and

- (b) the reasons for the decision.

RSA 1980 cA-2 s7

Requirements of other Acts

8 Nothing in this Part relieves an authority from complying with any procedure to be followed by it under any other Act relating to the exercise of its statutory power.

RSA 2000 cA-3 s8;2005 c4 s6

Rules of evidence

9 Nothing in this Part

- (a) requires that any evidence or allegations of fact made to an authority be made under oath, or
- (b) requires any authority to adhere to the rules of evidence applicable to courts of civil or criminal jurisdiction.

RSA 2000 cA-3 s9;2005 c4 s7

Part 2

Jurisdiction to Determine Questions of Constitutional Law

Definitions

10 In this Part,

- (a) “court” means the Court of Queen’s Bench of Alberta;
- (b) “decision maker” means an individual appointed or a body established by or under an Act of Alberta to decide matters in accordance with the authority given under that Act, but does not include
- (i) The Provincial Court of Alberta or a judge of that Court,
 - (ii) a justice of the peace conferred with the authority to determine a question of constitutional law under the *Provincial Court Act*,
 - (iii) the Court of Queen’s Bench of Alberta or a judge or master in chambers of that Court, or
 - (iv) the Court of Appeal of Alberta or a judge of that Court;
- (c) “designated decision maker” means a decision maker designated under section 16(a) as a decision maker that

has jurisdiction to determine one or more questions of constitutional law under section 16(b);

- (d) “question of constitutional law” means
- (i) any challenge, by virtue of the Constitution of Canada or the *Alberta Bill of Rights*, to the applicability or validity of an enactment of the Parliament of Canada or an enactment of the Legislature of Alberta, or
 - (ii) a determination of any right under the Constitution of Canada or the *Alberta Bill of Rights*.

2005 c4 s8;2011 c20 s8

Lack of jurisdiction

11 Notwithstanding any other enactment, a decision maker has no jurisdiction to determine a question of constitutional law unless a regulation made under section 16 has conferred jurisdiction on that decision maker to do so.

2005 c4 s8

Notice of question of constitutional law

12(1) Except in circumstances where only the exclusion of evidence is sought under the *Canadian Charter of Rights and Freedoms*, a person who intends to raise a question of constitutional law at a proceeding before a designated decision maker that has jurisdiction to determine such a question

- (a) must provide written notice of the person’s intention to do so at least 14 days before the date of the proceeding
 - (i) to the Attorney General of Canada,
 - (ii) to the Minister of Justice and Solicitor General of Alberta, and
 - (iii) to the parties to the proceeding,

and

- (b) must provide written notice of the person’s intention to do so to the designated decision maker.

(2) Until subsection (1) is complied with, the decision maker must not begin the determination of the question of constitutional law.

(3) Nothing in this section affects the power of a decision maker to make any interim order, decision, directive or declaration it

considers necessary pending the final determination of any matter before it.

(4) The notice under subsection (1) must be in the form and contain the information provided for in the regulations.

2005 c4 s8;2013 c10 s34

Referral of question of constitutional law

13(1) With respect to a question of constitutional law over which a designated decision maker has jurisdiction and in respect of which a notice has been given under section 12, if the designated decision maker is of the opinion that the court is a more appropriate forum to decide the question, the designated decision maker may, instead of deciding the question,

- (a) direct the person who provided the notice under section 12 to apply to the court to have the question determined by that court, or
- (b) state the question of constitutional law in the form of a special case to the court for the opinion of the court.

(2) Before acting under subsection (1)(a) or (b), the designated decision maker may conduct any inquiries the designated decision maker considers necessary.

(3) Where the designated decision maker acts under subsection (1)(a) or (b), the designated decision maker must, unless otherwise directed by the court, suspend the proceeding, or any part of the proceeding, as it relates to the question to be heard by the court under subsection (1) until the decision of the court has been given.

(4) A question of constitutional law in respect of which an application has been directed to be made to the court under subsection (1)(a) must be brought on for hearing as soon as practicable.

(5) The court must hear and determine the question of constitutional law submitted to it under this section and give its decision as soon as practicable.

(6) The designated decision maker may and, at the request of the court, shall provide the court with any record and documentation that may assist the court in determining the question of constitutional law submitted to it under this section.

2005 c4 s8

**Attorney General of Canada and Minister of Justice
and Solicitor General of Alberta**

14 In any proceeding relating to the determination of a question of constitutional law before a decision maker or before the court under this Part, or in any subsequent proceeding on appeal or judicial review,

- (a) the Attorney General of Canada and the Minister of Justice and Solicitor General of Alberta are entitled as of right to be heard, in person or by counsel,
- (b) no person other than the Minister of Justice and Solicitor General of Alberta or counsel designated by the Minister of Justice and Solicitor General of Alberta shall, on behalf of Her Majesty in right of Alberta, or on behalf of an agent of Her Majesty in right of Alberta, appear and participate, and
- (c) if the Minister of Justice and Solicitor General of Alberta or counsel designated by the Minister of Justice and Solicitor General of Alberta appears, the Minister of Justice and Solicitor General of Alberta is deemed to be a party and has the same rights as any other party.

2005 c4 s8;2013 c10 s34

Transitional

15 Where proceedings to determine a question of constitutional law have commenced but have not been concluded before the coming into force of this Part, the decision maker hearing the question may continue the proceedings as if this Part had not come into force.

2005 c4 s8

Regulations

16 The Lieutenant Governor in Council may make regulations

- (a) designating decision makers as having jurisdiction to determine questions of constitutional law;
- (b) respecting the questions of constitutional law that decision makers designated under a regulation made under clause (a) have jurisdiction to determine;
- (c) respecting the referral of questions of constitutional law to the court;
- (d) respecting the form and contents of the notice under section 12(1).

RSA 2000 cA-3 s10;2005 c4 s8



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