

# Proposed Revised Rules of Practice and Procedure for the Licence Appeal Tribunal

**December 17, 2015**

The Licence Appeal Tribunal (LAT) is designated as an adjudicative tribunal and is included in the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) pursuant to the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched. 5.

LAT is proposing to revise its Rules of Practice and Procedure to provide for greater accessibility and simplicity and to accommodate some upcoming changes in relation to its mandate.

Subject to public feedback and comments received, these rules will be adopted by LAT on April 1, 2016. This will coincide with the anticipated “transition date” when LAT will begin having jurisdiction over certain automobile insurance disputes in relation to the *Statutory Accidents Benefits Schedule* (a regulation under the *Insurance Act*).

As with the current Tribunal rules, these proposed rules operate at a very high level and provide a general roadmap for the handling of proceedings by LAT. More aspects of Tribunal processes will be set out publicly in Practice Directions and Information Sheets. The proposed rules are based on the existing LAT Rules which were most recently revised in 2014. To the greatest extent possible, the proposed rules have been further simplified and put into “plain language”.

The proposed new rules are set out in this document. The rules are subject to substantive change based on comments received and/or further refinement of LAT procedures. Numbering and formatting set out in these rules is tentative and subject to change.

Applicable commentary is set out under each specific proposed new rule. This commentary is designed to provide a short explanation of changes and identifies key similarities and differences between the current LAT rules and the proposed new rules. Please also note the following changes which are not shown in the rule-specific commentary set out in the proposal:

(Removed) Current LAT Rule 2.9: This rule provides that the Tribunal may order costs in relation to appeals deemed abandoned. There is no corresponding section in the proposed new rules as this does not require a specific rule. Costs for abandoned appeals may simply be dealt with pursuant to the new cost rules.

(Removed) Current LAT Rule 2.11: This current rule provides that where a notice of a hearing or pre-hearing has been given, and the person fails to attend or leaves, the person is not entitled to further notice in the proceeding. LAT is proposing to remove this rule. Such situations could be dealt with by the Tribunal issuing an order to dismiss where necessary.

(Removed) Current LAT Rule 6.2: The current rule specifically provides that a person who wishes to question the good character, conduct or competence of a party shall provide reasonable information about such allegations in advance. This rule is unnecessary as the requirement is dealt with under general disclosure rules.

(Removed) Current LAT Rule 10.5: Current rule dealing with objections to format of a hearing has been removed. This issue may be dealt with without a specific rule, but way of motion or in a case conference.

(Remove) Current LAT Rules 12.2 through 12.5: Removed detailed rules dealing with handling of adjournment requests. Decisions will be made on a case-by-case basis by adjudicators. The Tribunal may issue Practice Directions on handling of adjournments.

Please note that comments and submissions on these proposed rules will be considered public records and may be publicly disclosed by LAT.

Written comments on the rules may be sent to LAT by e-mail, regular mail, or fax. Please include the following when addressing comments or in the subject line of an e-mail or fax cover sheet: "LAT Rules of Practice and Procedure Review". Contact information is as follows:

e-mail: [DRStransformation@ontario.ca](mailto:DRStransformation@ontario.ca)

Mailing address:

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Toronto, ON M5G 2C2

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## DRAFT LAT Rules of Practice and Procedure

### Introduction

The Licence Appeal Tribunal (LAT) is an adjudicative tribunal included within the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO). SLASTO is a cluster of adjudicative tribunals created on April 1, 2013. SLASTO is designated as a cluster pursuant to s. 15 of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched. 5 and s. 4 of Ontario Regulation 126/10.

The constituent tribunals of SLASTO are:

Animal Care Review Board (ACRB)  
Fire Safety Commission (FSC)  
Licence Appeal Tribunal (LAT)  
Ontario Civilian Police Commission (OCPC)  
Ontario Parole Board (OPB)

The LAT adjudicates matters in a variety of diverse areas such as alcohol and gaming regulation, motor vehicle impoundments and driver's licences, new home warranties, consumer protection, regulation of various occupations and businesses, and starting on April 1, 2016, in relation to automobile insurance *Statutory Accident Benefits Schedule* (SABS) disputes. The LAT conducts proceedings pursuant to the following statutes:

*Accessibility for Ontarians with Disabilities Act, 2005*  
*Alcohol and Gaming Regulation and Public Protection Act, 1996*  
*Bailiffs Act*  
*Board of Funeral Services Act*  
*Building Code Act, 1992*  
*Child Care and Early Years Act, 2014*  
*Child and Family Services Act*  
*Collection and Debt Settlement Services Act*  
*Consumer Protection Act, 2002*  
*Consumer Reporting Act*  
*Discriminatory Business Practices Act*  
*Film Classification Act, 2005*

*Funeral, Burial and Cremation Services Act, 2002*  
*Gaming Control Act, 1992*  
*Insurance Act*  
*Highway Traffic Act*  
*Intercountry Adoption Act, 1998*  
*Liquor Licence Act*  
*Motor Vehicle Dealers Act, 2002*  
*Ontario New Home Warranties Plan Act, 1990*  
*Paperback and Periodical Distributors Act*  
*Payday Loans Act, 2008*  
*Post-Secondary Education Choice and Excellence Act, 2000*  
*Private Career Colleges Act, 2005*  
*Private Security and Investigative Services Act, 2005*  
*Real Estate and Business Brokers Act, 2002*  
*Retirement Homes Act, 2010*  
*Travel Industry Act, 2002*  
*Vintners Quality Alliance Act, 1999*

## **Commentary**

Upon being finalized, the Rules will contain a short introduction discussing the LAT and its place within the SLASTO cluster. Contact information for the LAT, links to its website and links to Tribunal decisions posted to [CanLII](#) will also be included.

# **1 GENERAL**

## **1.1 AUTHORITY FOR RULES**

Rules of the LAT are made pursuant to s. 25.1 of the *Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 ("SPPA")* and also pursuant to s. 6 of the *Licence Appeal Tribunal Act, 1999, S.O. 1999, c. 12, Sched. G.*

These Rules should be read and understood in the context of the SPPA and in relation to all relevant statutes or regulations dealing with the specific type of proceeding that a party has before LAT.

## **Commentary**

None.

## **1.2 CONFLICT**

If there is a conflict between these Rules and any statute or regulation, the provisions of the statute or regulation prevail.

## **Commentary**

There is no "conflict provision" in the current LAT Rules.

It is not strictly necessary to include a "conflict provision" in these Rules. Statutes and regulations will always prevail over procedural rules (barring an exception created by statute). However, it is hoped that this provision will be helpful, particularly for unrepresented parties, in understanding the relationship between procedural rules, statutes, and regulations.

## **1.3 VERSION**

These Rules are known as the *Licence Appeal Tribunal Rules, Version I (April 1, 2016)*.

## **Commentary**

Any future changes to the Rules, even minor changes, will result in an updated version number and date. Previous versions of the Rules will be retained on the LAT website.

### **1.4 IN FORCE DATE**

These Rules apply to all new appeals filed with the LAT on or after April 1, 2016. Matters filed with the Tribunal prior to the implementation of these Rules may be dealt with in accordance with Rules existing at the time.

## **Commentary**

It is anticipated that these Rules, subject to changes based on feedback received, will come into force for LAT on April 1, 2016. This date corresponds to the transition date when new *Statutory Accident Benefits Schedule (SABS)* disputes pursuant to the *Insurance Act* will fall under the jurisdiction of LAT.

### **1.5 APPLICATION OF RULES**

These Rules apply generally to all matters before LAT unless a Rule states otherwise.

“Special Rules” set out in the appendices constitute unique or additional rules, or modifications of rules, in relation to particular types of proceedings.

<b>Appendices of “Special Rules”</b>	<b>Application</b>
Appendix A	Rules set out in Appendix A apply to AIDRS Applications before LAT pursuant to the <i>Insurance Act</i> .
Appendix B	Rules set out in Appendix B apply to proceedings before LAT under the <i>Liquor Licence Act</i> .
Appendix C	Rules set out in Appendix C apply to proceedings before LAT under the <i>Highway Traffic Act</i> in relation to Medical Suspensions and Impoundment Appeals.

## **Commentary**

Setting out “special rules” in appendices, rather than in the main body of the Rules, is designed to provide for ease of reference.

The proposed new Appendix A will include rules applicable to automobile insurance SABS disputes before the LAT.

The current LAT Rules set out specific rules for *Liquor Licence Act* and *Highway Traffic Act* proceedings. The rules have been moved to Appendices B and C respectively, but the content remains substantively the same.

## **2 DEFINITIONS**

## 2.1 “APPEAL”

“Appeal” means:

- (a) a written request for a hearing to review a decision or proposal made under a statute that gives the Tribunal authority to hear the appeal; or
- (b) an “AIDRS Claim” as defined in these Rules.

### **Commentary**

The definition of “appeal” provides that an appeal is a written request for a hearing to a review a decision or proposal. This wording is consistent with the current definition of “appeal” in the LAT Rules. For greater clarity, the proposed definition specifically encompasses “AIDRS Claims” (also defined in these rules).

## 2.2 “APPELLANT”

“Appellant” means a person who has started an appeal with the Tribunal.

### **Commentary**

The current language in the definition of “appellant” in the LAT Rules refers to “filing” an appeal. The above language refers to “initiation” of an appeal.

## 2.3 “CASE CONFERENCE”

“Case Conference” has the same meaning as “Pre-Hearing Conference” in the *Statutory Powers Procedure Act*.

### **Commentary**

“Case Conference” and “Pre-Hearing Conference” are terms that have both been used in LAT and at other SLASTO Tribunals. “Case Conference” is now the preferred terminology; however “pre-hearing” is the term that is defined in the SPPA. “Pre-hearings” are subject to certain requirements under the SPPA. “Case Conference” is defined here to make it clear that a “Case Conference” is the same thing as a “Pre-Hearing Conference” and is subject to requirements of the SPPA.

## 2.4 “CERTIFICATE OF SERVICE”

“Certificate of Service” means the form used to confirm the manner and time of delivery of a document.

### **Commentary**

This definition is identical to the definition in the current LAT Rules.

## 2.5 CONTACT INFORMATION

“Contact information” includes:

- (a) party name;
- (b) representative name if applicable;
- (b) mailing address or address for delivery of documents;
- (c) telephone number;
- (d) e-mail address;
- (e) fax number if available;
- (f) LAT file number if available; and
- (g) any other information specifically required by the Tribunal for the proceedings.

## **Commentary**

This definition of “contact information” is relied on in subsequent rules dealing with communications from parties.

## **2.6 “DAY” AND “BUSINESS DAY”**

“Day” means a calendar day.

“Business Day” means any day that is not a “holiday”.

## **Commentary**

This definition of “day” is identical to the definition in the current LAT Rules. “Business day” has been added.

## **2.7 “DOCUMENT”**

“Document” includes data and information recorded or stored by any means, including in electronic form

## **Commentary**

The existing definition of “document” set out in the LAT Rules has been clarified to include data or information stored in “electronic form”.

## **2.8 “AIDRS CLAIM”**

“AIDRS Claim” means an application to the Tribunal pursuant to s. 280(2) of the *Insurance Act* seeking resolution of a dispute involving statutory accident benefits claims.

## **Commentary**

This is a proposed new definition pursuant to provisions of the *Insurance Act*. As AIDRS (automobile insurance dispute resolution system) Claims will constitute the vast majority of the work of LAT following the April 1, 2016 transition date, the term is defined to help differentiate it from the other types of matters that are heard by LAT.

## **2.9 “ELECTRONIC FORMAT”**

“Electronic Format” means the format of an oral hearing, case conference, or other part of a proceeding before the Tribunal which is held by conference telephone call, video, internet, or any other form of electronic technology allowing persons to hear or see one another.

## **Commentary**

Rather than defining “hearings” or “proceedings” as “in-person” or “electronic”, the proposed rules refer to “formats”. These formats can then be applied to any “event” before the Tribunal (e.g., hearings, case conferences, other).

## **2.10 “HEARING”**

“Hearing” means a hearing before the Tribunal in which a party has the opportunity to participate, including a hearing on an oral motion, and includes a hearing in written, in-person, and electronic format.

## **Commentary**

This provision is almost identical to the definition under the current LAT Rules. A clarification has been added to make it clear that an oral hearing on a motion is included in the definition of “hearing”. The provision has also been updated to reflect the language of “format”.

## **2.11 “HOLIDAY”**

“Holiday” means any Saturday, Sunday, statutory holiday, or other day on which the Tribunal’s offices are closed for business.

### ***Commentary***

This provision is identical to the current definition in the LAT Rules.

## **2.12 “IN-PERSON FORMAT”**

“In-Person Format” means the format of an oral hearing, case conference or other part of a proceeding before the Tribunal which is held by means of the parties or representatives attending before the Tribunal in person.

### ***Commentary***

See previous commentary in relation to “Electronic Format”.

## **2.13 “MEMBER”**

“Member” means a person appointed by Order-in-Council made by the Lieutenant Governor-in-Council to the LAT.

### ***Commentary***

The duties of Members are generally to conduct adjudications for LAT pursuant to applicable statutes. Members are also referred to as “adjudicators” or “OIC Appointees”.

## **2.14 “MOTION”**

“Motion” means a request for an order or decision from the Tribunal to (a) rule upon its jurisdiction; (b) give directions concerning its procedures; or (c) make an order for any other purpose necessary to carrying out its functions.

### ***Commentary***

The definition of “motion” has been expanded from the existing definition in the LAT Rules to set out subject matter of an “order or decision”, i.e. points (a) through (c).

## **2.15 “OBJECTOR”**

“Objector” means a resident of a municipality, a group of residents or a residents’ association, or a municipality participating in a public interest hearing under the *Liquor Licence Act*.

### ***Commentary***

Definition adopted from current version of LAT Rules. This definition relates to “Special Rules” set out in Appendix B.

## **2.16 “PARTICULARS”**

“Particulars” means specific facts that clarify an allegation or assertion or provide additional information about a person’s statement.

### ***Commentary***

Definition adopted from current version of LAT Rules.

## **2.17 “PARTY”**

“Party” means a person, association or corporation who has the right to participate in a proceeding and has notified the Tribunal of their intention to participate in the proceeding.

### ***Commentary***

Definition adopted from current version of LAT Rules. Definition updated to include the following wording: “...and has notified the Tribunal of their intention to participate in the proceeding”.

## **2.18 “PROCEEDING”**

“Proceeding” means the entire Tribunal process from the start of an appeal to the time a matter is finally resolved or decided.

### ***Commentary***

Definition adopted from current version of the LAT Rules. The new wording refers to “initiation” of an appeal, rather than “filing of a notice of appeal”. This reflects the fact that some appeals may be filed in a different way, e.g. some initiating documents may be styled “applications”.

## **2.19 “REGISTRAR”**

“Registrar” means the Registrar of SLASTO. The Registrar of SLASTO is also the Registrar of the LAT.

### ***Commentary***

Communications with SLASTO Tribunals are to be through the Office of the Registrar – see Rule 4.4 below.

## **2.20 “REPRESENTATIVE”**

“Representative” means a person who acts for a party in a proceeding and is authorized under the *Law Society Act* to represent a party in such a proceeding, including a lawyer or a non-lawyer representative authorized under that Act.

### ***Commentary***

Provisions of LAT’s current Rule 3.4 have been incorporated into the definition of “Representative”.

## **2.21 “RESPONDENT”**

“Respondent” means the party who made the decision which the Appellant is appealing or who is identified as the respondent under applicable legislation.

### ***Commentary***

Definition adapted from the rules of the Health Professions Appeal and Review Board and Health Services Appeal and Review Board.

## **2.22 “RULES”**

“Rules” means these Rules, i.e. *Licence Appeal Tribunal Rules, Version I (April 1, 2016)*.

### ***Commentary***



None.

## **2.23 “SABS”**

“SABS” means the *Statutory Accident Benefits Schedule*, Ontario Regulation 34/10: STATUTORY ACCIDENT BENEFITS SCHEDULE—EFFECTIVE SEPTEMBER 1, 2010, made under the *Insurance Act*, as revised from time to time, or a previous version of the SABS.

### ***Commentary***

None.

## **2.24 “TRIBUNAL”**

“Tribunal” means the Licence Appeal Tribunal (LAT).

### ***Commentary***

None.

## **2.25 “WRITTEN FORMAT”**

“Written Format” means the format of a hearing, case conference, or other part of a proceeding before the Tribunal which is held by means of exchange of documents, including submissions.

### ***Commentary***

See commentary in relation to “Electronic Format”.

# **3 Rule**

## **3.1 LIBERAL INTERPRETATION**

These Rules will be liberally interpreted and applied, and they may be varied by the Tribunal, and applied on the Tribunal’s own initiative or at the request of a party to:

- (a) Facilitate a fair, open and accessible process and to allow effective participation by all parties, whether they are self-represented or have a representative; and
- (b) Ensure efficient, proportional and timely resolution of the merits of the proceedings before the Tribunal.

### ***Commentary***

Similar to the current LAT Rule 2.1, but with additional wording referring to openness and accessibility.

It is proposed that the current LAT Rule 2.2 (which provides that Tribunal powers may be exercised on LAT’s own initiative or upon request) and Rule 2.3 (which provides that rules may be varied) be removed. Simple language relating to variation and exercise of Tribunal powers has been incorporated into this proposed rule.

## **3.2 PRACTICE DIRECTIONS AND INFORMATION SHEETS**

The Tribunal may issue public Practice Directions or similar types of documents to provide further information about the Tribunal’s practices or procedures.

### ***Commentary***

This provision is identical to current LAT Rule 2.4, but with the addition of the phrase “similar

types of documents”.

### **3.3 COMPLETE FILE REQUIRED PRIOR TO PROCESSING**

The Tribunal may decline to process an appeal unless all of the following conditions are met:

- (a) All required documents are complete;
- (b) All required processing fees are paid; and
- (c) Documents are received before the expiry of the time period required in accordance with any applicable legislation or these Rules.

The Tribunal will notify the party who filed an appeal if any of the above requirements are not met, and give the party such time as the Tribunal determines appropriate in the circumstances to comply with the requirements before declining to process an appeal under this Rule.

#### ***Commentary***

Identical to current LAT Rules 2.5 and 2.6.

### **3.4 DISMISSAL WITHOUT A HEARING (GROUNDS FOR DOING SO)**

The Tribunal may dismiss an appeal without a hearing if it finds:

- (a) The Appeal is frivolous, vexatious, commenced in bad faith, or is otherwise an abuse of process;
- (b) It relates to matters that are outside the Tribunal’s jurisdiction;
- (c) Any of the statutory requirements for bringing the appeal have not been met; or
- (d) The party filing the appeal has abandoned the proceeding.

#### ***Commentary***

This provision is very similar to the current Rule 2.7 of the LAT Rules. Subsection (a) now refers to “abuse of process” in relation to complaints that are frivolous, vexatious or commenced in bad faith. Subsection (d) now refers to appeals that have been abandoned. These changes have been adapted from wording used by Health Professions Appeal and Review Board and Health Services Appeal and Review Board in their consolidated rules.

### **3.5 DISMISSAL WITHOUT A HEARING (NOTICE)**

Before dismissing an appeal under this Rule, the Tribunal will:

- (a) Give the parties notice of its intention to dismiss;
- (b) Provide the reasons for its intended decision to dismiss;
- (c) Inform the parties of their right to make written submissions to the Tribunal within the time limits set out in the notice, which shall be at least 10 days; and
- (d) Consider any submissions made by the parties.

#### ***Commentary***

Section 4.6 of the SPPA deals with this process. Section 4.6(6) requires that a tribunal cannot dismiss under this section unless it has made rules setting out its dismissal process.

Rule 2.8 through 2.9 of the current LAT Rules deal with process for dismissal without a hearing. The proposed new wording is very similar, but clarifies that the Tribunal will consider submissions on the proposed dismissal.

### **3.6 DISMISSAL WITHOUT A HEARING (REVIEW OF SUBMISSIONS AND DISPOSITION)**

After reviewing a submission made under this rule, the Tribunal may:

- (a) Request more information or additional submissions;

- (b) Accept the appeal; or
- (c) Dismiss the appeal.

The Tribunal will notify the parties, in writing, of its decision and provide reasons.

### ***Commentary***

The proposed process here is similar to the process set out in Rule 5.5 of the current Health Professions Appeal and Review Board and Health Services Appeal and Review Board Rules.

## **4 COMMUNICATIONS**

### **4.1 COMMUNICATIONS WITH THE TRIBUNAL**

A person shall communicate with the Tribunal in English or French.

#### ***Commentary***

Identical to existing LAT Rule 3.1.

### **4.2 PROCEEDINGS IN FRENCH OR ENGLISH**

Tribunal proceedings (e.g. hearings, case conferences) may be conducted in English, in French, or in both languages.

#### ***Commentary***

Language of proceedings is currently not dealt with in the LAT Rules. This provision is adopted from Rule 24.1 of the OCPC.

### **4.3 NOTICE REGARDING INTERPRETER**

If a party or a witness requires an interpreter in a language other than English or French, in order to effectively participate in the proceeding, the party shall notify the Tribunal not less than 14 days before the hearing, and the Tribunal will arrange for an interpreter.

#### ***Commentary***

Adopted from the rules of the OCPC.

### **4.4 WRITTEN COMMUNICATIONS TO BE COPIED TO OTHER PARTIES**

All written communications with the Tribunal in relation to an appeal must be made through the Office of the Registrar and must include current contact information.

All communications, other than a request for summons, must be copied to the other parties.

#### ***Commentary***

Identical to existing LAT Rules 3.2 and 3.3, but clarifying that communications with the Tribunal must be through the Office of the Registrar.

### **4.5 CHANGE IN CONTACT INFORMATION**

A party or a party's representative must notify the Tribunal and the other parties or their representatives, in writing, as soon as possible of any change in their contact information.

#### ***Commentary***

Identical to current LAT Rule 3.3.

## 5 CALCULATION OF TIME

### 5.1 COUNTING DAYS

Where an action is to be done within a specified number of days, the days are counted by excluding the first day and including the last day.

#### **Commentary**

Identical to existing LAT Rule 5.1 and is consistent with the calculation of time set out in s. 89 of the *Legislation Act, 2006*.

### 5.2 EXPIRY OF TIME ON A HOLIDAY

Where the time for doing an act ends on a holiday, the act may be done on the next day that is not a holiday.

#### **Commentary**

Identical to existing LAT Rule 5.2

## 6 SERVICE AND FILING

### 6.1 FORM OF SERVICE

Documents must be filed with the Tribunal, sent by the Tribunal, or served on a party, as the case may be, in one of the following ways:

- (a) Personal delivery;
- (b) Regular, registered or certified mail to the last known address of the person or their representative;
- (c) Fax, but only if the document is less than 30 pages in length or, if longer, with consent of the person or party being served;
- (d) Courier;
- (e) Email; or
- (f) Any other way agreed upon by the parties or directed by the Tribunal.

#### **Commentary**

Existing LAT Rule 4.1 (dealing with methods of serving parties) and existing LAT Rule 4.6 (filing documents with the Tribunal) have been merged.

### 6.2 DEEMED RECEIPT

Where a document is served by a party, filed with the Tribunal or sent by the Tribunal, receipt is deemed to have occurred when served or sent by:

- (a) Personal delivery, when given to the party;
- (b) Regular mail, on the fifth day after the postmark date, not including holidays;
- (c) Fax, when the person sending the document receives a fax confirmation receipt;
- (d) Courier or registered mail, when the person sending the document receives a confirmation of delivery; or
- (e) Email, on the day sent.

#### **Commentary**

Changes from current version of LAT Rule 4.2 include a reference to “holidays” in relation to

deemed date that a document served by regular mail occurs. The provision has also been updated to recognize that service is deemed to occur after confirmation of delivery is received by the sender in relation to documents sent by courier or registered mail. Finally, the provisions providing that e-mail and faxes received after 4:00PM are deemed to have been received the next day have been removed, with respect to documents received by parties (see Rule 6.5 below regarding documents filed with the LAT).

### **6.3 DEEMED RECEIPT**

The previous rule does not apply if the person for whom the document was intended establishes that through absence, accident, illness or other cause beyond that person's control, the document was not received until a later date or not at all.

#### ***Commentary***

No change from the current LAT Rule 4.3.

### **6.4 ACTUAL RECEIPT OF DOCUMENTS**

A notice or document not given in accordance with this Rule shall be deemed to have been validly filed, served or sent if the Tribunal is satisfied that its contents came to the attention of the person to whom it was intended within the required time period.

#### ***Commentary***

Identical to current LAT Rule 4.4.

### **6.5 DOCUMENTS FILED WITH TRIBUNAL AFTER 5PM**

Documents received by the Tribunal after 5:00PM will be deemed to have been received on the next day that is not a holiday.

#### ***Commentary***

The current LAT Rule which refers to documents filed after 4:00PM has been updated to reflect standard and customary business hours.

### **6.6 CERTIFICATE OF SERVICE**

When a document in a proceeding is served on a person or party, the party serving the document must (a) file a Certificate of Service setting out the date and method of service must be filed with the Tribunal; or (b) provide such other proof of service as may be specified by the Tribunal.

#### ***Commentary***

The first part of this provision is substantively identical to the current LAT Rule 4.5. Clause (b) allows the Tribunal to specify other methods to provide proof of service.

### **6.7 REPRESENTATION**

A party may be self-represented or may have a representative.

#### ***Commentary***

Existing LAT Rule 3.4 (as with most Tribunal rules) deals with LSUC authorized representatives. By defining "representative" in the definitions section, language relating to LSUC authorizations does not have to be repeated here.

## 6.8 DECLARATION OF REPRESENTATIVE

A representative who is not a lawyer or paralegal shall complete a Declaration of Representative, serve it upon the other parties, and file it with the Tribunal.

### ***Commentary***

This provision would require representatives who are not licensed by the Law Society to file a Declaration of Representative on a mandatory basis. It differs from the current Rule 3.5 of LAT which provides that all representatives may be required to complete a Declaration.

## 7 HUMAN RIGHTS CODE ACCOMMODATION

Parties, representatives and witnesses are entitled to accommodation of Ontario *Human Rights Code*-related needs, including accessibility needs, by the Tribunal and should notify the Tribunal as soon as possible if such accommodation is required.

### ***Commentary***

This provision is identical to the current s. 3.7 of the LAT Rules.

## 8 SUMMONS

### 8.1 ISSUANCE OF SUMMONS

The Tribunal may issue a summons on its own initiative or at the request of a party.

### ***Commentary***

This provision is identical to the current LAT Rule 3.8.

### 8.2 FILING OF A REQUEST FOR SUMMONS

A person requesting a summons must file a Request for Summons with the Tribunal. The Request shall provide a brief explanation of the information the witness is expected to give at the hearing.

### ***Commentary***

Identical to the current LAT Rule 3.9.

### 8.3 SERVICE OF SUMMONS AND ATTENDANCE MONEY

Service of a summons and payment of attendance money is the responsibility of the party that requested the summons. A party summoning a person to attend before the Tribunal is required to pay that person the same fees or allowances as the person would be paid if attending before the Superior Court of Justice (Ontario). Fees and allowances are to be calculated in accordance with Tariff A of the *Rules of Civil Procedure*.

### ***Commentary***

This provision is substantively the same as Rule 3.10 of LAT. Wording has been updated to provide more specific references to the appropriate part of the *Rules of Civil Procedure*.

## 9 DISCLOSURE

## **9.1 DISCLOSURE—GENERAL**

At any time in a proceeding, the Tribunal may order any party to provide such further particulars as the Tribunal considers necessary for a full and satisfactory understanding of the issues in the proceeding.

### ***Commentary***

Identical to the current LAT Rule 6.1.

## **9.2 DISCLOSURE**

A party to a hearing shall, at least 10 days before the hearing, or at any other time ordered by the Tribunal or undertaken by the party:

- (a) Disclose to the other parties the existence of every document and anything else the party intends to present as evidence at the hearing;
- (b) Disclose a list of witnesses whom the party may call to give evidence at the hearing and a brief description of each witness' anticipated testimony; and
- (c) Serve a copy of the documents, numbered consecutively, on the other parties.

### ***Commentary***

This provision is based on the existing LAT Rule 6.3.

Wording has been added to subsection (b) to provide that a summary of each witness' anticipated testimony (i.e. a "will-say" statement) must be provided.

## **9.3 TRIBUNAL ORDER FOR DISCLOSURE**

A party may seek an order from the Tribunal at any stage of the proceeding to order a party to:

- (a) Disclose the existence of all documents and things that the party will refer to or present as evidence at the hearing;
- (b) Serve any other party at least 10 days before the hearing or as otherwise ordered by the Tribunal copies of all documents that the party will produce or present as evidence at the hearing;
- (c) Make available for inspection anything, subject to conditions established by the Tribunal, that the party will present as evidence at the hearing; or
- (d) Disclose any document or thing the Tribunal considers relevant to the issues in dispute.

### ***Commentary***

This provision is adopted from the current LAT Rule 6.8. Although this rule is not required to allow the Tribunal to order disclosure, it is included as a signal for parties—particularly self-represented parties—that they may seek disclosure orders.

## **9.4 CONSEQUENCES OF FAILURE TO COMPLY WITH DISCLOSURE RULES**

If a party fails to comply with any Rules or Orders with respect to disclosure or inspection of documents or things, or list of witnesses, that party may not rely on the document or thing as evidence, or call the witnesses to give evidence, without the consent of the Tribunal.

### ***Commentary***

This provision is identical to the current LAT Rule 6.9.

## 10 EXPERT WITNESSES

### 10.1 EXPERT WITNESS—GENERAL

For the purpose of these Rules, an expert witness is a person who is qualified to provide professional, scientific, or technical information and opinion based on special knowledge through education, training or experience in respect of the matters on which he or she will testify.

#### **Commentary**

This provision is identical to current LAT Rule 6.4..

### 10.2 EXPERT WITNESSES (IDENTIFICATION AND DISCLOSURE)

A party who intends to rely on or refer to the evidence of an expert witness shall provide every other party with the following information in writing:

- (a) The name of the expert witness;
- (b) A signed statement from the expert, in the Tribunal's required form, acknowledging his or her duty to:
  - (i) provide opinion evidence that is fair, objective, and non-partisan;
  - (ii) provide opinion evidence that is related to matters within his/her area of expertise;
  - (iii) provide such additional assistance as the Tribunal may reasonably require to determine a matter in issue.
- (c) The qualifications of that expert witness, referring specifically to the education, training and experience relied upon to qualify the expert;
- (d) A report that sets out the expert's conclusions and the basis for those conclusions on the issues to which the expert will provide evidence to the Tribunal;
- (e) Where the written report exceeds 12 pages, excluding photographs, a summary stating the facts and issues that are admitted and those that are in dispute, and the expert's findings and conclusions; and
- (f) Where that party intends to rely on or refer to the written report or the witness statement at the hearing, a copy of that report or witness statement signed by the expert witness.

#### **Commentary**

This provision is based on the current LAT Rule 6.5. Subsection (c) refers only to a "report" rather than a "witness statement or written report" on an expert's conclusions.

A more substantive change is the addition of subsection (b). Subsection (b) is adopted from the current rules of Health Professionals Appeal and Review Board /Health Services Appeal and Review Board. The new subsection is designed to respond to Recommendation #18 set out in the Hon. Douglas Cunningham's *Ontario Automobile Insurance Dispute Resolution System Review Final Report* ("Cunningham Report").

### 10.3 EXPERT WITNESSES (DISCLOSURE TIMELINES)

The disclosure required by Rule 10.2 shall be made:

- (a) By the party who filed the notice of appeal, at least 30 days before the hearing;
- (b) By any other party at least 20 days before the hearing; or
- (c) As ordered by the Tribunal.

#### **Commentary**

Identical to LAT Rule 6.6.



## **10.4 EXPERT WITNESSES—CHALLENGES TO QUALIFICATIONS, REPORTS**

A party intending to challenge an expert's qualifications, report or witness statement shall give notice, with reasons, for the challenge to the other parties as soon as possible and no later than 10 days before the hearing and must file a copy with the Tribunal

### ***Commentary***

The wording to the current LAT Rule 6.8 provides that LAT requires notice about a challenge to an expert five days in advance. Under the revised rules, it is being proposed that 10 days' notice will be required.

## **11 NOTICE OF CONSTITUTIONAL QUESTION**

Notice of a constitutional question shall be served on the Attorney General of Canada, the Attorney General of Ontario and all other parties, and delivered to the Tribunal in the following circumstances:

- (a) The constitutional validity of an Act of the Legislative Assembly of Ontario or Parliament of Canada or of a regulation or by-law made under such an Act or of a rule of common law is in question;
- (b) A remedy is claimed under section 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of the Government of Canada or the Government of Ontario.

A Notice of Constitutional Question Form must be delivered as soon as the circumstances requiring the notice become known and, in any event, at least 15 days before the question is to be argued.

### ***Commentary***

Substantively the same as LAT's current Rule 8.

## **12 FORMAT OF HEARINGS AND CASE CONFERENCES**

### **12.1 HEARING OR CASE CONFERENCE MAY BE ORAL OR WRITTEN**

The Tribunal may hold a hearing or case conference in any of the following formats as it considers appropriate:

- (a) In-person;
- (b) Electronic;
- (c) Written; or
- (d) Any combination of the above.

### ***Commentary***

The proposed rules deal with "formats" which can be applied to both hearings and case conferences. The "formats" are defined in the definitions section.

### **12.2 WRITTEN FORMAT MAY BE USED UNLESS GOOD REASON NOT TO**

The Tribunal may direct that all or part of a hearing be in written format rather than in electronic or in-person format unless a party satisfies the Tribunal that there is good reason not to.

### ***Commentary***

This corresponds to LAT Rule 10.2.

Section 5.1(2) of the SPPA provides: “(2) The Tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.”

## **12.3 FORMAT OF HEARINGS AND CASE CONFERENCES (TRIBUNAL MAY DIRECT FORMAT)**

The Tribunal may direct that all or part of a hearing be held in electronic format unless a party satisfies the Tribunal that it is likely to cause the party significant prejudice.

### ***Commentary***

This corresponds to Rule 10.3 of the current LAT Rules. It also tracks the language of s. 5.2(2) of the SPPA: “The Tribunal shall not hold an electronic hearing if a party satisfies the Tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.”

## **13 ACCESS TO HEARINGS**

### **13.1 GENERAL PUBLIC ACCESS**

Subject to section 9 of the SPPA, in-person hearings are open to the public unless the Tribunal orders otherwise.

### ***Commentary***

Identical to the current LAT Rule 7.1. Section 9(1) of the SPPA refers to exceptions based on public security, or intimate financial or personal matters or other matters of such a nature.

### **13.2 AUDIO AND VIDEO RECORDING MAY BE PERMITTED**

A party who wishes to audio record an in-person hearing or audio or video record an electronic hearing may do so if authorized to do so by the Tribunal and subject to the party undertaking to comply with any restrictions on use of the recordings specified by the Tribunal. Requests for permission to make recordings must be made in writing to the Tribunal at least 14 days prior to a hearing, and the request must be copied to the other parties. The other parties may make submissions on the request in the time specified by the Tribunal. A recording made by a party does not become part of the Tribunal’s record of the hearing.

### ***Commentary***

This is a new provision. Decisions about audio/video recording would be made on a case-by-case basis. Audio/video recordings would not constitute Tribunal records, but rather would be an aid to the party.

### **13.3 ACCESS TO HEARINGS (REQUEST FOR CLOSED HEARING)**

A party may request that all or part of a hearing be closed to the public

### ***Commentary***

This provision is identical to the current LAT Rule 7.2.

## **13.4 CONFIDENTIALITY ORDERS**

The Tribunal may make an order to protect confidentiality of personal or sensitive information as it considers appropriate.

### ***Commentary***

This is identical to current LAT Rule 7.3

## **13.5 RESTRICTED ACCESS TO THE RECORD**

A party may request that documents be restricted from access to the public or be available only in the manner permitted by the Tribunal.

### ***Commentary***

This is identical to current LAT Rule 7.4

## **14 CASE CONFERENCES**

### **14.1 ORDERS AT CASE CONFERENCES**

A member of the Tribunal assigned to preside over a case conference may make such orders as the Member considers proper for the conduct of the proceeding, including adding parties.

### **14.2 SCOPE OF CASE CONFERENCE SUBJECT MATTER**

The Tribunal may on its own initiative, or in response to a party's written request, direct the parties to participate in a case conference to consider:

- (a) The settlement of any or all of the issues;
- (b) Facts or evidence that may be agreed upon;
- (c) The identification, clarification, simplification and narrowing of the issues and whether further particulars are required;
- (d) The identification of parties and other interested persons, adding parties and the scope of each party's or person's participation at the hearing;
- (e) Disclosure and the exchange of documents, including witness statements and expert reports;
- (f) The dates by which any steps in the proceeding are to be taken or begun;
- (g) The estimated length of the hearing, including setting hearing dates; and
- (h) Requirements for interpreters
- (i) French-language or bilingual proceedings;
- (j) *Human Rights Code* or accessibility accommodation;
- (k) Motions, provided parties have complied with the requirements of this rule and Rule 15, or otherwise on consent of the parties or Order of the Tribunal; or
- (l) Any other matter that may assist in a fair and efficient resolution of the issues in the proceeding.

## ***Commentary***

This provision is similar to the current LAT Rule 9.1, except for the new references to consideration of motions, requirements for interpreters, and *Human Rights Code* accommodation.

### **14.3 DISCLOSURE PRIOR TO CASE CONFERENCE**

All parties directed by the Tribunal to participate in a case conference shall disclose to the other parties before the case conference all documents or things then available to them, which the parties intend to rely on or refer to as their evidence at the hearing.

## ***Commentary***

Identical to the current LAT Rule 9.3.

### **14.4 PRESIDING MEMBER NOT TO PRESIDE AT HEARING EXCEPT ON CONSENT**

A Tribunal member who presides at a case conference will not preside at the hearing except with the consent of the parties.

## ***Commentary***

Identical to the current LAT Rule 9.4, with the term “pre-hearing” updated to “case conference”.

### **14.5 CONFIDENTIALITY OF CASE CONFERENCE SETTLEMENT DISCUSSIONS**

All settlement discussions in a case conference and the documents put forward solely for the purpose of settlement are confidential. Settlement discussions are held on a “without prejudice” basis. Settlement discussions shall not be communicated to the Member that presides at the hearing or otherwise relied on in a hearing before the Tribunal for any purpose unless parties consent.

## ***Commentary***

This provision is similar to the current LAT Rule 9.5. The existing LAT Rule 9.6 which provides that all communications made during a pre-hearing are confidential has been removed as it is potentially overly broad. Settlement discussions are entirely confidential however, in keeping with this Rule.

### **14.6 CASE CONFERENCE NOT PUBLIC**

A case conference is not open to the public unless the Tribunal so directs.

## ***Commentary***

Identical to the current LAT Rule 9.7, with the new terminology of “case conference”.

### **14.7 ATTENDANCE AND AUTHORITY OF REPRESENTATIVES AT CASE CONFERENCE TO SETTLE ISSUES**

Parties are required to attend the case conference, and if they cannot attend, ensure their representative has instructions with respect to the issues and the authority to make agreements, including settlement of the case.

## ***Commentary***

Substantively the same as current LAT Rule 9.8.

# **15 MOTIONS**

## **15.1 CONTENTS OF MOTIONS**

A party bringing a motion shall deliver a Notice of Motion setting out:

- (a) The decision or order that the party is requesting from the Tribunal;
- (b) The grounds to be argued, including a reference to any statutory or regulatory provision, rule or case law relied on;
- (c) The evidence in support of the motion; and
- (d) The proposed format of the motion.

## ***Commentary***

“Motion” is defined in the definitions to include a request for an order or decision on the jurisdiction of the Tribunal, the Tribunal’s procedures, or any other matter.

## **15.2 SERVICE OF NOTICE OF MOTION**

A party may have a motion heard at a case conference or hearing, provided the party files the Notice of Motion and all supporting materials with the Tribunal at least 10 days in advance, or in accordance with any other schedule as may be determined by the Tribunal, and serves the Notice and supporting materials on all other parties.

## ***Commentary***

The wording in this provision is substantively similar to LAT Rule 11.1; however, the time frame for filing Motion materials has become 10 days or such other time determined by the Tribunal. The current LAT rules allow for motions to be filed at least 7 days before the motion is to be considered.

## **15.3 SERVICE OF RESPONDING PARTY’S MOTION MATERIALS**

A responding party shall serve any materials it intends to rely on in response to the motion to all parties and file them, with a Certificate of Service, with the Tribunal at least 5 days before the motion is to be considered.

## ***Commentary***

The current LAT Rule 11.3 provides that responding materials must be filed at least 2 days in advance. Under the proposed new Rule, materials would have to be filed 5 days in advance.

# **16 ADJOURNMENTS**

## **16.1 REQUESTS FOR ADJOURNMENTS**

A request for an adjournment of a case conference or hearing must be in writing, be served on the other parties and shall include:

- (a) The reason for the request;
- (b) Written agreement to the adjournment from the other parties or their representatives, if given; and

(c) At least three alternative hearing dates that are within 30 days of the hearing date to be adjourned that are agreeable to all parties.

### ***Commentary***

The existing LAT Rule 12.1 provides that alternative hearing dates must be within 90 days of the hearing date to be adjourned. The proposed new consolidated rule provides that alternative hearing dates must be within 30 days.

## **17 REVIEW AND CORRECTION (TYPOGRAPHICAL, CALCULATION AND OTHER MINOR ERRORS)**

The Tribunal may at any time:

- (a) Correct a typographical error, an error of calculation or similar error in its order or decision.
- (b) Clarify an order or decision that contains a misstatement or ambiguity, which is not substantive and does not change the order or decision.

### ***Commentary***

These provisions are substantively the same as LAT's current Rules 13.1 and 13.2.

## **18 RECONSIDERATION OF A TRIBUNAL DECISION**

### **18.1 REQUEST FOR RECONSIDERATION**

The Executive Chair of SLASTO may, upon request of a party or on his or her own initiative, consider a request to reconsider any decision of the Tribunal if this request is made within 30 days of the date of the decision. The Executive Chair may delegate his or her powers under this Rule to any member of the Tribunal.

A request for reconsideration from a party must include:

- (a) Reasons for the request, including the basis upon which the Tribunal is asked to grant the request for reconsideration;
- (b) Submissions in support of the request; and
- (c) Remedy or relief sought.

### **18.2 CRITERIA FOR GRANTING RECONSIDERATION**

A request for reconsideration will not be granted unless the Executive Chair is satisfied that one or more of the following criteria are met:

- (a) There are new facts or evidence that could be potentially determinative of the case and that could not reasonably have been obtained earlier;
- (b) The party seeking reconsideration was entitled to but, through no fault of its own, did not receive notice of the hearing or did not attend the hearing;
- (c) The decision or order which is subject of the request appears to be in conflict with established jurisprudence or Tribunal procedure and the proposed reconsideration involves a matter of significant importance;
- (d) The Tribunal appears to have acted outside its jurisdiction or violated the rules of natural justice or procedural fairness;
- (e) The Tribunal appears to have made a significant error of law or fact such that the Tribunal would likely have reached a different decision;
- (f) The Tribunal heard false or misleading evidence from a party or witness, which was

discovered only after the hearing and would have affected the result;

- (g) Other factors exist that, in the opinion of the Executive Chair, significantly outweigh the public interest in the finality of the Tribunal's decision.

### **18.3 Opportunity to Make Submissions**

The Executive Chair shall not grant a request for reconsideration without providing all parties an opportunity to make submissions.

### **18.4 Filing and Serving a Response to a Request for Reconsideration**

If the Executive Chair decides to grant a request to reconsider a decision, he or she may then:

- (a) Make a decision on the substance of the request by confirming, varying, suspending, or cancelling the decision or order, without receiving further submissions from the parties;
- (b) Determine a procedure for rehearing all or part of the matter.

#### ***Commentary***

Powers allowing for substantive reconsideration are new and are in accordance with the requirements in the SPPA. It is anticipated that substantive reconsideration would be granted in only very exceptional situations. These proposed new provisions are similar to Rule 26 under the Human Rights Tribunal of Ontario's Rules of Procedure.

## **19 COSTS**

### **19.1 COST REQUESTS**

Where a party believes that another party in a proceeding has acted unreasonably, frivolously, vexatiously, or in bad faith, that party may make a request to the Tribunal for costs.

#### ***Commentary***

This provision corresponds to the current Rule 14.1 of the LAT rules and is in accordance with s. 17.1(2) of the SPPA. The current LAT Rules limit costs awards to \$500 for each half-day of attendance at a motion, pre-hearing, or hearing. There is no limitation specified in these proposed rules. Cost awards would be at the discretion of the Tribunal.

### **19.2 HOW COST REQUESTS ARE TO BE MADE**

A request for costs may be made in writing, or orally at a case conference or hearing, to the Tribunal at any time before the decision or order is released.

#### ***Commentary***

Identical to the current LAT Rule 14.2, with "pre-hearing" changed to "case conference".

### **19.3 SUBMISSIONS ON COSTS**

Within 7 days of making a request orally under Rule 18.2, the party requesting costs shall provide written submissions to the Tribunal and all other parties.

## **Commentary**

Where a request is made orally, written submissions are required within 7 days.

### **19.4 CONTENT OF SUBMISSIONS ON COSTS**

A submission on costs shall set out the reasons for the request and the particulars of the other party's conduct that is alleged to be unreasonable, frivolous, vexatious or in bad faith. Examples of such conduct include, but are not limited to:

- (a) Failing to attend proceeding or to send a representative without notifying the Tribunal and other parties;
- (b) Failing to comply in a timely manner with the disclosure requirements in the Rules;
- (c) Failing to comply with any statutory or regulatory requirements in relation to a dispute;
- (d) Knowingly presenting false or misleading evidence;
- (e) Failing to comply with a procedural order or direction of the Tribunal or an undertaking;
- (f) Continuing to deal with issues which the Tribunal has determined are irrelevant;
- (g) Addressing the other parties and/or the Tribunal rudely or disrespectfully, or acting in a disorderly manner; or
- (h) Initiating a proceeding frivolously, vexatiously, or in bad faith.

## **Commentary**

Similar to the existing LAT Rule 14.5 along with the addition of items in (c) and (e) through (f).

## **APPENDIX A: Special Rules Applicable to Automobile Insurance Dispute Resolution System (AIDRS) Applications before LAT pursuant to the *Insurance Act***

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### **20 AIDRS APPLICATIONS**

#### **20.1 APPLICATION OF RULES IN THIS APPENDIX**

Rules made in this section apply to AIDRS Applications only.

All other Tribunal rules also apply to AIDRS Applications except to the extent varied or negated by rules in this section.

#### **20.2 AIDRS CASE CONFERENCE SUMMARY**

Each party shall file an AIDRS Case Conference Summary, in such form as may be required by the Tribunal, with the Tribunal at least 10 days before a scheduled Case Conference. An AIDRS Case Conference Summary shall include:

- (a) A list of key documents in the party's possession which he or she intends to use in a hearing;
- (b) Verification that the documents listed in (a) have been disclosed and have been provided to other parties;
- (c) A list of key documents that the party intends to seek from other parties pursuant to the disclosure rules set out at Rule 9;
- (d) A list of any information the party is seeking from non-parties and requests for issuance of summons;
- (e) The party's preference of hearing type with reasons for the preference;



- (f) A list of anticipated witnesses, including expert witnesses, that the party intends to call at a hearing in electronic or in-person format and a brief description of each witness' anticipated testimony;
- (g) An explanation of the necessity of calling more than two expert witnesses to provide opinion evidence, if a party seeks to call more than two such experts;
- (h) Details of most recent settlement offer.

## 20.3 COMBINING AIDRS APPLICATIONS

Where two or more AIDRS APPLICATIONS have been made involving the same parties or the same accident, the Tribunal may:

- (a) Combine the Applications;
- (b) Schedule any pre-hearings to take place simultaneously;
- (c) Combine any hearings on consent of the parties.

### **Commentary**

AIDRS applications will be a new, but very significant, case type for the LAT. AIDRS applications will be handled within the general framework of LAT Rules. However it is anticipated that Practice Directions and/or information sheets will be developed in early 2016 to provide some further details on the process for handling AIDRS applications.

## **APPENDIX B: Special Rules Applicable to Applications to LAT to Remove Liquor Licence Conditions Pursuant to *Liquor Licence Act* and Relating to Public Interest Objectors**

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### **21 Applications to Remove Liquor Licence Conditions**

#### **21.1 APPLICATION OF RULES IN THIS APPENDIX**

Rules made in this section apply to Liquor Licence Applications pursuant to s.14 (2) of the *Liquor Licence Act* only.

All other Tribunal rules also apply to these applications, except to the extent varied or negated by rules in this section.

#### **21.2 Application to Remove Liquor Licence Conditions (Liquor Licence Act)**

A Licensee may file an application to the Tribunal for the removal of one or more conditions on a liquor sales licence under section 14(2) of the *Liquor Licence Act* by completing the Tribunal's *Application to Remove Conditions from a Liquor Licence* and submitting it together with the prescribed filing fee and any other documentation that the Licensee considers necessary and appropriate to assist the Tribunal in arriving at its decision. The Licensee shall serve the Application on the Registrar of the Alcohol and Gaming Commission of Ontario (the "AGCO") and file it with the Tribunal together with a Certificate of Service.

## **21.3 Application to Remove Liquor Licence Conditions (Liquor Licence Act)**

Within 15 days of receipt of the Application, or within 15 days of the close of the objection period as set out in Rule 21.4, if applicable, the AGCO shall serve on the Licensee and file with the Tribunal, together with a Certificate of Service, reply submissions that set out the AGCO's position, with reasons, with respect to the Licensee's application. The reply submissions will include the original decision, any consents or orders imposing the condition and any other documents the AGCO considers necessary to assist the Tribunal in arriving at its decision.

## **21.4 OBJECTIONS**

If the conditions the Licensee is seeking to remove had been ordered following a public interest meeting as set out in section 9(1) of the *Liquor License Act* or a public interest hearing under section 23 of the *Liquor License Act*, the Tribunal may require the Licensee to post a placard, setting out information about the application in the form provided by the Tribunal in a prominent place that is visible from the exterior of the premises, for period of 30 days.

## **21.5 FILING OF OBJECTIONS**

Any person who objects to the removal of a condition for a licence shall serve on the Licensee and the AGCO and file with the Tribunal, together with a Certificate of Service within the time set out in the notice, a signed and dated written submission setting out their name, full mailing address, name of Licensee as written on the notice and detailed reasons for their objection to the removal of the condition.

## **21.6 REVIEW ON RECEIPT OF ALL SUBMISSIONS**

On receipt of the reply submissions from the AGCO, the Tribunal shall review the application, reply submissions and objections, if any, and may order:

- (a) The removal of the condition;
- (b) The removal of the condition and replacement with the alternative conditions proposed by the Licensee in the application; or
- (c) The AGCO to issue a Notice of Proposal to Refuse to Remove a Condition within 15 days of the date of the Tribunal's order.

### ***Commentary***

Rules set out in the above part of the appendix are identical to LAT Rules 3.11 to 3.15. There is no change in process for the handling of Liquor Licence Applications.

## **22 NOTICE TO PUBLIC INTEREST OBJECTORS**

### **22.1 NOTICE**

In a public interest proceeding pursuant to the *Liquor Licence Act*, objectors for whom the Tribunal has complete mailing addresses shall be given notice of the pre-hearing.

### **22.2 PROCEEDING WHERE OBJECTOR DOES NOT ATTEND CASE CONFERENCE**

If an objector does not attend the pre-hearing for which they had notice, and does not have a representative attend on their behalf, the Tribunal may proceed without their participation and a binding settlement may be reached between the parties, or an order may be made that the objector is not entitled to further notice of the proceedings.

### **22.3 APPOINTMENT OF REPRESENTATIVE BY OBJECTORS**

Objectors wishing to participate in the hearing shall appoint a representative, with contact information, before or at the pre-hearing.

### **22.4 REQUEST BY OBJECTORS OR MUNICIPALITY TO BE MADE A PARTY IN A PUBLIC INTEREST HEARING**

An individual objector, the representative of a group of objectors, or a municipality may ask to be made a party in a public interest hearing, which requests shall be made before or at the pre-hearing.

#### ***Commentary***

Rules set out in the above part of the appendix from 2.7 through the end are identical to current LAT Rules 9.9 through 9.12.

## **APPENDIX C: Special Rules Applicable to Medical Suspension and Impoundment Appeals (Highway Traffic Act)**

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### **23**

#### **23.1 APPEALS UNDER HIGHWAY TRAFFIC ACT TO BE SCHEDULED WITHIN 30 DAYS**

Appeals under the following sections of the Highway Traffic Act (“HTA”) are scheduled to be heard within 30 days of receipt of a complete appeal:

- (a) Section 50, arising from a decision under section 32(5)(b)(i) or section 47 respecting the suspension or cancellation or change in class of a driver’s licence on the basis of a medical condition or the fitness to drive of the holder of the licence;
- (b) Section 50.1 respecting driver’s licence suspensions under section 48.3;
- (c) Section 50.2 respecting notices or orders to impound under section 55.1; and
- (d) Section 50.3 respecting impoundments and suspensions of commercial motor vehicle or trailers under section 82.1.

#### **23.2 DISCLOSURE TIMELINES FOR HTA APPEALS**

Disclosure in appeals respecting the suspension or cancellation of a driver’s licence, as set out in 22.1.(a), shall be made:

- (a) By the Appellant at least 20 days prior to the hearing; and
- (b) By the Registrar of Motor Vehicles or Minister of Transportation at least 10 days prior to the hearing.

Disclosure in the HTA appeal types set out in 22.1 (b), (c) and (d) shall be made:

- (a) By the Appellant at least 10 days prior to the hearing; and
- (b) By the Registrar of Motor Vehicles or Minister of Transportation at least 5 days prior to the hearing.