

INDEX

All references are to sections of the text and appendices.

- Access to Information Act* 25.20
access legislation and personal notes
28.19(g)(ii)
Personal Information and Electronic Documents Act (Canada) 25.20A, LEG-251
personal notes, and 28.19(g)(ii)
- Addresses**
Attorneys General 28.18(b)
- Appeals see also Judicial Review**
burden of proof 27C.11
discretion, appellate review of 27C.10
effect of appeal 27C.2
 redress (standard of review) 27C.2(b)
 Dunsmuir standard of review
 approach, application of
 27C.2(b)(i), (ii)
 stays 27C.2(a), 28.14
 determining if appeal stays decision
 27C.2(a)(i)
 effect of stay 27C.2(a)(ii)
 individual criteria 28.14(e)
 balance of convenience
 28.14(e)(iii)
 irreparable harm 28.14(e)(ii)
 serious question 28.14(e)(i)
 injunctive relief, same test 28.14(d)
 suspending agency proceedings or
 order 28.14(a)
 test for stay 27C.2(a)(iii), 28.14(c)
evidence on appeal
 admission of new evidence 27C.8(b)
 new issues raised on appeal 27C.8(a),
 28.15
leave
 generally 27C.6
nature of appeal 27C.9
right of appeal 27C.1, 27C.3, 33.10(d), 35.23
stays pending 27C.2, 37A.1(h)
timing of appeal and time limits
 before agency proceedings completed
 27C.4
 interim and final decisions 27C.4(b)
 prematurity 27C.4(a)
decision that first embodies decision to be
appealed 27C.7(a)
extending time limits, authority 27C.7(d)
existence of authority 27C.7(d)(i)
 test to be applied 27C.7(d)(ii)
mandatory or directory time limit to
appeal decision 27C.7(b)
when time limit begins to run 27C.7(c)
who can appeal 27C.5
 agency's ability to appeal 27C.5(b)
 entities directly affected 27C.5(a)
- Cabinet Petitions**
appeals, and 28.5(a)
Canadian Radio-television and
Telecommunications Commission
28.5(b), 28.6
form 27B.5
general 3.2(i), 3.10(b), 27B.1, 33.10(b), 35.22
intervention by cabinet 28.6
legal characteristics of 27B.2
Ontario Municipal Board 28.5(b)
parties 27B.6
procedure 28.6
provisions for 27B.3
secrecy of procedure 27B.4, 28.6
statutory authority 28.5(b)
- Canadian Radio-television and
Telecommunications Commission**
cabinet petitions 28.5(b), 28.6
- Certiorari**
defined 28.11

INDEX

Charter of Rights *see also* Constitutional Issues

notice of constitutional question 23.13
failure to give notice 23.13 (b), 28.18,
28.20(c), 28 NC

Constitutional Issues *see also* Charter of Rights

addresses of Attorneys General 28.18(b)
agencies
notice of constitutional question 23.13
failure to give notice 23.13 (b), 28.18,
28.20(c)
prerogative powers 28.10
s. 96 *Constitution Act, 1867* 28.19, 32.4(c)

Decision of Tribunal *see also* Appeals, Cabinet Petitions, Hearings, Labour Arbitrations, Rehearings, Judicial Review

review
general 28.1, 28.2

Declarations

Charter of Rights 23.7(a)
defined 28.11

Discretion *see also* Judicial Review

limits on 28.10

Errors

in law 28.12
jurisdictional errors
examples 28.7(3)

Evidence

admissibility 28.19(a)
cabinet documents 28.18(c)
common law 28.19(a)
compellability *see* **Subpoenas, Witnesses**
compulsion, testimonial, privilege against
28.19(e)
decision-maker, evidence of 12.2(e), 28.19(f)
privilege 17.1(g)
decision-maker's personal notes 28.19(g)
limited common law privilege 28.19(e)(i)
prima facie case 28.19(e)(iii)
solicitor-client *see* **Board Counsel**
statutory testimonial privilege 28.19(f)
testimonial compulsion, privilege against
28.19(e)
which agencies enjoy 28.19(e)(ii)
record

confidentiality of 28.19(e)
definition (legislative) 28.19(c)
evidence from the record 28.19(b)
evidence outside of record 28.19(c)

Federal Court

agencies reviewed by Appeal Division
28.15(c)
agencies reviewed by Trial Division 28.15(b)
Appeal Division 28.15(c)
appeal rights bar review 28.15(h)
"federal board, commission or other
tribunal", defined 28.15(a)
Federal Court Rules, agency proceedings and
28.15(a)(x)
Federal Courts Act LEG-19
agencies reviewed by Appeal Division
28.15(c)
agencies reviewed by Trial Division
28.15(b)
concurrent jurisdiction with provincial
superior courts 28.15(d)(iv)
declining jurisdiction 28.15(d)(iv)
extent of court's review power 28.15(d)
Federal Courts Act 28.15(d)(i)
general 28.15
grounds for review 28.15(e)
Immigration and Refugee Board 5.2
inter-agency disputes, and 7.4
interim relief 28.15(g)
judicial review 28.15
jurisdiction 28.15(d)
provincial superior courts 28.15(d)(ii),(iv),(v)
remedies 28.15(f)
Trial Division 28.15(b)

Injunctions

availability 28.15(a)(iv)

Intervenor *see also* Standing

generally 28.17

Interventions

hearings
public utility board hearings 28.16(a)
statutory authority, by 28.16(a)
Ontario Rules of Civil Procedure 28.16

Judicial Review *see also* Appeals, Federal Court

affidavits
agency participation 28.16

INDEX

- compellability of agency members *see*
Agency Members
- conduct of tribunal on review 28.17
- constitutional questions *see* **Constitutional Issues**
- correctness 28.9(a)
- designate review process, ability of state to 28.2(b)
- discretion of agency
interim decisions
Concordance 28.7A
- judicial deference
historical development of 28.7(a)
judicial deference 28.7(a)
- discretionary nature 28.4
- errors in law checklist 28.12
- evidence on, *see* **Evidence**
- Federal Court 28.21
- general 28.9, 28.7(e)
- history 28.7(e)
curial deference period 28.7(e)(iii)
interventionist period 28.7(e)(ii)
pragmatic and functional period 28.7(e)(iv)
pragmatic and functional approach 28.7(e)(iv)(C),(D)
standards of review 28.7(e)(iv)(B)
- interim decisions 28.7A
- issue, first raised 28.4(c)
- limit, ability of state to 28.2(a)
- nature, source and purpose of 28.1
- new issues raised 28.15
- Ontario *Judicial Review Procedure Act* 28.15(b)
- patent unreasonableness 28.7(e)(iv)(B)
- precondition to other actions 28.5
- prematurity 28.4(e)
adequate alternative remedy 28.4(e)(iii)
agency proceedings underway 28.4(e)(iii)(C)
express statutory process 28.4(e)(iii)(B)
reasonableness approach to 28.4(e)(iv)
- privative clauses 28.7(d)
- quashing the decision 28.20
- reasonableness *simpliciter* 28.7(e)(iv), 28.9(d)
- Record, the
evidence from 28.19(a)
evidence outside 28.19(b)
legislated definition 28.19(c)
standard of review 28.7, 28.9(c), 28.10
- Dunsmuir* 28.10
two standards 28.9
correctness 28.9(a)
reasonableness 28.9(b)
- stay not automatic 28.7B
- stream, ability of state to 28.2(b)
- susceptibility
actual impact 28.3(e)
administrative ground 28.3(d)
justiciable question 28.3(c)
public 28.3(b)
state action 28.3(a)
- tribunal's role in 28.2, 28.15(b), 33.10(g)
- Jurisdiction *see also* Decision-Making, Waiver**
Federal Court 28.16(d)
- Lawyers *see also* Board Counsel**
professional responsibility 28.20(a)
- National Energy Board**
cabinet petitions 28.6
- Natural Justice *see also* Hearings**
cabinet petitions 28.5(a)
- Notice of Constitutional Issues**
addresses of Attorneys General 28.18(b)
Immigration and Refugee Board Practice Direction App. 28.4
notice of constitutional question 23.13, 28.18
agency practice 28.18
failure to give notice 23.13 (b), 28.18, 28.20(c), 28 NC
legislative requirements 23.13(a), 28.18(a)
- Ontario Municipal Board**
Appeals from 3.2(c)
cabinet petitions 28.5(b)
stare decisis and 28.2(b)
- Prerogative Powers 28.10**
- Prerogative Remedies**
availability of 28.6
certiorari 28.11, 33.10(e)(ii)
constitutional foundation 28.10
declaration 28.11
habeas corpus 28.11, 33.10(e)(ii)
mandamus 28.11, 33.10(e)(ii)
prohibition 28.11, 33.10(e)(ii)
quo warranto 28.11, 33.10(e)(ii)

INDEX

Privative Clause

judicial review and 28.7(d), 28.12(a)

Public Utilities Board

intervention 28.16(a)

Reasonableness

errors leading to finding of 28.9(e)

conclusions on insufficient, incorrect or irrelevant evidence 28.9(e)(iv)

essential aspect not determined 28.9(e)(ii)

legislative interpretation, improper

28.9(e)(vii),(viii)

material evidence misunderstood

28.9(e)(v)

relevant consideration not taken into

account 28.9(e)(i)

relevant facts not taken into account

28.9(e)(iii)

standard of proof, incorrect 28.9(e)(vi)

unclear order issued 28.9(e)(ix)

interpretation 28.9(b),(c)

material error, effect of 28.9(f)

precedential value 28.9(i)

reasoning must be reasonable 28.9(g)

standard of review, generally 28.9(b)

versus correctness 28.9(c)

what falls outside of 28.9(d)

References to Court

Federal Court 7.2(a), 28.15(a)(x)

Rehearings

quashed decisions, partial 28.20(e)

Standard of Review *see also* Judicial Review

correctness 28.9(a)

determination of standard 28.10

agreement of parties

consistency, role of 28.10(e)

Dunsmuir 28.10, 28.10(f)

other factors 28.12

privative clause, presence/absence of 28.12(a)

tribunal, expertise of 28.12(c)

tribunal, purpose of under enabling legislation 28.12(b)

other forms of review 28.10(j)

right of appeal, existence of 28.13

statutory appeals, application to 28.10(i)

earlier jurisprudence 28.10(g)

legislature may direct 28.10(c)

question, nature of 28.11

constitutional questions 28.11(f)

discretionary decisions 28.11(a)

mixed question of fact and law 28.11(c)

question of fact 28.11(b)

question of law 28.11(e)

of central importance to legal system 28.11(h)

outside agency's expertise 28.11(h)

question of natural justice and fairness 28.11(d)

question of true jurisdiction 28.11(g)

where jurisdictional lines between agencies 28.11(i)

relevant factors 28.10(h)

reasonableness 28.9(b)

standards generally 28.7, 28.9(c), 28.10

Standing

agency on judicial review 28.17

before agency, 9.7, 28.16

general 9.7(b), 28.16

intervention by statutory authority 28.16(a)