



Tribunals Ontario

Tribunaux décisionnels Ontario

Common Rules of Practice & Procedure

**Licence Appeal Tribunal
Animal Care Review Board
Fire Safety Commission**

October 2, 2017

(Disponible en français)

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INTRODUCTION

The Safety, Licensing Appeals and Standards Tribunals Ontario (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* and s. 4 of Ontario Regulation 126/10.

The constituent tribunals of SLASTO are the:

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

Effective October 2, 2017, these Common Rules of Practice and Procedure apply generally to all adjudicative proceedings conducted by the LAT, the ACRB, and the FSC. Each of the tribunals in SLASTO has a distinct mandate and conducts proceedings under a variety of separate statutes. These Common Rules are general and are designed to accommodate all of these distinct mandates. Please note that these Common Rules replace all previous versions of the Rules of the LAT, ACRB and FSC.

UPDATE:

Effective January 1, 2019, the constituent tribunals of SLASTO are now constituent tribunals of Tribunals Ontario – Safety Licensing Appeals and Standards Division.

Effective February 7, 2019, amendments have been made to Rule 18.

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1 GENERAL

1.1 AUTHORITY FOR RULES

These Rules are made pursuant to s. 25.1 of the *Statutory Powers Procedure Act* (SPPA) and pursuant to s. 6 of the *Licence Appeal Tribunal Act, 1999*.

These Rules should be read and understood together with the SPPA and all other relevant statutes or regulations dealing with the specific type of proceeding before the relevant tribunal.

1.2 CONFLICT

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

1.3 VERSION

These Rules are known as the *Licence Appeal Tribunal, Animal Care Review Board, and Fire Safety Commission Common Rules of Practice and Procedure, Version I* (October 2, 2017).

1.4 IN FORCE DATE

These Rules apply to all new appeals filed with the Tribunal on or after October 2, 2017.

Matters filed with the Tribunal prior to the implementation of these Rules shall be dealt with in accordance with the Rules existing at the time.

1.5 APPLICATION OF RULES

These Rules apply generally to all appeals unless a Rule states otherwise.

“Special Rules” set out as Rules 20 through 23 are unique or additional Rules, or modifications of Rules, that apply only to particular types of proceedings.

2 DEFINITIONS

2.1 “APPEAL”

“Appeal” includes any application, appeal, or claim before the LAT, the ACRB or the FSC pursuant to a statute or regulation that gives the Tribunal the authority to hear the appeal.

The term “appeal” is used throughout these Rules for purposes of convenience. Other Tribunal documents and forms may reference “application” or “claim”; however, all are referred to as “appeals” for the purposes of these Rules.

2.2 “APPELLANT”

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

2.3 “AUTOMOBILE ACCIDENT BENEFITS SERVICE (AABS) CLAIM”

“Automobile Accident Benefits Service (AABS) Claim” means an application to the LAT pursuant to s. 280(2) of the *Insurance Act* seeking resolution of a dispute involving statutory accident benefits.

2.4 “CASE CONFERENCE”

“Case Conference” has the same meaning as “Pre-Hearing Conference” as defined in the SPPA.

2.5 “CERTIFICATE OF SERVICE”

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

2.6 “CONTACT INFORMATION”

“Contact information” includes:

- (a) Party name;
- (b) Representative’s name, if applicable;
- (c) Mailing address and/or address for delivery of documents;
- (d) Telephone number;
- (e) Email address;
- (f) Fax number if available;
- (g) Tribunal file number if available; and
- (h) Any other information specifically required by the Tribunal for the proceedings.

2.7 “DAY” AND “BUSINESS DAY” AND “HOLIDAY”

“Day” means a calendar day.

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

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

2.8 “DOCUMENT”

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

2.9 “ELECTRONIC FORMAT”

“Electronic Format” means the format of an oral hearing, case conference, or other part of a proceeding before the Tribunal that is held by conference telephone call, video,

internet, or any other form of electronic technology allowing persons to hear or see one another.

2.10 “HEARING”

“Hearing” means a hearing (including the hearing of a motion) before the Tribunal in which a party has the opportunity to participate in any of written, in-person, or electronic formats.

2.11 “IN-PERSON FORMAT”

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

2.12 “MEMBER”

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

2.13 “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.

2.14 “OBJECTOR”

“Objector” means, in the context of a public interest proceeding under the *Liquor Licence Act*, either:

- (a) a resident of the municipality where the establishment seeking to be licensed is located who submitted an objection to the issuance of the licence to the Registrar of Alcohol, Gaming and Racing in accordance with s. 7 of the *Liquor Licence Act*;

- (b) a group or association of residents described in (a); or
- (c) the municipality in which the establishment seeking to be licensed is located, if the municipality has submitted an objection to the issuance of the licence.

2.15 “PARTICULARS”

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

2.16 “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.

2.17 “PROCEEDING”

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

2.18 “PUBLIC INTEREST PROCEEDING”

“Public Interest Proceeding” means an appeal at the LAT under the *Liquor Licence Act* in which the Tribunal will determine whether the issuance of a licence to sell liquor would not be in the public interest having regard to the needs and wishes of the residents of the municipality in which the premises are located.

2.19 “REGISTRAR”

“Registrar” means the Registrar of the Tribunal.

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.

2.21 “RESPONDENT”

“Respondent” means the party identified as the respondent in an appeal or the party who is identified as the respondent under the applicable legislation.

2.22 “RESPONSE”

“Response” means the response a respondent is required to provide in relation to an appeal or as may otherwise be specified by the Tribunal.

2.23 “RULES” OR “COMMON RULES”

“Rules” or “Common Rules” means these Rules, i.e., *Licence Appeal Tribunal, Animal Care Review Board, and Fire Safety Commission Common Rules of Practice and Procedure, Version I (October 2, 2017)*.

2.24 “STATUTORY ACCIDENT BENEFITS SCHEDULE (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.

2.25 “TRIBUNAL”

“Tribunal”, means the Licence Appeal Tribunal (LAT), Animal Care Review Board (ACRB), or Fire Safety Commission (FSC).

2.26 “WRITTEN FORMAT”

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

3 GENERAL

3.1 LIBERAL INTERPRETATION

These Rules will be liberally interpreted and applied and may be waived, varied or 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;
- (b) Ensure efficient, proportional, and timely resolution of the merits of the proceedings before the Tribunal; and
- (c) Ensure consistency with governing legislation and regulations.

3.2 PRACTICE DIRECTIONS

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

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 the appeal if any of the above requirements are not met, and shall 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.

3.4 DISMISSAL WITHOUT A HEARING (GROUNDS FOR DOING SO)

The Tribunal may dismiss an appeal without a hearing if:

- (a) The appeal is frivolous, vexatious, or commenced in bad faith;
- (b) The appeal relates to matters that are outside the Tribunal's jurisdiction;
- (c) The statutory requirements for bringing the appeal have not been met; or
- (d) The appellant is found to have abandoned the proceeding.

3.5 DISMISSAL WITHOUT A HEARING (NOTICE)

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

- (a) Give the parties notice of its intention to dismiss;
- (b) Provide the reasons for its intention 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 5 days; and
- (d) Consider any written submissions provided.

3.6 ADDED PARTIES

The Tribunal may add a person as a party to a proceeding if the person has a significant interest in the proceeding.

4 COMMUNICATIONS

4.1 PROCEEDINGS IN FRENCH OR ENGLISH

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

4.2 NOTICE REGARDING INTERPRETER

Subject to Rule 20.6, if a party or a witness requires an interpreter in a language other than English or French in order to effectively participate in a proceeding, the party shall notify the Tribunal not less than 14 days before the hearing or case conference, and the Tribunal will either arrange for an interpreter at the expense of the party or approve the use of an interpreter of the party's choosing at the expense of the party.

4.3 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.

4.4 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.

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.

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.

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 party 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.

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, but if the fax confirmation receipt indicates a delivery time after 5:00 PM, service will be deemed to have occurred the next day that is not a holiday;

- (d) Courier or registered mail, when the person sending the document receives a confirmation of delivery; or
- (e) Email, on the day sent, or if sent after 5:00 PM, service will be deemed to have occurred the next day that is not a holiday.

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.

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.

6.5 DOCUMENTS FILED WITH TRIBUNAL AFTER 5:00 PM

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

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 with the Tribunal; or
- (b) Provide such other proof of service as may be specified by the Tribunal.

6.7 REPRESENTATION

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

7 HUMAN RIGHTS CODE ACCOMMODATION

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

8 SUMMONS

8.1 ISSUANCE OF SUMMONS

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

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.

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*.

9 DISCLOSURE

9.1 PRODUCTION OF DOCUMENTS—GENERAL

The Tribunal may at any stage in a proceeding, including prior to a case conference, order any party to provide such further particulars or disclosure as the Tribunal considers necessary for a full and satisfactory understanding of the issues in the proceeding.

9.2 DISCLOSURE OF DOCUMENTS

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.

9.3 PRODUCTION OF DOCUMENTS

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

- (a) Disclose 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' intended testimony;
- (c) 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;

- (d) Make available for inspection anything, subject to conditions established by the Tribunal, that the party will present as evidence at the hearing; or
- (e) Disclose any document or thing the Tribunal considers relevant to the issues in dispute.

9.4 FAILURE TO COMPLY WITH DISCLOSURE RULES

If a party fails to comply with any Rules, directions 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.

10 EXPERT WITNESSES

10.1 EXPERT WITNESSES—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 acquired through education, training or experience in respect of the matters on which he or she will testify.

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 and contact information 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; and
 - (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 signed report that sets out the instructions provided to the expert in relation to the proceeding, the expert's conclusions, and the basis for those conclusions on the issues to which the expert will provide evidence to the Tribunal; and
- (e) A concise summary stating the facts and issues that are admitted and those that are in dispute, and the expert's findings and conclusions.

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.

10.4 EXPERT WITNESSES—CHALLENGES TO QUALIFICATIONS, REPORTS, STATEMENTS

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.

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 the Common Law is in question; and/or
- (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.

12 FORMAT OF HEARINGS AND CASE CONFERENCES

12.1 HEARING OR CASE CONFERENCE MAY BE ORAL OR WRITTEN

In accordance with applicable provisions of the SPPA, 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.

13 ACCESS TO HEARINGS

13.1 GENERAL PUBLIC ACCESS

The Tribunal may provide public access to the following documents:

- (a) Any application, reference or other document, if any, by which a proceeding was commenced;
- (b) The notice of any hearing;
- (c) Any interlocutory orders made by the Tribunal;
- (d) All documentary or other evidence that has been admitted in any proceeding;
- (e) The transcript, if any, of the oral evidence given at the hearing;
- (f) The decision and reasons of the Tribunal where reasons have been given; and
- (g) Any written submissions provided by the parties.

The Tribunal will not provide public access to any other documents including correspondence between the parties and the Tribunal, documentary or other evidence submitted by the parties but not admitted in a proceeding, case conference reports, and settlement discussions.

The Tribunal may limit access to a record of proceedings or, during a proceeding, make an order at the request of one of the parties or on its own motion, limiting public access to all or part of any document or record or hearing to protect confidentiality of personal or sensitive information, as it considers appropriate in relation to:

- (a) Matters involving public security;
- (b) Intimate financial or personal matters;
- (c) Other matters where, having regard to the circumstances, the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that the hearings, documents or records be open to the public.

13.2 AUDIO AND VIDEO RECORDINGS

Except where required by statute or it orders otherwise, the Tribunal will not audio or video record a hearing.

A party may request that the Tribunal record all or part of a hearing. If the Tribunal makes an order to record the hearing, the requesting party must pay the costs of the recording on such terms as the Tribunal orders in accordance with Rule 13.3.

13.3 AUDIO AND VIDEO RECORDING BY PARTIES MAY BE PERMITTED

A party who wishes to make his or her own recording of a hearing may do so if authorized 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 10 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. A party who makes a recording must provide a copy to all other parties and, upon request, to the Tribunal.

14 CASE CONFERENCES

14.1 DIRECTIONS AND ORDERS AT CASE CONFERENCES

A member or any other person presiding over a case conference pursuant to section 5.3(2) of the SPPA may issue procedural or administrative directions as necessary for the conduct of the proceeding. A member presiding at a case conference may make any such further orders as necessary.

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;

- (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.

14.3 MEMBER NOT TO PARTICIPATE ON A HEARING PANEL EXCEPT ON CONSENT

A Member who presides at or otherwise takes part in a case conference shall not participate as a Member of a panel at a subsequent hearing of the appeal except with the consent of the parties.

14.4 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 participates in the hearing or otherwise be relied on in a hearing before the Tribunal for any purpose unless the parties consent.

14.5 CASE CONFERENCE NOT PUBLIC

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

14.6 ATTENDANCE AND AUTHORITY OF REPRESENTATIVES AT CASE CONFERENCE TO SETTLE ISSUES



Parties are required to attend the case conference. If a party is unable to attend a case conference, the party must at least 7 days before the scheduled case conference:

- (a) Advise the Tribunal that his or her representative has instructions with respect to the issues and authority to make agreements, including settlement of the case; and
- (b) Obtain permission from the Tribunal to send that representative on the party's behalf.

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.

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.

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.

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 dates, within 30 days of the case conference date or hearing date to be adjourned, that are agreeable to all parties.

16.2 ORAL REQUESTS FOR ADJOURNMENTS

Despite Rule 16.1, a request for an adjournment may be made orally before a Member in exceptional circumstances with the consent of the Tribunal.

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.

18 RECONSIDERATION OF A TRIBUNAL DECISION

18.1 REQUEST FOR RECONSIDERATION

The Tribunal may, on its own initiative or upon request of a party, if the request is made within 21 days of the date of the decision, reconsider any decision of the Tribunal that finally disposes of an appeal.

A request for reconsideration from a party should be in the form, if any, that is provided on the Tribunal's website for reconsideration requests. The request must be served on all other parties and must include:

- (a) All submissions in support of the request, which must specify the applicable criteria under Rule 18.2;
- (b) Notification if the party is seeking judicial review or pursuing an appeal in relation to the decision; and
- (c) The remedy or relief sought.

The determination of the request for reconsideration shall be heard by written submissions and may be heard by the same Member whose decision is the subject of the request.

18.2 CRITERIA FOR GRANTING RECONSIDERATION

The Tribunal shall not make an order under 18.4(b) unless satisfied that one or more of the following criteria are met:

- (a) The Tribunal acted outside its jurisdiction or violated the rules of procedural fairness;
- (b) The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made;
- (c) The Tribunal heard false evidence from a party or witness, which was discovered only after the hearing and likely affected the result; or
- (d) There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.

18.3 OPPORTUNITY TO MAKE SUBMISSIONS

Responding parties will have an opportunity to make submissions before any order is made under 18.4(b).

18.4 OUTCOME OF RECONSIDERATION

Upon reconsidering a decision of the Tribunal, the Tribunal may:

- (a) Dismiss the request; or
- (b) After providing responding parties an opportunity to make submissions,
 - (i) Confirm, vary, or cancel the decision or order; or
 - (ii) Order a rehearing on all or part of the matter.

If the Tribunal orders a rehearing of the matter, the Tribunal may make any order that it could make following a case conference.

18.5 APPLICATION OF RULE 18

Despite Rule 1.4, this Rule applies to any request for reconsideration of a decision or order issued on or after February 7, 2019. Requests for reconsideration of decisions or orders issued before February 7, 2019 will be dealt with in accordance with the Rules existing at the time the decision or order was issued.

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.

19.2 HOW COST REQUESTS ARE TO BE MADE

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

19.3 SUBMISSIONS ON COSTS

The Tribunal may order that a party making a request orally under Rule 19.2 shall provide written submissions to the Tribunal and all other parties within 7 days of that oral request. A submission on costs shall set out the amount being requested.

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 are alleged to be unreasonable, frivolous, vexatious, or in bad faith.

19.5 POWERS OF THE TRIBUNAL

In deciding whether to order costs and the amount of costs to be ordered, the Tribunal shall consider all relevant factors including: the seriousness of the misconduct; whether the conduct was in breach of a direction or order issued by the Tribunal, whether or not a party's behaviour interfered with the Tribunal's ability to carry out a fair, efficient, and effective process; prejudice to other parties; and the potential impact an order for costs would have on individuals accessing the Tribunal system.

The Tribunal may deny or grant the request for costs or award a different amount than requested.

19.6 AMOUNT OF COSTS

The amount of costs shall not exceed \$1000 for each full day of attendance at a motion, case conference or hearing.

20 AUTOMOBILE ACCIDENT BENEFIT SERVICE (AABS) CLAIMS

20.1 APPLICATION OF THIS RULE

Rule 20 applies to AABS Claims pursuant to the *Insurance Act* only. All other Tribunal Rules also apply to AABS Claims except to the extent varied or negated by this Rule.

20.2 RESPONSE TO AABS CLAIM

A response to an AABS Claim shall be provided by a respondent, in the form specified by the Tribunal, within 14 days of the respondent having been served with the AABS

Claim, or within such other period as may be specified by the Tribunal.

20.3 RESPONSE TO AABS CLAIM MUST DETAIL JURISDICTIONAL ISSUES

A response to an AABS Claim must clearly detail any jurisdictional issues that the respondent seeks to have considered by the Tribunal.

20.4 AABS CASE CONFERENCE SUMMARY

Each party shall file an AABS 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 AABS 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 the 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 summonses;
- (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; and
- (h) Details of the most recent settlement offer that is open for acceptance.

20.5 COMBINING AABS CLAIMS



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

- (a) Combine the claims on consent of the parties;
- (b) Schedule any case conferences to take place simultaneously; or
- (c) Combine any hearings on consent of the parties.

20.6 INTERPRETER TO BE ARRANGED AT TRIBUNAL'S EXPENSE

Where a party gives notice pursuant to Rule 4.2 regarding the need for an interpreter, the Tribunal shall arrange for an interpreter at the Tribunal's expense, despite Rule 4.2.

21 APPLICATIONS TO REMOVE LIQUOR LICENCE CONDITIONS

21.1 APPLICATION OF RULE 21

Rule 21 applies only to applications to the Tribunal under s.14 (2) of the *Liquor Licence Act* to remove a condition of a licence.

All other Tribunal Rules also apply to these applications, except to the extent varied or negated by these Rules.

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* form 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 Alcohol, Gaming and Racing and file it with the Tribunal together with a Certificate of Service.

21.3 REPLY TO APPLICATION TO REMOVE LIQUOR LICENCE CONDITIONS (*LIQUOR LICENCE ACT*)

Within 15 days of receipt of the application, the Registrar of Alcohol, Gaming and Racing shall serve on the Licensee and file with the Tribunal, together with a Certificate of Service, reply submissions that set out the Registrar of Alcohol, Gaming and Racing'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 Registrar of Alcohol, Gaming and Racing considers necessary to assist the Tribunal in arriving at its decision.

22 PUBLIC INTEREST PROCEEDINGS

22.1 APPLICATION OF THIS RULE

Rule 22 applies only to public interest proceedings under the *Liquor Licence Act*.

22.2 NOTICE

In a public interest proceeding pursuant to the *Liquor Licence Act*, objectors for whom the Tribunal has complete mailing or e-mail addresses shall be given notice of the first case conference in the proceeding. An objector who attends a case conference or has a representative attend on their behalf shall be given notice of the next case conference or hearing.

22.3 PROCEEDING WHERE OBJECTOR DOES NOT ATTEND CASE CONFERENCE

If an objector does not attend a case conference 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. The objector is not entitled to further notice of the proceedings.

22.4 REQUEST BY OBJECTORS TO BE MADE A PARTY IN A PUBLIC INTEREST PROCEEDING

An objector, including an individual, a group of objectors, a residents' association, or a municipality, may ask to be made a party in a public interest proceeding, which request shall be made before or at the case conference.

22.5 EFFECT OF PARTY STATUS

An objector who is made a party to a public interest proceeding has the right to participate in the proceeding.

22.6 NON-PARTY OBJECTORS

An objector who is not a party may still give evidence at the hearing and have their views considered.

23 *HIGHWAY TRAFFIC ACT* APPEALS

23.1 APPLICATION OF RULE 23

Rule 23 applies to appeals pursuant to the *Highway Traffic Act*. All other Tribunal Rules also apply to these appeals, except to the extent varied or negated by this Rule.

23.2 APPEALS UNDER *HIGHWAY TRAFFIC ACT* (HTA) 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.

23.3 DISCLOSURE TIMELINES FOR (HTA) APPEALS

Disclosure in appeals respecting the suspension or cancellation of a driver's licence, as set out in 23.2(a), 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 10 days prior to the hearing.

Disclosure in the HTA appeal types set out in 23.2 (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.