

Alberta Human Rights Commission

Bylaws

Pursuant to section 17(1) of the

Alberta Human Rights Act

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## Definitions

1 In these bylaws,

- (a) "Act" means the *Alberta Human Rights Act*;
- (b) "Chief of the Commission and Tribunals" means the member of the Commission designated by the Lieutenant Governor in Council as Chief of the Commission and Tribunals;
- (c) "Commission" means the Alberta Human Rights Commission;
- (d) "complainant" means the person who makes a complaint;
- (e) "complaint" means a complaint which has met the criteria for acceptance under section 2(1) of these bylaws;
- (f) "conciliator" means the person appointed to conciliate a complaint;
- (g) "director" means the director of the Commission appointed by the Lieutenant Governor in Council;
- (h) "investigator" means the person appointed to investigate a complaint;
- (i) "legal counsel" means the legal counsel employed or retained for the purposes of the Act;
- (j) "tribunal" means a human rights tribunal appointed by the Chief of the Commission and Tribunals under section 27(1) of the Act;
- (k) "parties to a proceeding" means the parties to a proceeding referred to in section 28 of the Act;
- (l) "parties to the complaint" means:
  - (i) the complainant,
  - (ii) any person named in the complaint who is alleged to have been dealt with contrary to the Act, if different from the complainant, and
  - (iii) the respondent.
- (m) "regional director" means the director of the Commission's northern or southern region;
- (n) "respondent" means the person, corporation or entity, against whom a complaint is made;
- (o) "response" means a response to a complaint;
- (p) "submission" means a written submission to a tribunal.

## **PART I - The Complaint Process**

### **Complaint**

**2(1)** A person may make a complaint to the Commission by meeting the criteria for acceptance under section 20(2) of the Act and, specifically, the complaint must:

- (a) provide reasonable grounds that the Act has been contravened;
- (b) be in a form acceptable to the Commission in compliance with bylaw 2(2);
- (c) be received by one of the Commission's regional offices during normal business hours within one year of the alleged contravention of the Act; and
- (d) not have been refused by the Director pursuant to s. 22(1.1) of the Act.

**2(2)** To be in a form acceptable to the Commission under the definition in section 2(1)(b) of these bylaws, the complaint must be in writing and contain the following:

- (a) the name of the complainant,
- (b) the name of any person or class of persons who is alleged to have been dealt with contrary to the Act,
- (c) where the complainant is able to provide it, the name of the respondent,
- (d) the date of the alleged contravention or, if the alleged contravention was of an ongoing nature, then the time period during which the alleged contravention occurred and the date of the last alleged contravention,
- (e) the approximate location of the alleged contravention,
- (f) the nature of the alleged contravention, and
- (g) the signature of the complainant, or the signature of the complainant's lawyer or authorized representative of the complainant.

**2(3)** A complainant may use the complaint form provided by the Commission.

**2(4)** The Commission may assist a person in making a complaint.

**2(5)** A complainant shall at all times provide the Commission with a current mailing address and telephone number where the complainant can be contacted.

**2(6)** Failure to provide a current mailing address or telephone number may result in the dismissal of the complaint.

**2(7)** The Commission reserves the right to modify a complaint or a response, but only to:

- (a) protect against any unnecessary breach of privacy belonging to a third party, or
- (b) to cure any minor irregularity or defect.

### **Respondent's Reply to Complaint**

**3(1)** The respondent shall, not later than 30 days after being served with a copy of the complaint under section 21(3) of the Act, respond to the complaint by filing with the Commission a response in writing.

**3(2)** The response must contain:

- (a) the full legal name of the respondent and a mailing address where the respondent can be contacted,
- (b) if the respondent is a corporation or other entity, the name, business address and telephone number of the contact person for the corporation or other entity,
- (c) if the respondent believes the complaint is not justified, a detailed response to the allegations contained in the complaint,
- (d) copies of any documents that the respondent believes may be relevant to the complaint, and
- (e) the signature of the respondent or the signature of the respondent's lawyer or the authorized representative of the respondent.

**3(3)** A respondent may use the response form provided by the Commission.

**3(4)** The Commission may assist a person in preparing a response.

**3(5)** If a respondent fails to respond to a complaint pursuant to sub-section 3(1), the director may appoint an investigator to investigate the complaint or may take any other action pursuant to the Act.

### **Conciliation**

**4(1)** The duty of a conciliator is to attempt to effect a settlement between the parties to a complaint.

**4(2)** Where a conciliator has been appointed to conciliate a complaint, the conciliator shall report on the outcome of the conciliation to the regional director.

## **Settlement of a Complaint**

**5(1)** Where a complaint has been settled, the parties must inform the Commission that the complaint has been settled by either the complainant or the respondent providing the Commission with a copy of a settlement agreement signed by both parties or a release signed by the complainant.

**5(2)** The Commission may assist in the drafting of any terms of settlement or release.

## **Investigation**

**6(1)** The duty of an investigator is to establish the facts and make recommendations to the regional director as to whether or not there is a reasonable basis to proceed with the complaint.

**6(2)** Where an investigator has been appointed to investigate a complaint, the investigator shall report on the investigation to the regional director upon completion of the investigation.

## **Alternative Dispute Resolution**

**7** The director may request legal counsel to contact the parties to a proceeding about alternative dispute resolution prior to a tribunal hearing.

## **Withdrawal of Complaint**

**8** A complainant may withdraw a complaint at any time by giving notice in writing to the Commission or, if the complaint is at the hearing stage, to the tribunal.

## **Appeals to Chief of the Commission and Tribunals**

**9(1)** A notice referred to in section 26(1) of the Act must contain reasons why the dismissal or discontinuance should be reviewed and may contain such further information that the complainant believes may be relevant to the complaint.

**9(2)** The respondent may, not later than 30 days after being served with a copy of a notice referred to in section 26(1) of the Act, file with the Commission such further information that the respondent believes may be relevant to the complaint.

## **PART II - The Human Rights Tribunal Process**

### **Carriage before Tribunal**

**10(1)** Where the Chief of the Commission and Tribunals decides under section 26(3) of the Act that the complaint should not have been dismissed or the proposed settlement was not fair and reasonable, the complainant shall, within 30 days of being served with the decision of the Chief of the Commission and Tribunals, file with the Commission a written notice stating:

- (a) the intention of taking carriage of the complaint before the tribunal, and
- (b) the general nature of the order or remedy requested.

**10(2)** Failure to produce the notice referred to in subsection (1) may be taken as notice of withdrawal of the complaint.

**10(3)** The Commission shall serve a copy of the notice referred to in subsection (1) on the other parties to the complaint.

### **Report to Chief of the Commission and Tribunals and Referral to a Tribunal**

**11(1)** Where the director reports to the Chief of the Commission and Tribunals under section 22(1)(c) of the Act that the parties to a complaint are unable to settle the complaint, the director's report shall contain:

- (a) a copy of the complaint,
- (b) a copy of the response where available,
- (c) a copy of the investigation report or, alternatively, an outline of the alleged facts and contravention of the Act,
- (d) the general nature of the order or remedy requested by the director,
- (e) any preliminary matters, including any questions of jurisdiction, and
- (f) such other information as may be appropriate.

**11(2)** The director shall serve a copy of the director's report referred to in subsection (1) on the parties to the complaint.

## **Submissions to Tribunal**

**12(1)** The party with carriage of a matter shall provide to the tribunal any documents or evidentiary matters upon which they intend to rely at the hearing for distribution to the party opposite, on or before a date as directed by the tribunal, or if not directed by the tribunal, then at least 21 days prior to the hearing. The respondent shall provide responding documentation to the tribunal for distribution to the party opposite, on or before a date as directed by the tribunal, or if not directed by the tribunal, then at least 14 days prior to the hearing.

**12(2)** The admission of the evidence shall be determined by the tribunal at the hearing.

**12(3)** A submission shall state the nature of the order which is sought from the tribunal and may also include:

- (a) an acknowledgment of any agreed upon facts,
- (b) written arguments covering legal points and authorities,
- (c) affidavit evidence,
- (d) any documents or exhibits including expert reports,
- (e) the names of the witnesses the party intends to call,
- (f) the estimated time that the party needs before the tribunal, and
- (g) any preliminary matters that the party intends to raise, including any questions of jurisdiction.

## **Notice of Hearing and Appointment of Tribunal Chair**

**13(1)** The Chief of the Commission and Tribunals shall, not later than 15 days before the date of a tribunal hearing, serve on the parties to a proceeding a notice confirming the date, time and place of the hearing.

**13(2)** The Chief of the Commission and Tribunals may appoint one member of the tribunal to chair the tribunal.

**13(3)** All members of the Commission appointed under section 15 of the Act must possess a law degree, and experience, knowledge or training in human rights or administrative law.



## **Preliminary Matters**

**14** Where there are preliminary matters to be determined before a tribunal hearing, the chair of the tribunal may call the parties to the proceeding together to resolve the matters before the hearing on the merits of the complaint occurs.

## **Witnesses**

**15(1)** Witnesses before a tribunal may

- (a) be excluded from the hearing room by the chair of the tribunal until called upon to give evidence,
- (b) be questioned and cross-examined by the parties to the proceeding, and
- (c) be asked questions by members of the tribunal.

## **Representation at Hearing**

**16** In addition to being represented by legal counsel, the parties to a proceeding are entitled to appear in person or by an authorized agent.

## **Oath or Affirmation**

**17** Persons giving evidence before a tribunal shall give the evidence under oath or by affirmation.

## **Role of Parties before Tribunal**

**18** A tribunal may permit each party to the proceeding:

- (a) to make a brief opening statement;
- (b) to question and cross-examine witnesses;
- (c) to speak to the documents and exhibits;
- (d) to provide a closing argument.

## **Tribunal Decision**

**19** Within 120 days of the conclusion of the hearing, the chair of the tribunal shall serve on the parties to the proceeding a copy of the tribunal's decision.

**Part III - General**

**Change of Time Period**

**20(1)** The Chief of the Commission and Tribunals or the director may shorten any time period or may increase any time period in these bylaws.

**20(2)** For clarity, any increase of time period may be made whether or not the period has expired.

**Delivery of Notice or Complaint**

**21** In addition to the methods outlined for service as set out in section 43(1) of the Act, a notice or document required by the Act or these bylaws to be filed shall also be deemed to have been properly filed if it is received within normal business hours at any office of the Commission by facsimile, regular mail or via a document delivery service.

**Waiving Bylaw Requirements**

**22** The Chief of the Commission and Tribunals or the director may at any time, without providing written reasons, waive any requirements set out in these bylaws unless specifically prescribed by the Act.

**Previous Bylaws Rescinded**

**23** The approval of these bylaws by the Minister rescinds any previous bylaws.

Submitted by

Approved by

[Original signed by]

[Original signed by]

\_\_\_\_\_  
Honourable D. Blair Mason, QC  
Chief of the Commission and Tribunals

\_\_\_\_\_  
Honourable Jonathan Denis, QC  
Minister

December 7, 2012

December 7, 2012

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Date

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Date