

Schedule "A"

ENVIRONMENT AND LAND TRIBUNALS ONTARIO



Rules of Practice and Practice Directions of the Environmental Review Tribunal

Effective: September 12, 2016

Response by Director and Instrument-holder

54. The Director or Instrument-holder may serve and file a response within 15 days after the leave to appeal application is filed. If an Applicant receives an extension for filing additional material beyond the five days referred to in Rule 48, the Director and Instrument-holder shall be given an extension equal to the time granted to the Applicant. The Director or Instrument-holder may also file a written request to serve and file late and state the reason for the request.
55. The Director shall include in his or her response a copy of any government policy developed to guide decisions regarding the type of instrument that is the subject of the application.

Reply by Applicant

56. An Applicant may serve and file a reply to the response of the Director or Instrument-holder no later than three days from the date the response is filed.

Deadline for Tribunal's Decision

57. The Tribunal shall make its decision within 30 days after the day on which the application is filed, unless the Tribunal determines that, because of unusual circumstances, a longer period is needed. If the Director or Instrument-holder files after 15 days due to a decision of the Tribunal under Rule 48, or if the Tribunal grants a request to serve and file late under that Rule, the late filing will be deemed to constitute an unusual circumstance.
58. If the Tribunal determines that a longer period is needed than the 30 days referred to in Rule 57, it shall give notice of that determination to the Applicant, the Director, the Instrument-holder, the Environmental Commissioner and any other person whom the Tribunal considers should receive the notice.
59. Notice pursuant to Rule 58 shall state when the Tribunal expects that it will make a decision on the application.

Where Tribunal Grants Leave

60. The Tribunal may grant leave to appeal the decision regarding an instrument in whole or part.
61. If the Applicant is granted leave to appeal and wishes to commence an appeal, the Applicant shall serve and file a Notice of Appeal no later than 15 days from the date the Applicant receives the decision granting Leave to Appeal.

PARTIES, PARTICIPANTS AND PRESENTERS (RULES 62-67)

Naming of a Party

62. The following persons are Parties for the purpose of the Rules:
 - (a) persons specified as Parties by or under the statute under which the proceeding arises;
 - (b) persons otherwise entitled by law to be Parties to the proceeding; and
 - (c) persons who request Party status and are so specified by the Tribunal as Parties for all or part of the proceeding, and on such conditions as the Tribunal considers appropriate.
63. In deciding whether to name a person as a Party to the proceeding, the Tribunal may consider relevant matters including whether:
 - (a) a person's interests may be directly and substantially affected by the Hearing or its result;

- (b) a person has a genuine interest, whether public or private, in the subject matter of the proceeding; and
- (c) a person is likely to make a relevant contribution to the Tribunal's understanding of the issues in the proceeding.

Role of a Party

64. A Party to the proceeding before the Tribunal may:

- (a) bring motions;
- (b) be a witness at the Hearing;
- (c) be questioned by the Parties;
- (d) call witnesses at the Hearing;
- (e) cross-examine witnesses;
- (f) make submissions to the Tribunal, including final argument;
- (g) receive copies of all documents exchanged or filed by the Parties;
- (h) participate in a mediation;
- (i) attend site visits; and
- (j) claim costs or be liable to pay costs where permitted by law.

In proceedings other than those under section 142.1 of the *Environmental Protection Act*, a person granted Party status under Rule 62(c) may raise an issue that has not already been raised by persons referred to in Rule 62(a) and (b) with the permission of the Tribunal.

Co-operation of Parties

65. Parties shall co-operate with each other in matters such as scheduling, disclosure, procedure and agreements on uncontested facts to the fullest extent that is compatible with their interests.

Naming of a Participant

66. The Tribunal may name persons to be Participants in all or part of a proceeding on such conditions as the Tribunal considers appropriate. A Participant to a proceeding is not a Party to the proceeding. In deciding whether to name a person as a Participant, the Tribunal may consider whether the person's connection to the subject matter of the proceeding or issues in dispute is more remote than a Party's would be. A person who may otherwise qualify as a Party may request Participant status.

Role of a Participant

67. A Participant in a Hearing may:

- (a) be a witness at the Hearing;
- (b) be questioned by the Parties;
- (c) make oral and written submissions to the Tribunal at the commencement and at the end of the Hearing;
- (d) upon request, receive a copy of documents exchanged by the Parties that are relevant to the Participant's interests; and
- (e) attend site visits.

68. A Participant in a Hearing may not:

- (a) raise issues that have not already been raised by a Party;
- (b) call witnesses;
- (c) cross-examine witnesses;
- (d) bring motions;
- (e) participate in a mediation, unless permitted to do so by the Tribunal; and
- (f) claim costs or be liable for costs.

Naming of a Presenter

69. The Tribunal may name persons to be Presenters in all or part of a proceeding on such conditions as the Tribunal considers appropriate. A Presenter to a proceeding is not a Party to the proceeding. In deciding whether to name a person as a Presenter, the Tribunal may consider whether the person's connection to the subject matter of the proceeding or issues in dispute is more remote than a Party's or Participant's would be. A person who may otherwise qualify as a Party or Participant may request Presenter status.

Role of a Presenter

70. A Presenter in a Hearing may:
- (a) be a witness and present his or her relevant evidence at a pre-arranged time, either during a Hearing's regular day-time session or at a special evening session;
 - (b) be questioned by the Parties;
 - (c) provide the Tribunal with a written statement as a supplement to oral testimony; and
 - (d) upon request, receive a copy of documents exchanged by the Parties that are relevant to the Presenter's interests.
71. A Presenter in a Hearing may not:
- (a) raise issues that have not already been raised by a Party;
 - (b) call witnesses;
 - (c) cross-examine witnesses;
 - (d) bring motions;
 - (e) make oral and written submissions to the Tribunal at the commencement and at the end of the Hearing;
 - (f) participate in a mediation, unless permitted to do so by the Tribunal;
 - (g) attend site visits unless permitted to do so by the Tribunal; and
 - (h) claim costs or be liable for costs.

Similar Interests

72. The Tribunal may direct persons who have similar interests to designate one person to act as their representative or to co-ordinate their participation in the proceeding.

CONSTITUTIONAL QUESTIONS (RULES 73-83)

73. A Party, Participant or Presenter who intends to request a remedy under subsection 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of the Government of Ontario or the Government of Canada or raise a question as to the constitutional validity or constitutional applicability of an Act applied by the Tribunal or a regulation or by-law made under the Act shall serve a Notice of a Constitutional Question on the Attorney-General of Canada and the Attorney-General of Ontario.
74. A Notice of a Constitutional Question to the Attorneys-General shall be given in accordance with Form 1 found in Appendix B.
75. The Form shall include the names and addresses of all Parties, Participants and Presenters.
76. The Notice shall be served on the Attorneys-General and provided to the other Parties, Participants and Presenters and the Tribunal as soon as the circumstances requiring the Notice of a Constitutional Question become known and, in any event, no later than 15 days prior to the commencement of the Hearing, unless otherwise ordered by the Tribunal.
77. Proof that the Notice was served on the Attorneys-General must be filed with the Tribunal when the Tribunal is provided with the Notice of a Constitutional Question.