

# Apprenticeship and Industry Training Act

## Appeal Rules Regulation

Alberta Regulation 58/99

Consolidated to April 15, 2009

### NOTE

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**ALBERTA REGULATION 58/99**  
**as amended by Alta. Reg. 193/2002, 142/2005 and 95/2009**

**Apprenticeship and Industry Training Act**

**APPEAL RULES REGULATION**

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- Definitions      **1** In this Regulation,
- (a) “Act” means the *Apprenticeship and Industry Training Act*;
- (b) “appeal board” means an appeal board appointed under section 45 of the Act.
- Provisions governing appeals      **2** **(1)** In addition to the provisions of the Act governing the conduct of appeals under Part 4 of the Act, sections 3 to 17 of this Regulation also apply to those appeals.

- (2) Notwithstanding section 43(c) of the Act and this Regulation, a refusal by the Executive Director on or after September 1, 2005 under section 4 of the Electronic Technician Transition Regulation to register a contract of apprenticeship is not subject to appeal.
- (3) Notwithstanding section 43(c) of the Act and this Regulation a refusal by the Executive Director on or after May 1, 2009 under section 4 of the *Tool and Die Maker Transition Regulation* to register a contract of apprenticeship is not subject to appeal.

[Alta. Reg. 142/2005, 95/2009]

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|-------------------------|--|
| Notice of appeal        | <p><b>3</b> A notice of appeal must set out</p> <ul style="list-style-type: none"> <li>(a) the particulars of the matters being appealed;</li> <li>(b) the name of the person appealing and the person's agent, if any;</li> <li>(c) an address for service for the person appealing.</li> </ul>   |
| Notification of hearing | <p><b>4</b> Written notice of the date, time and place of the appeal must be sent by or on behalf of the appeal board</p> <ul style="list-style-type: none"> <li>(a) to the parties to the appeal, and</li> <li>(b) to the Minister.</li> </ul>  |
| Time to hear appeal     | <p><b>5</b> An appeal must be heard and a decision made within 60 days from the day that the Minister appointed the appeal board.</p>  |
| Adjournment             | <p><b>6</b></p> <ul style="list-style-type: none"> <li>(1) The granting and duration of an adjournment is in the sole discretion of the appeal board.</li> <li>(2) The time limit prescribed in section 5 does not run during a period of adjournment.</li> <li>(3) A period of adjournment must not exceed 45 days.</li> </ul>  |
| Attendance of witnesses | <p><b>7</b> The presiding officer and the other members of an appeal board have the same power as is vested in the Court of Queen's Bench for the trial of civil actions</p> <ul style="list-style-type: none"> <li>(a) to summon and enforce the attendance of witnesses,</li> <li>(b) to compel witnesses to give evidence under oath or otherwise, and</li> <li>(c) to compel witnesses to produce any record, object or thing that relates to the matter being heard.</li> </ul> |
| Right to attend hearing | <p><b>8</b> The parties to an appeal have a right to attend all hearings held in respect of the appeal.</p>  |

- Representation by counsel **9** A person appearing before an appeal board may be represented by legal counsel or agent.
- Right to make representations **10** The parties appearing before an appeal board shall be given adequate opportunity to make representations, present evidence and cross-examine witnesses, if any.
- Evidence **11** (1) The appeal board must accept all evidence it considers relevant.
- (2) An appeal board may take evidence under oath.
- (3) Any member of an appeal board may administer oaths for the purpose of taking evidence.
- (4) The rules of evidence applicable to judicial proceedings do not apply.
- (5) All oral evidence received must be taken down in writing or recorded by electronic means.
- Record of proceedings **12** All the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding.
- Absence of party **13** If a party to an appeal fails to appear for the hearing within one hour from the time set out in the notice given under section 4, the appeal may be dismissed or the hearing conducted and determined in that person's absence, as the appeal board considers proper in the circumstances.
- Interim order **14** At any time during which a matter is before an appeal board, the appeal board may make any interim order that it considers advisable in the circumstances pending the determination of the appeal.
- Decision of appeal board **15** (1) A decision of the majority of the members of the appeal board is the decision of the appeal board and, if there is not a majority, the decision of the presiding officer of the appeal board is the decision of the appeal board.
- (2) Any member of the appeal board who does not concur with the decision, or the reasons for the decision, of the appeal board may render a minority report respecting the appeal.
- (3) The appeal board may, subject to any directions by the Minister, publish its decisions in any manner that it considers appropriate.
- Appeal without hearing **16** (1) Notwithstanding sections 4, 8 and 10, with the consent of the parties to an appeal, the consideration of the appeal may be conducted without a hearing being held.
- (2) Where an appeal is conducted under subsection (1),
- (a) all matters concerning the appeal may be submitted in writing, or as otherwise directed by the appeal board, to the appeal board, and

(b) the process under which the appeal is considered and determined by the appeal board shall be deemed to be a hearing.

(3) Notwithstanding section 5, if a matter is conducted under subsection (1), the decision of the appeal board must be made within 30 days from the day that the parties to the appeal consented to the matter being conducted under subsection (1).

Rules of Court **17** The provisions of the *Alberta Rules of Court* (AR 390/68) relating to the payment of conduct money and witness fees apply to matters heard under Part 4 of the Act.

Repeal **18** The *Appeal Rules Regulation* (AR 389/91) is repealed.

Expiry **19** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on January 31, 2019.

[Alta. Reg. 193/2002, 95/2009]