

**TREASURY BOARD DIRECTIVE**

**TO ALL:** MINISTERS  
DEPUTY MINISTERS  
ASSOCIATE DEPUTY MINISTERS  
ASSISTANT DEPUTY MINISTERS, CORPORATE  
SERVICES  
SENIOR FINANCIAL OFFICERS

**DIRECTIVE:** **2/07**

**SUBJECT:** Remuneration Guidelines for Appointees to  
Administrative Tribunals

**AUTHORITY:** This directive is issued pursuant to Sections 4 and 27  
of the *Financial Administration Act* and other  
applicable enactments.

**APPLICATION:** This directive applies to appointees to administrative  
tribunals

**POLICY:** SEE APPENDIX 1

**REPEAL OF  
EXISTING POLICIES:** Treasury Board Directive 3/04

**EFFECTIVE DATE:** **April 1, 2007**

*Original signed by:*

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Carole Taylor  
Chair, Treasury Board

**TREASURY BOARD DIRECTIVE**

**APPENDIX 1**

**REMUNERATION GUIDELINES  
FOR APPOINTEES TO ADMINISTRATIVE TRIBUNALS**

## 1. POLICY OBJECTIVES

This directive on remuneration and reimbursement of expenses for appointees to administrative tribunals has the following objectives:

- enhance the accountability, openness and transparency of the tribunal system
- assist ministries and tribunal chairs in determining appropriate and consistent remuneration and expense reimbursement for appointees;
- to provide a comprehensive framework for remuneration and reimbursement of appointees;
- affirm the importance and professional nature of the work tribunal appointees perform;
- ensure that remuneration is sufficient to attract and retain highly skilled and qualified individuals;
- establish and maintain proportionality between
  - full-time and part-time appointees' remuneration rates,
  - appointees to administrative tribunals and excluded classifications in the public sector, and
  - appointees to administrative tribunals and marketplace competitors, where necessary in exceptional and appropriate circumstances.

## 2. DEFINITIONS

For purposes of these Guidelines:

**“administrative tribunal”** means those independent entities established by legislation to make quasi-judicial decisions or to resolve disputes that are listed on Schedule 1, and includes any such newly created entity that is referred to in paragraph 4.2 (a) of these Guidelines;

**“Appointee Remuneration Committee”** means the committee established by Treasury Board;

**“appointee”** means a person appointed to an administrative tribunal by the Lieutenant Governor in Council or a minister of the provincial Cabinet, and includes in the case of the Workers Compensation Appeal Tribunal a person appointed by the tribunal chair;

**“chair”** means the person who is appointed as the chair of a tribunal under the tribunal's enabling legislation and who is responsible for the management and operation of the administrative tribunal;

**“member”** means an appointee other than the chair or a vice chair as defined in this directive, and for the purposes of this Directive includes

- an appointee who may preside at a hearing conducted by a multi-person panel of the administrative tribunal,
- a Vice Chair of the Labour Relations Board, and
- a Vice Chair of the Workers Compensation Appeal Tribunal;

“**minister**” means the minister who is accountable to government for the administration of the tribunal’s enabling legislation;

“**ministry**” means the ministry from which the administrative tribunal receives administrative, policy or operational support;

“**vice chair**” means a member who is designated as a vice chair by the Lieutenant Governor in Council, the minister or the tribunal chair to exercise significant management or administrative responsibilities on behalf of the tribunal and includes:

- the Associate Chair of the Labour Relations Board,
- the Registrar of the Labour Relations Board, and
- the Senior Vice Chairs of the Workers Compensation Appeal Tribunal.

## **GENERAL POLICY**

An appointee may be paid remuneration or reimbursed for expenses in accordance with this directive and the following general principles:

- 3.1 All administrative tribunals are to be classified as Group 1, Group 2 or Group 3 or designated as an Exception. The criteria on which tribunals are classified and the specific administrative tribunal classifications and exceptions are set out in Schedule 1.
- 3.2 An appointee may be paid a rate up to the maximum set for the appointee’s position (that is, as chair, vice chair or member as defined by this directive) for the classification or designation of the administrative tribunal to which the appointee is appointed. There is no requirement the maximum be paid.
- 3.3 If the rate set for a vice chair or a member is less than the maximum, then the rate may be increased at such time and in such increments up to the maximum, following consultation with chair, and having regard to the responsibilities, skills, experience and knowledge of the appointee.
- 3.4 Remuneration and reimbursement are to be paid to the appointee only in their personal capacity and not to a professional or other corporation or business.
- 3.5 Government employees may be appointed to administrative tribunals only if the appointment is authorized under the tribunal’s enabling legislation or, in rare circumstances, if the appointment is required to assist in transition to a different delivery model or a wind-up process. A government employee appointed to an administrative tribunal in his or her capacity or as part of his or her duties as an employee is not entitled to be paid any additional remuneration by virtue of the appointment. The employee is entitled to be reimbursed by the ministry for travel expenses at the rate of reimbursement to which the employee is entitled as an employee.

## **4. ROLES AND RESPONSIBILITIES**

The roles and responsibilities with respect to these Guidelines are:

- 4.1 **Treasury Board** establishes and may revise these Guidelines.
  
- 4.2 **The Minister responsible** for an administrative tribunal
  - a) must request the Appointee Remuneration Committee to make a determination of the classification of any new administrative tribunal that may be established by legislation to make quasi-judicial determinations or resolve disputes, if the chair and/or a majority of the members are appointed by the Lieutenant Governor in Council or a minister of the provincial Cabinet
  - b) may request the Appointee Remuneration Committee to change the classification of an administrative tribunal listed in Schedule 1.
  - c) may request a reconsideration of the matter if not satisfied with the decision of the Appointee Remuneration Committee. The request for reconsideration must set out the reasons for the request and any supporting documentation. The Appointee Remuneration Committee's decision on a reconsideration is final. This does not preclude the Minister from re-applying to the Appointee Remuneration Committee if there is a material change in circumstances.
  
- 4.2 **The Appointee Remuneration Committee**
  - a) must make determinations respecting the classification of an administrative tribunal if requested by the minister responsible under paragraph 4.2, including any reconsideration requests.
  - b) must review these Guidelines and may make recommendations to Treasury Board
    - i.) as required
    - ii.) at least every three years.
  
- 4.4 The **Public Sector Employer's Council** acts as the Secretariat to the Appointee Remuneration Committee and ensures remuneration and classification information is publicly available.

## **5. REMUNERATION FRAMEWORK FOR FULL-TIME APPOINTEES**

- 5.1 Full-time appointees are classified as Category A or C under the definition of “Order in Council Appointees” in Chapter 5 – Policy 5.5 “Terms and Conditions of Excluded Employees/Appointees of the BCPSA Personnel Policy Manual (“the BCPSA Manual”) See: [http://www.bcpublicservice.ca/policies/policy\\_manual/Terms\\_Conditions/Part\\_I.htm#3](http://www.bcpublicservice.ca/policies/policy_manual/Terms_Conditions/Part_I.htm#3)
- 5.2 Full-time appointees are entitled to benefits as set out in Chapter 5 of the BCPSA Personnel Policy Manual and as determined by the classification of the appointee’s position in either Category A or C.
- 5.3 The ranges for remuneration of full-time appointees are:

<b>TRIBUNAL GROUP</b>	<b>CHAIR</b>	<b>VICE CHAIR</b>	<b>MEMBER</b>
<b>Group 1</b>	<b>\$118,000 – 135,000</b>	<b>\$90,000 – 108,500</b>	<b>\$74,500- 85,000</b>
<b>Group 2</b>	<b>\$145,000 – 180,000</b>	<b>\$116,000 – 144,000</b>	<b>\$90,000 -113,500</b>
<b>Group 3</b>	<b>\$160,000 – 200,000</b>	<b>\$130,000 – 160,000</b>	<b>\$100,000 – 124,000</b>

## **6. REMUNERATION FRAMEWORK FOR PART-TIME APPOINTEES**

- 6.1 Part-time appointees are classified as Category D under the definition of “Order in Council Appointees” in Chapter 5 – Policy 5.5 “Terms and Conditions of Excluded Employees/Appointees of the BCPSA Manual. See: [http://www.bcpublicservice.ca/policies/policy\\_manual/Terms\\_Conditions/Part\\_I.htm#3](http://www.bcpublicservice.ca/policies/policy_manual/Terms_Conditions/Part_I.htm#3)
- 6.2 Part-time appointees are to be treated as independent contractors and not as employees of the public service. Part-time appointees are entitled to those matters expressly specified under the BCPSA manual as applying to Category D appointees.

6.3 Subject to any exceptions set out in this directive, part-time appointees are entitled to be paid remuneration on a per diem basis, up to the maximum of the rates and in accordance with the directions set out below.

<b>TRIBUNAL GROUP</b>	<b>CHAIR</b>	<b>VICE CHAIR</b>	<b>MEMBER</b>
<b>Group 1</b>	<b>\$625</b>	<b>\$525</b>	<b>\$400</b>
<b>Group 2</b>	<b>Not applicable</b>	<b>\$625</b>	<b>\$525</b>

6.4 The per diem rate for medical practitioners appointed to a tribunal on the basis of a requirement for their clinical expertise is the equivalent of two of the applicable sessional rates as a General Practitioner or a Specialist, as negotiated in agreements between the BC Medical Association, the government of British Columbia and the Medical Services Commission.

6.5 Following consultation between the minister and the chair, the chair may be authorized to pay up to the maximum vice chair rate to members:

- a) who are expressly required by the tribunal's enabling legislation to hold a professional accreditation in order to be appointed to the tribunal
- b) with professional qualifications deemed by the chair to be specifically relevant and required to fulfil the tribunal's mandate
- c) when designated by the chair
  - I) to preside at a multi-person panel hearing
  - II) to conduct a hearing as a single-person panel, or
  - III) to conduct a dispute resolution process.

6.6 Remuneration for part-time appointees is to be calculated in the following manner:

- a) Appointees are only entitled to be paid the maximum of one per diem for each twenty-four hour day in respect of work carried out for a tribunal. An appointee may receive additional remuneration from another tribunal in respect of work carried out during the same day for that other tribunal;
- b) For the purposes of paragraphs (c), (d) and (f), a hearing of the administrative tribunal includes a final or interim hearing, a pre-

hearing conference or a dispute resolution process, and may include a hearing conducted by telephone or video conferencing;

- c) Appointees may be paid up to the maximum of one half of their per diem rate for attending a hearing of the administrative tribunal or an in-person meeting of the administrative tribunal that lasts four hours or less;
- d) Appointees may be paid up to the maximum of their per diem rate for attending a hearing of the administrative tribunal or an in-person meeting of the administrative tribunal that lasts longer than four hours in any one calendar day;
- e) Appointees may be paid a portion of or up to the maximum of their per diem rate for undertaking duties on behalf of the administrative tribunal other than a hearing or an in-person meetings, which duties may include conducting hearings by written submissions, preparing for hearings or dispute resolution processes, travel time to and from hearings and meetings where the location of the hearing or meeting is more than 32 kms from the appointee's residence, writing reasons for decision, preparing policy documents or proposals, providing or attending educational or other training for the benefit of the administrative tribunal ("additional duties") if the chair establishes guidelines to govern when and how appointees may be paid for additional duties and the chair or his or her designate requests the appointee to undertake the specific additional duties;
- f) Appointees may be paid a portion of or up to a maximum of their per diem rate if a hearing they were scheduled to attend is cancelled on short notice, if the chair establishes guidelines to govern when and how such payments may be made. In setting such guidelines, chairs are encouraged to consider assigning the appointee additional duties in lieu of the hearing time where possible;
- g) Any guidelines established under paragraph (e) or (f) must be publicly available;
- h) An appointee is not entitled to be paid for time spent attending social events, including meals and receptions, including when attending a conference or speaking engagement as part of their additional duties.

- 6.7 Part-time appointees are entitled to be reimbursed for transportation, accommodation, meal and out of pocket expenses incurred in the course of their duties as a member of a tribunal, in accordance with Group 2 rates, policies and procedures. Rates of reimbursement for travel related expenses are established by Public service directive 4.6.
- 6.8 Part-time appointees are not entitled to be reimbursed for any professional dues, membership fees, insurance or other costs.
- 6.9 Part-time appointees are to be indemnified by the Minister of Finance in accordance with the procedures for indemnification set out in the Guarantees and Indemnities Regulation 258/87 of the *Financial Administration Act*.
- 6.10 Remuneration paid to part-time appointees
- a) is not to be subject to deductions for the Canada Pension Plan or for Employment Insurance, and
  - b) is to be reported annually to the Canada Customs and Revenue Agency on a T4A Supplementary Slip.

## **7. EXCEPTIONAL CIRCUMSTANCES**

- 7.1 BC Review Board: The per diem rate for a part-time member designated by the chair of the BC Review Board as an alternate chairperson under section 672.1 of the Criminal Code is \$650. The Review Board chair may authorize the payment of up to the maximum payable to an alternate chairperson to members of that Board (other than medical practitioners)
- who are expressly required by the tribunal's enabling legislation to hold a professional accreditation in order to be appointed to the tribunal, or
  - with professional qualifications deemed by the chair to be specifically relevant and required to fulfil the tribunal's mandate.
- 7.2 Mental Health Review Board: Medical practitioners appointed to Mental Health Review Panels under section 24.1 of the *Mental Health Act* may be compensated as follows:
1. Total payment for all hearings and any approved travel time in any one calendar day will be not less than the negotiated BCMA

session rate for one BCMA specialist session of 3.5 hours and will not in any event be more than two BCMA sessions;

2. Subject to the minimum and maximum payments outlined above, the payment will be calculated on the basis of time spent in the hearing, where amounts of a full quarter of an hour will be recognized at the BCMA session rate. Remuneration for travel time shall be based on 50 per cent of total travel time in minutes prorated at the BCMA session rate.

- 7.3 Employment and Assistance Tribunal: Members appointed to this Tribunal are to be paid pursuant to a regulation made under the *Employment and Assistance Act*. Rates specified under that regulation are expected to be consistent with and not to exceed the rates set out in this directive.

## **8. EFFECTIVE DATE**

- 8.1.1 Changes in remuneration rates take effect as of the effective date a new rate is set by the minister in accordance with these Guidelines.
- 8.2 Appointees whose remuneration exceeds the amount authorized in the Remuneration Guidelines will continue to receive remuneration at their current rates until their appointments are renewed. Remuneration for new appointees or appointees who are renewed after the effective date of these Remuneration Guidelines will be set in accordance with these Guidelines.

## Schedule 1 - Tribunal Classifications

### Part 1: Classification Criteria

Criteria on which tribunals are to be classified for the purposes of this directive include:

- General complexity of the hearings, including
  - Multiplicity of parties to an appeal, including interveners
  - Length of hearings
  - Extent to which cases
    - are primarily fact based, and the complexity of the facts
    - involve expert evidence
    - involve complex issues of law with determinations being required on competing submissions on interpretation and application of legislation and case law
- The professional expertise required of members
- Need or requirement to give detailed reasons for decisions
- Significance of the decisions for the broader public
- Significance of the decisions for the parties and others involved
- Existence of a privative clause, indicating the court is to give deference to decisions
- Management responsibilities of the chair: Size of caseload, budget and staff
- Other non-adjudicative duties or responsibilities (investigations, etc.)

No one criterion will be determinative, but the general expectation will be that administrative tribunals with part-time chairs will be classified as Group 1.

## Part 2: Tribunal Classifications

CLASSIFICATION	ADMINISTRATIVE TRIBUNAL
<b>Tribunal Group 1</b>	Agricultural Land Commission Building Code Appeal Board Community Care and Assisted Living Appeal Board Employment and Assistance Appeal Tribunal Employment Standards Tribunal Environmental Appeal Board Forest Appeals Commission Farm Industry Review Board Financial Institutions Commission Financial Services Tribunal Forest Practices Board Health Care Practitioners Special Committee for Audit Hospital Appeal Board Industry Training Appeal Board Mediation and Arbitration Board Mental Health Review Board Parole Board Passenger Transportation Board Property Assessment Appeal Board Property Assessment Review Panels Review Board ( <i>Criminal Code</i> ) Safety Standards Appeal Board
<b>Tribunal Group 2</b>	Human Rights Tribunal Utilities Commission Workers' Compensation Appeal Tribunal
<b>Tribunal Group 3</b>	Labour Relations Board
<b>Other</b>	Ferry Commission Securities Commission