

Public Appointments Secretariat

Corporate Policy, Agency Governance and Open Government Division

The Agencies & Appointments Directive 10-Year Maximum Appointment to Adjudicative Tribunals and Regulatory Agencies

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The Agencies & Appointments Directive states “In the case of appointments to a given position on an adjudicative tribunal or regulatory agency and subject to the requirements of the provincial agency’s enabling legislation or other law, the term of appointment is a maximum of ten years, in total”.

Q1: Why is there a maximum limit of 10 years?

The 10-year limit is intended to ensure regular membership renewal on the government’s adjudicative tribunals and regulatory agencies. Regular membership renewal fosters a diversity of perspectives, continually refreshes the appointee roster and provides other qualified individuals with the opportunity to serve.

Prior to 2006, the maximum appointment for an adjudicator or regulator was three years, with reappointment subject to the appointing authority (Lieutenant Governor in Council or Minister) and no formal involvement of the Chair. Changes made since 2006 include standardizing the length of appointment and reappointment, if applicable (2 years, 3 years, 5 years for a maximum of ten years in total) and requiring that appointments and reappointments be made on the recommendation of the Executive Chair/Chair.

Q2: When does the 10-year period start?

The 10-year period starts when an individual is appointed to an adjudicative tribunal/regulatory agency and it restarts when he/she is appointed to a new adjudicative tribunal/regulatory agency, changes positions, or moves from part-time to full-time. The 10-year period does not restart when an appointee moves from full-time to part-time. The 10-year period allows an appointee to grow their skills, develop expertise and seek other opportunities within adjudicative tribunals/regulatory agencies. The following are some examples:

- An appointee on an adjudicative tribunal/regulatory agency is first appointed to a full-time member position in 2007. In 2015, he/she successfully competes and is appointed to a full-time vice-chair position. The 10-year period for the full-time vice-chair position begins in 2015. If reappointed, the individual could potentially serve until 2025.

- An individual applies and is successful in a part-time member competition in 2008. In 2017, he/she successfully competes and is appointed to a full-time member position at the same adjudicative tribunal/regulatory agency. The 10-year period for the full-time member position begins in 2017. If reappointed in the same position, the individual could potentially serve until 2027.
- An individual is appointed as a full-time member to adjudicative tribunal [X] in a cluster in 2009. In 2015, he/she is cross-appointed as a full-time member to another adjudicative tribunal [Y] in the cluster. The 10-year limit applies to each position, such that if the individual is reappointed, the maximum appointment for tribunal [X] would be until 2019 and the maximum appointment for tribunal [Y] would be until 2025.

Q3: Can a former member of an adjudicative tribunal who has ceased to be appointed for a period of time be recommended for appointment?

Adjudicative tribunals are prescribed in Regulation 126/10 under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). Pursuant to the ATAGAA, and subject to a limited list of exceptions, the tribunals are required to advertise and hold competitions for new appointees. Individuals, including former appointees of an adjudicative tribunal/regulatory agency, are welcome to apply to a competition. The ultimate decision to appoint rests with the appointing authority (Lieutenant Governor in Council or Minister).

Q4: How can the government continue to make use of qualified individual's skills once the appointee has reached the 10-year limit on an adjudicative tribunal/regulatory agency?

The 10-year limit does not prohibit an individual from applying for appointment to another adjudicative tribunal/regulatory agency. Many of the skills a person may gain as an appointee can be applied to another adjudicative tribunal/regulatory agency. Adjudicative tribunals are prescribed in Regulation 126/10 under the ATAGAA. Pursuant to the ATAGAA, and subject to a limited list of exceptions, the tribunals are required to advertise and hold competitions for new appointees. As a result, interested individuals are aware of which tribunals are looking for new adjudicators and may apply.

Q5: Is it possible for an appointee to serve for more than 10 years in a given position on an adjudicative tribunal/regulatory agency?

In some cases, it is possible for an appointee to serve for more than 10 years in a given position on an adjudicative tribunal/regulatory agency. The Agencies & Appointments Directive provides that reappointment to a further term may only be made in exceptional circumstances in the public interest. The ultimate decision to reappoint rests with the appointing authority (Lieutenant Governor in Council or Minister).