

COBA 2010

Good Grief! Good Governance!

*Adjudicative Tribunals Accountability,
Governance and Appointments Act, 2009*

An Overview

Purpose

- To provide a high level overview of the Act
- To focus on provisions and requirements for a *Member Accountability Framework* (Sec. 7)
- To outline next steps towards proclamation and regulations development in support.

Overview

- In 2009, Cabinet approved the development of an Act to give legislative form to key governance and accountability reforms and rules that were largely in the form of Directives and Guidelines
- The Ontario framework is similar to frameworks in other jurisdictions, including Alberta and B.C.
- The Act was also intended to enable structural changes necessary to “cluster” tribunals where the matters dealt with by them “are such that they can operate more effectively and efficiently as part of a cluster than alone”
- Fundamentally, the act was also intended to ensure that appointments to tribunals would be based on an open, competitive, merit based process and that no appointments could be made without the recommendation of the Chair.

Overview

- The Act received Royal Assent on December 15, 2009 and is being proclaimed into force, along with accompanying regulations, in two phases:

Phase 1 – Completed in April – included:

- Regulation prescribing the (37) tribunals covered by the Act, and designating the five Environment and Land tribunals to be a cluster.
- OIC proclaiming the clustering provisions of the Act into force

Phase 2 - Spring 2011 (target)

- The balance of the Act to be proclaimed into force including all Public Accountability, Member Accountability and Governance / Reporting document requirements.

Overview

- The accountability provisions and requirements of the Act are set out in 3 main sections:

Public Accountability Documents

Mandate and Mission Statement -
Consultation Policy
Service Standard Policy
Ethics Plan

Member Accountability Framework

Role and Position Descriptions
Member Core Competencies
Code of Conduct

Governance and Reporting Documents

MOU with host ministry covering financial, staffing, administrative matters, etc.

Business Plan to cover a set period of upcoming fiscal years.

Annual Reports for submission to the Minister and tabling in Legislature

Member Accountability Framework

7.(1) Every adjudicative tribunal shall develop a member accountability framework.

7.(2) The member accountability framework must contain,

- (a) a description of the functions of the members, the chairs and the vice-chairs, if any, of the tribunal;**
- (b) a description of the skills, knowledge, experience, other attributes and specific qualifications required of a person to be appointed as a member of the tribunal;**
- (c) a code of conduct for the members of the tribunal;**

Member Accountability Framework

- In 2007, PAS in collaboration with a diverse group of experienced agency appointees and agency staff developed a series of generic *Governance Tools*, drawing on best practices in Ontario and other jurisdictions, to fit the overall needs and culture of the agency community.
- These tools were widely circulated to through the agency community and are available for download along with user Guides & Templates, on the PAS website under “Quick Links”. The Tools include:
 1. Generic ***Position Descriptions*** for chairs, vice-chairs and members, setting out the purpose of the position, key duties and qualifications;
 2. Generic ***Core Competencies***, setting out the key skills, abilities and behaviours needed for effective performance in these positions;
 3. A generic ***Code of Conduct***, setting out the standards of ethical and professional conduct expected of an appointee.
- It is anticipated that these tools will be used as the compliance guidelines for sec. 7. Many tribunals already use these tools and have a framework in place.

Next Steps

- Draft regulations are currently being developed to support proclamation and rollout of Phase 2. Corresponding Directives and Guideline enhancements are also being reviewed and considered to further assist Tribunals in compliance.
- Tribunals will be consulted on the drafts for input/comment.
- It is anticipated that the balance of the Act will be proclaimed into force in Spring 2011.