

WORKERS' COMPENSATION APPEAL TRIBUNAL MANUAL OF RULES OF PRACTICE AND PROCEDURE SUMMARY OF MAJOR CHANGES

The primary structural changes we have made to the MRPP are:

1. Establishing binding rules under section 11 of the ATA. WCAT may waive or modify its rules only in exceptional circumstances. These are **bolded** throughout the document and consolidated in Appendix 1.
2. Establishing non-binding practice directives under section 13 of the ATA. These are *italicized* throughout the document and consolidated in Appendix 2.
3. The glossary is now at the beginning and several appendices have been added of referenced regulations, oaths and orders.

There are several important substantive changes to which we wish to draw your attention:

1. WCAT will no longer have jurisdiction over constitutional questions, including the *Canadian Charter of Rights and Freedoms* (s. 44 ATA, item 2.44 MRPP).
2. WCAT will have the power to make orders related to its rules under section 11 or for any matter it considers necessary to control its own proceedings (s. 14 ATA, item 1.10 MRPP).
3. WCAT will have the power to dismiss an appeal or application if (s. 31 ATA, item 5.11 MRPP):
 - it is not within its jurisdiction;
 - it was filed out of time;
 - it is frivolous, vexatious or trivial or gives rise to an abuse of process;
 - it was made in bad faith or for an improper purpose;
 - the appellant failed to diligently pursue it or failed to comply with a WCAT order;
 - there is no reasonable prospect of success; or
 - the substance of the appeal has been appropriately dealt with in another proceeding.
4. A practice directive has been developed regarding referrals to the chair under section 251 of the *Workers Compensation Act* (WCA) for lawfulness of policy questions (item 12.40).

5. Where a permanent disability award has been made under the current section 23(1) of the *Workers Compensation Act* (as amended by Bill 49 – the *Workers Compensation Amendment Act, 2002*), WCAT will not take jurisdiction over the wage rate (item 2.23(f)).
6. WCAT has the power to amend a decision to correct clerical or typographical errors, accidental omissions, or arithmetical errors on its own initiative or on the application of a party. Unless WCAT determines otherwise, this amendment must not be made more than 90 days after the parties have been served with the decision. WCAT also has the power to clarify its decision on application of a party within 90 days. WCAT has no authority to extend this time (s. 253.1 WCA, item 15.20-15.23 MRPP).
7. There is a 60-day time limit for commencing a judicial review application of a final decision of WCAT. The court may extend this time if it is satisfied that there are serious grounds for relief, a reasonable explanation for the delay, and no substantial prejudice or hardship to a person affected by the delay (s. 57 ATA, item 15.31-15.32).
8. WCAT still has the authority to reconsider its own decisions on common law grounds without any time limit for bringing the application. WCAT has adopted the same standards of review as applicable to the court (s. 58 ATA, item 15.24).
9. A successful party to an appeal, or a person designated in the decision, may file a certified copy of it with the Supreme Court of British Columbia and, as a result, it will have the same force and effect as if it were a judgment of the Supreme Court (s. 255(4) and (5) WCA, item 14.50).