

Manual of Rules of Practice and Procedure (MRPP)

Highlights of Changes – November 3, 2009

The Workers' Compensation Appeal Tribunal (WCAT) has undertaken an extensive revision of our *Manual of Rules of Practice and Procedure (MRPP)*. The purpose of this revision is twofold: to reorganize the MRPP into a more “user friendly” document and to make necessary changes reflecting our experience to date. This is the first revision since December 2004 (apart from amendments to items 15.23 and 15.24 concerning reconsiderations).

This revision has resulted in many additions, deletions and modifications as well as a wholesale renumbering of all chapters and items. For your convenience, a summary of those changes is set out below. **Although we have enumerated specific changes we have made in the MRPP, this revision affects every chapter and every item in some measure.**

There are several **principles** that we have applied to this revision:

- Organize the MRPP in a way that generally follows the progress of an appeal through WCAT
- Incorporate all the things we have learned in over six years
- Say one thing only once and cross-reference as necessary
- Minimize examples
- Use active language as much as possible

Additions:*

Items	Subject
1.5 to 1. 5.3.7	An introduction to administrative law
2.4 to 2.6	Descriptions of Tribunal Counsel Office, the Registry, and WCAT Officers
2.7.4	What happens when a single member is unable to complete their duties
5.1.4	Rule concerning description of decision or order appealed

* Rules and Practice Directives listed here as **new** are considered to be additions to the MRPP because they are matters whose status has changed from the previous MRPP. Generally, they are not new content, although they may have been changed or refined. We have identified them as “additions” to draw your attention to them.

RE: *Manual of Rules of Practice and Procedures*
Highlights of Changes

5.1.5	Rule concerning description of outcome requested
5.2.2	Rule concerning authorizations for WCAT to obtain evidence
9.1	A description of the inquiry system at WCAT
11.2 to 11.5.3	An introduction to the law of evidence
11.7	Practice directive concerning requesting orders including time frame (14 days before oral hearing or before written submission due)
11.9	Parties are expected to get documents in foreign languages translated (and claim the expense)
12.5.2	Rule concerning status of written notice of IHP examination
13.2 and 14.7	Practice directive concerning new evidence obtained by the panel
14.2.3	Rule concerning status of written notice of oral hearing
14.2.3.1 to 14.2.3.5	Practice directive concerning failure to appear at an oral hearing
14.5	Rule concerning recording an oral hearing
14.6	Practice directive concerning post-hearing submissions
16.1.1 to 16.1.2.3	Practice directive concerning oral hearing expenses
16.1.3	Expense of obtaining or producing evidence does not include duplication or transmission expenses
16.1.3.1.1	Guidance for expense for an expert's attendance at oral hearing
16.2.1	Guidance for the amount of a WCAT legal costs award
5.1.1, 13.1.3, 14.6	When a document is faxed to WCAT, it is not necessary also to mail the original. If WCAT receives the original of a faxed document, WCAT will only keep the original.
18.4.2	Practice directive concerning related appeals or legal actions
18.5	Rule concerning providing written submissions to all parties in section 257 applications

RE: *Manual of Rules of Practice and Procedures*
Highlights of Changes

18.5.1	Rule and guidance concerning transcripts for examinations for discovery in section 257 applications
20.3 to 20.3.2	Practice directive concerning reconsideration applications
21.1 to 21.1.2	Code of conduct for parties
Appendix 8	Release/authorization forms for combined appeals

Changes/Refinements:

Item	Subject
Glossary	Some terms have been added (at least, decision, issue), some deleted (WCAT staff, Bill numbers), and plain language principles have been applied (e.g. “in loco parentis” is now “a person who stood in place of a parent”).
Terms	Following the lead of the courts, we use the phrase “breach of procedural fairness” instead of “breach of natural justice”. We use the phrase “written submissions” instead of “read and review”. We use the phrase “fee schedule” instead of “tariff”.
4.7 to 4.7.3.1	Employer standing clarified and expanded
5.1.1	Rule concerning notice of appeal must be in writing revised
5.1.2	Rule concerning telephone notification of intent to appeal revised
5.1.3	Rule concerning incomplete notice of appeal revised
5.2.1	Rule concerning representative authorizations – formerly a practice directive
7.5	Appeal method clarified
8.2 to 8.2.4	Practice directive concerning applications for extensions of time to appeal revised

RE: *Manual of Rules of Practice and Procedures*
Highlights of Changes

8.3	Rule concerning stay of decision – formerly part of practice directive, test modified
8.5	Withdrawals clarified, especially with respect to appeal expenses, and status of withdrawal decision
9.4.3	What “legal precedent is not binding” in section 250(1) means
10.1	Practice directive concerning section 251 referrals to the chair for lawfulness of policy revised
11.6	Expert evidence rule clarified to require written report in advance of attendance at an oral hearing
14.1.2	Rule concerning postponements of oral hearings revised
16.1.3.1	Expense of expert evidence clarified where more than the WorkSafeBC/BCMA tariff
17.3 to 17.3.3	Bias and conflict of interest separated conceptually
17.2.1	Hallmarks of quality decision making changed to remove consistency with WCAT decisions published in the WCR because the WCR is no longer being published
17.4.2	Clarify expectation concerning vice chairs signing their decisions
19.2.3	Following the lead of the courts, vice chairs will refer only to the worker or the employer in decision, not the representative
19.2.11	Clarify exception to chair’s responsibility for providing public access to decisions
19.3	Description of noteworthy decisions
21.2 to 21.2.2	Code of conduct for representatives, especially regarding its application to written submissions as well as oral hearings
Appendix 10	Oaths and affirmations simplified

RE: *Manual of Rules of Practice and Procedures*
Highlights of Changes

Moved:

Item	Subject
Appendix 1	A short history of the workers' compensation system
Appendix 6	Summary of the Review Division's jurisdiction
Appendix 11	WorkSafeBC's Fee Schedules
Appendix 12	Code of conduct for WCAT members
3.3	Scope of appeal

Deleted:

Former Item	Subject
4.40	Complex stream and practice directive on streaming
7.50	Practice directive on fast track appeals
26.00 to 26.50	Transitional appeals
26.60 to 26.69	Backlog strategy
14.20	Decision format