

Bill 21 (*Provincial Administrative Penalties Act, 2020*) annotations to ss 1 to 37

Interpretation

1(1) In this Act,

- (a) “adjudicator” means an employee of the Crown designated as an adjudicator under section 10;
- (b) “administrative penalty” includes a fine and any other administrative consequence, including, without limitation, a sanction, restriction, prohibition, requirement, condition, suspension, disqualification or cancellation imposed on a person for contravention of ~~a prescribed enactment an ordinance~~, but does not include imprisonment;
- (c) “contravention” includes, without limitation,
 - (i) a failure to comply with a restriction, prohibition, requirement, rule, direction, order, term or condition imposed by or under ~~a prescribed enactment an ordinance~~,
 - (ii) conduct that is subject to sanction under ~~a prescribed enactment an ordinance~~, and
 - (iii) any other action prescribed as a contravention under this Act or ~~a prescribed enactment an ordinance~~;
- (d) “Crown” means the Crown in right of Alberta;
- (e) “Director” means the head of the adjudication branch designated under section 10;
- (f) ~~“electronic document” means information or data that is created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage, and includes any display, printout or other output of the information or data has the same meaning as in the *Provincial Offences Procedures Act*;~~
- (g) ~~“enactment” means any Act, regulation, order or bylaw enacted in relation to any matter over which the Legislature has legislative authority has the same meaning as in the *Provincial Offences Procedures Act*;~~
- (h) “fine” means an administrative monetary penalty imposed in respect of a contravention;
- (i) “medical information” means information provided or created by a person who is licensed or authorized by law to practise medicine in the place where the person practises;
- (j) “Minister” means, except in section 10(1), the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “notice of administrative penalty” means a notice of administrative penalty issued under section 5;
- (l) “officer” means a peace officer and any person authorized under ~~a prescribed enactment an ordinance~~ to enforce the enactment;
- (m) ~~“peace officer” means has the same meaning as in the *Provincial Offences Procedures Act*~~
 - ~~(i) — a police officer under the *Police Act*, while the police officer is in the exercise or discharge of the police officer’s powers or duties,~~
 - ~~(ii) — a member of a police service under the *Police Act*, while the member is in the exercise or discharge of the member’s powers or duties,~~
 - ~~(iii) — a peace officer appointed under the *Peace Officer Act*, while the peace officer is in the exercise or discharge of the peace officer’s powers or duties,~~
 - ~~(iv) — a person who is employed or retained by the Government, a municipality or a Metis settlement and whose duties include written authorization to issue notices of administrative penalty, while the person is in the exercise or discharge of that duty and while the person is issuing a notice of administrative penalty,~~

Commented [JB1]: This definition should be in the *Interpretation Act*. Alternatively, it is better to simply reference the first use of this definition rather than cutting and pasting it into new statutes. If the definition changes in the *Provincial Offences Procedure Act* (“POPA”), it is likely that the same definition change will be wanted in this Act.

Commented [JB2]: There is a risk that this definition may be construed to excluded legislation made by municipal bodies. For consistency, it is better to incorporate be reference the definition in POPA.

Commented [JB3]: This definition should be in the *Interpretation Act*. Alternatively, it is better to simply reference the first use of this definition rather than cutting and pasting it into new statutes. If the definition changes in POPA, it is likely that the same definition change will be wanted in this Act.

- (v) a park warden designated under the *Parks Canada Agency Act* (Canada) and a park warden or enforcement officer designated under the *Canada National Parks Act* (Canada), while they are in the exercise or discharge of their powers or duties in a national park established under the *Canada National Parks Act* (Canada);
- (vi) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 156 of the *National Defence Act* (Canada), while the person is in the exercise or discharge of the person's powers or duties in a defence establishment as defined in that Act, and
- (vii) any other person employed by a municipality, a Metis settlement, the Government of Alberta or the Government of Canada for the preservation and maintenance of the public peace, while the person is in the exercise or discharge of the person's powers and duties;

- (n) "prescribed" means prescribed by regulation;
- (o) "prescribed enactment or ordinance" means an enactment prescribed under this Act as an enactment to which this Act applies;
- (p) "recipient" means a person to whom a notice of administrative penalty is issued;
- (q) "request for review" means a request for review filed by a recipient under section 7;
- (r) "review" means a review conducted under Part 2;
- (s) "surcharge" means a surcharge under the *Victims of Crime Act*.

(2) In this Act, a reference to the issuance of a notice of administrative penalty to a person includes the service of that notice on that person.

(3) In this Act, a reference to

- (a) "this Act" includes any ordinances and regulations made under Part V of this Act and any regulations made under any ordinance;
- (b) "this statute" does not include the regulations made under this Act;
- (c) "the regulations" includes any regulations made under an ordinance.

Commented [JB4]: As both "prescribed" and "enactment" are, separately, defined terms, this term can be confusing. The historically consistent term for such legislation is "ordinances".

Purpose of Act

2 The purpose of this Act is to

- (a) adopt a simplified form and process for administratively enforcing contraventions,
- (b) establish a consistent framework for the resolution of contraventions enforced by issuance of ~~an administrative penalty~~ administrative penalties,
- (c) ensure that the process used to administratively enforce contraventions and the procedural safeguards applicable in administrative enforcement proceedings are proportionate to the regulatory nature of the contravention,
- (d) resolve disputes in relation to administrative penalties in an expedient manner consistent with the procedural protections mandated by this Act,
- (e) affirm that the consequences for a contravention enforced by issuance of an administrative penalty may not include imprisonment, and
- (f) enhance access to justice by establishing an administrative enforcement process that can be readily understood and provides for a simple method of disputing a notice of administrative penalty.

Commented [JB5]: Sometimes reference is made to "the regulations" and other times to "the regulations or the regulations under a prescribed enactment". It seems likely that the references to "regulations" are also meant to include regulations made under a prescribed enactment. Unless this is not the case, it is simply to simply define a reference to "the regulations" to include those made under ordinance (ideally, this definition should be included in the *Interpretation Act*).

Application of Act

3(1) Subject to subsection (3), the regulations and any express provision in this or any other Act, this Act and the procedures under this Act apply to any case in which a person commits or is suspected of having committed a contravention for which that person may be liable to an administrative penalty.

(2) Subject to any express provision in another enactment, every person who commits a contravention is liable to an administrative penalty.

Commented [JB6]: This is ambiguous as to whether ordinances, regulations, etc are included. See my suggested revision above at s 1(3).

(3) This Act does not apply ~~in respect of to~~ a contravention ~~in respect of which that~~ an information has been laid or a violation ticket has been issued under the *Provincial Offences Procedure Act*.

(4) No person is liable to imprisonment as a consequence of a notice of administrative penalty.

Provision of technical materials

4 ~~The Director may, in accordance with the regulations or the regulations under a prescribed enactment,~~ establish and maintain publicly accessible scientific, technical or medical information and documents in any format, which may be relied on as evidence in a review.

Commented [JB7]: It is recommended that this be moved to a general rules of evidence section.

Part 1 Contraventions

Issuance of notice of administrative penalty

5 An officer who has reasonable grounds to believe that a person has committed a contravention may issue a notice of administrative penalty to that person.

Form of notice of administrative penalty

6 A notice of administrative penalty must be in a form and contain the content ~~satisfactory to the Minister.~~

Commented [JB8]: There is a substantial risk that this provision may be found by a court to be too vague to be enforceable.

Request for review

7(1) If a recipient wishes to dispute a notice of administrative penalty, the recipient shall, within 7 days after the notice of administrative penalty is issued, file with the Director a request for review in a form and containing the content satisfactory to the Minister and pay the prescribed fee.

(2) The filing of a request for review of a notice of administrative penalty does not stay the administrative penalty.

(3) ~~A prescribed enactment~~ An ordinance may provide for relief for persons other than recipients who are affected by the imposition of an administrative penalty under this ~~Act statute~~ or ~~a prescribed enactment~~ an ordinance.

Failure to respond to notice of administrative penalty or pay fine

8 Subject to any extension granted under section 27, ~~the fine and any applicable surcharge and late payment charge, as specified in the regulations, are immediately payable to the Crown~~ if a recipient has not

- (a) filed a request for review in accordance with section 7, or
- (b) paid any applicable fine and any applicable surcharge to the Crown within the period specified by the regulations ~~under this Act or under a prescribed enactment,~~

~~the fine and any applicable surcharge and late payment charge, as specified in the regulations, are immediately payable to the Crown.~~

Part 2 Review

Division 1 Designation and Assignment of Adjudicators

Designation of adjudication branch

9 The Lieutenant Governor in Council may designate a part of the public service as an adjudication branch to conduct reviews under this Act.

Designation of Director and adjudicators

10(1) The Minister responsible for an enactment pursuant to section 16 of the *Government Organization Act* may designate any person as the Director of the adjudication branch for reviews under this Part of notices of administrative penalty issued with respect to contraventions of that enactment.

(2) The Director may designate employees of the Crown as adjudicators for the purposes of the reviews referred to in subsection (1).

(3) The Director may in writing delegate to any employee of the Crown any power, duty or function conferred or imposed on the Director by this Act.

Assignment of adjudicator

- 11(1)** The Director shall, after receiving a request for review and the prescribed fee, assign an adjudicator to conduct the review.
- (2) A review shall be conducted by a single adjudicator.

Division 2 Records, Representations, Arguments and Evidence

Duty to provide records to recipient

- 12(1)** The Director shall, after receiving a request for review and the prescribed fee, provide to the recipient, in accordance with the regulations, relevant records as prescribed in the regulations ~~or the regulations under a prescribed enactment~~.
- (2) Unless required by the regulations ~~or the regulations under a prescribed enactment~~, the Director is not required to provide a recipient with any records ~~or~~ representations ~~or arguments~~ in respect of an alleged contravention beyond the records referred to in subsection (1).
- (3) Where the Director is unable to provide relevant records in accordance with subsection (1), the Director ~~may~~ **must** cancel the notice of administrative penalty.

Commented [JB9]: Since the Director does not appear to have any discretion, the permissive “may” is incorrect.

Records, ~~r~~Representations and ~~arguments~~ evidence provided by recipient

- 13(1)** Subject to subsection (2) and the regulations ~~or the regulations under a prescribed enactment~~, a recipient may provide to the Director ~~records, representations, arguments or evidence with representations and evidence, including records,~~ in support of a request for review.
- (2) Any written representations, ~~written arguments~~ or records provided as evidence must be provided to the Director at least 2 days before the date of the review.
- (3) If the recipient does not provide the records, representations, arguments or evidence referred to in subsection (2) within the period specified in subsection (2), the adjudicator shall not consider those ~~records, representations, arguments or evidence~~ representations and evidence in the review.

Commented [JB10]: Sometimes “or evidence” is not included, implying that a “record” may not be evidence. It is better to replace all of these with “representations and evidence”

Division 3 Review

~~Document deemed made under oath~~ Rules of evidence and procedure

- 14(1)** ~~A report, notes or other document, including reports and notes,~~ confirmed by an officer in accordance with the regulations is deemed to have been made under oath.
- (2) ~~No oral review shall be conducted in person.~~
- (3) ~~No person may~~ shall be cross-examined in a review of a notice of administrative penalty.
- (4) ~~The Director may make rules of evidence in respect of use by an adjudicator of information and documents authorized to be maintained by the Director under section 4.~~
- (5) ~~The Director may make rules of evidence and for submissions under section 13, including,~~
- (a) ~~maximum numbers of pages or documents submitted,~~
 - (b) ~~maximum duration for video and audio submissions, and~~
 - (c) ~~types and formats of content.~~
- (6) ~~The Regulations Act does not apply to rules made under this section.~~

Commented [JB11]: Including rules of evidence spread out in various sections makes this legislation less clear and accessible. The legislation would be improved by consolidating these rules into a single section.

Commented [JB12]: This provision is ambiguous as to whether it applies to court proceedings.

Date of review

- 15** Subject to section 23, where a review has been requested and the prescribed fee has been paid, the Director shall schedule a review, which must be held within 21 days from issuance of the notice of administrative penalty.

Means of review

16(1) A review may be conducted orally or in writing ~~as prescribed, but shall not be conducted in person.~~

(2) Oral reviews ~~may shall~~ be held by ~~any prescribed means, electronic means,~~ including any method of telecommunication ~~or any other electronic means, in accordance with the regulations.~~

~~(3) No person may be cross-examined in a review of a notice of administrative penalty.~~

Rules for review

~~47—The Director may set rules, prohibitions and limits for evidence and submissions under section 13, including, without limitation;~~

- ~~(a) maximum numbers of pages or documents submitted,~~
- ~~(b) maximum duration for video and audio submissions, and~~
- ~~(c) types and formats of content.~~

Content of review

18(1) The burden of proof in a review is on the person requesting the review.

(2) An adjudicator may, in conducting a review, consider the following ~~records,~~ representations, ~~arguments~~ and evidence before making a decision:

- (a) a copy of the notice of administrative penalty;
- (b) any ~~records,~~ representations, ~~arguments~~ and evidence submitted by the recipient;
- (c) the report of the officer who issued the notice of administrative penalty;
- (d) any other relevant records and representations of the officer who issued the notice of administrative penalty or any other officer, including peace officers' reports that have not been sworn or solemnly affirmed;
- (e) any relevant scientific, technical or medical information and documents referred to in section 4;
- (f) any other prescribed evidence or information.

~~(3) The adjudicator may determine the weight to be given to any documents, records, representations or evidence shall be determined by the adjudicator.~~

(4) In conducting a review, the adjudicator is not bound by the rules respecting evidence applicable to judicial proceedings.

Failure to participate in or abandonment of review

19(1) Subject to subsection (2), ~~a request for review is deemed to be abandoned, the notice is confirmed and any fine and any applicable surcharge and late payment charge are payable to the Crown in accordance with the regulations,~~ if a recipient, after filing a request for review, fails

- (a) where the recipient requests an oral review, to attend at the review, or
- (b) where the recipient requests a written review, to provide any material in support of the recipient's request,

~~the request for review is deemed to be abandoned, the notice is confirmed and any fine and any applicable surcharge and late payment charge are payable to the Crown in accordance with the regulations.~~

(2) Where a recipient requests an oral review and fails to attend at the review, but provides material in support of the request, the review must be conducted as a written review.

(3) At any time after a recipient has filed a request for review under section 7 and before the time at which a review is scheduled, the recipient may abandon the request, ~~and the notice of administrative penalty is confirmed, by the recipient~~

- (a) notifying the Director, or

Commented [JB13]: The permissive “may” is used here implying that there is a pre-existing standard of the weight to be given to representations and evidence from which the adjudicator may depart from. That standard needs to be defined or the permissive “may” should not be used if the Director is required to determine the weight to be given.

- (b) paying the fine and any applicable surcharge and late payment charge to the Crown;

~~and the notice of administrative penalty is confirmed.~~

Request for late review

20(1) Notwithstanding sections 8 and 19, if a recipient wishes to request a late review of an administrative penalty under this section, the recipient may, within 12 months of the date the notice of administrative penalty is issued, file with the Director a request for review in a form and containing the content satisfactory to the Minister and pay the prescribed fee.

(2) The Director may accept a request for late review if the Director is satisfied that the recipient has prescribed exceptional circumstances for

- (a) failing to file a request within the period specified in section 7, or
- (b) failing to participate in a review as referred to in section 19.

(3) The Director ~~shall~~**must** notify the recipient in writing of the decision under subsection (2) in accordance with the regulations ~~or the regulations under a prescribed enactment.~~

(4) ~~For the purpose of conducting a review, The~~ the date the Director notifies the recipient of the decision to accept the request under subsection (2) is deemed to be the date of the issuance of the notice of administrative penalty under section 5.

Division 4 Decision of Adjudicator

Decision of adjudicator

21(1) ~~Subject to subsection (4), After~~ after conducting a review, the adjudicator ~~shall~~**must either confirm or cancel the notice of administrative penalty, ~~subject to subsection (2);~~**

~~(a)(2) The adjudicator must confirm the notice of administrative penalty if the adjudicator is not satisfied that the prescribed grounds for cancelling the notice of administrative penalty have been met,~~ ~~confirm the notice of administrative penalty,~~ ~~or,~~

~~(b)(3) The adjudicator must cancel the notice of administrative penalty if the adjudicator is satisfied that the prescribed grounds for cancelling the notice of administrative penalty have been met,~~ ~~cancel the notice of administrative penalty.~~

~~(2)(4) Where the adjudicator is satisfied that a contravention was committed, the adjudicator may, subject to the regulations, substitute the administrative penalty applicable to that contravention under an ordinance and confirm the notice of administrative penalty in the following circumstances but~~

- (a) the administrative penalty imposed for that contravention is applicable to a 2nd or subsequent contravention and the recipient has not previously committed ~~that contravention, or~~
- (b) the administrative penalty imposed for that contravention is applicable to a 3rd or subsequent contravention and the recipient has only committed a single contravention;

~~the adjudicator may, subject to the regulations or the regulations under a prescribed enactment, substitute the administrative penalty applicable to that contravention under a prescribed enactment and confirm the notice of administrative penalty.~~

(3)(5) If the adjudicator confirms the notice of administrative penalty, any fine and any applicable surcharge are payable to the Crown within the period specified by the regulations.

(4)(6) If the adjudicator cancels the notice of administrative penalty, the following are to be repaid to the recipient:

- (a) any fine imposed on and paid by the recipient and any applicable surcharge on that fine;
- (b) ~~subject to subsection (5), any expenses or costs incurred by the recipient related to completing or satisfying any non-monetary portion of the administrative penalty imposed pursuant to the notice of administrative penalty. (5) The expenses or costs referred to in subsection (4)(b) must be specified under the enactment in respect of the contravention of which the notice of administrative penalty was issued.~~

Commented [JB14]: This is very ambiguous. Is this "that contravention" referring to the "a contravention" (which is also referred to as "that contravention") or is it referring to "2nd or subsequent contravention"?

Copy of adjudicator's decision

~~22(1) As soon as practicable after making a decision under section 21, and, subject to section 23, within 30 days of issuance of the notice of administrative penalty, the adjudicator shall provide a copy of the adjudicator's decision to the recipient in the prescribed manner. Subject to section 23, the adjudicator must provide a copy of a decision made under section 21 to the recipient, in the prescribed manner, as soon as practicable and, in no case, more than 30 days after the date of issuance of the notice of administrative penalty.~~

(2) Subject to section 24, a decision of the adjudicator is final.

Delay in exceptional circumstances

~~23(1) In prescribed exceptional circumstances, the~~ The Director may, in prescribed circumstances, extend the periods referred to in sections 15, 20(1), 22 and 27.

(2) Where the Director extends the period referred to in sections 15, 20(1), 22 and 27, the Director may provide relief as set out in the regulations ~~or the regulations under a prescribed enactment.~~

Commented [JB15]: If the circumstances are prescribed they are, by definition, not "exceptional".

Part 3 Judicial Review

Judicial review

~~24(1) Subject to subsection (2), no decision or order of the Director or adjudicator is to be questioned or reviewed in any court by application for judicial review or otherwise, and no order is to be made, process entered or proceedings taken in any court, whether by way of certiorari, injunction, declaratory judgment, prohibition, mandamus, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any decision or order of the Director or adjudicator or any of the Director's or adjudicator's proceedings.~~

(2) A decision or order of the Director or adjudicator may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the Director or adjudicator no later than 30 days after the date on which the decision or order was received by the applicant.

(3) On an application for judicial review under subsection (2), the standard of review is reasonableness.

Part 4 General Matters

Search warrants

~~25 Except to the extent that they are inconsistent with this Act, and subject to the regulations, all provisions of Part XV of the *Criminal Code* (Canada) respecting search warrants and production orders apply in respect of every matter to which this Act applies.~~

Limitation period

~~26(1) Subject to any express provision in another enactment, no notice of administrative penalty may be issued more than 12 months after the time when the alleged contravention occurred.~~

(2) In the case of a contravention that is of a continuing nature, a contravention constitutes a separate contravention in respect of each day or part of a day on which it continues, and no notice of administrative penalty may be issued more than 12 months after the last occurrence of the alleged contravention.

Additional time to pay fine

~~27 Subject to the regulations or the regulations under a prescribed enactment, the Director may, on application by a recipient within 30 days after a notice of administrative penalty is issued, grant the recipient an additional period of time to pay any fine imposed and any applicable surcharge.~~

Incomplete notice of administrative penalty

~~28 Failure to complete any information required in a notice of administrative penalty does not affect the validity of a notice of administrative penalty or any part of it if~~

(a) the recipient is identified with reasonable clarity,

- (b) the provision of the enactment the recipient is stated to have contravened is specified,
- (c) the date on which the contravention is stated to have occurred is specified, and
- (d) the place at or near which the contravention is stated to have occurred is specified.

Application of money received

29(1) Subject to section 8(5) of the *Victims of Crime Act* and any express provision in another enactment, the proceeds of a fine and any applicable surcharge under this Act belong to the Crown.

(2) Notwithstanding any other enactment, the proceeds of a late payment charge under this Act belong to the Crown.

(3) Where, under an enactment, the Crown collects money that does not belong to the Crown in respect of a penalty, fine or sum of money payable under the enactment or the proceeds of a forfeiture, the Crown may retain a portion of that money and that retained portion belongs to the Crown and shall be deposited in the General Revenue Fund.

~~(a) the Crown collects an amount of money in respect of a penalty, fine or sum of money payable under the enactment or the proceeds of a forfeiture, and~~

~~(b) the amount collected by the Crown does not belong to the Crown,~~

~~(4) the Crown may, notwithstanding~~ Despite any Act and subject to the regulations, retain a portion of that amount the portion of money retained by the Crown under subsection 3 shall be used either

~~(a) to offset the expenses incurred by the Crown with respect to the collecting of penalties, fines, sums of money or forfeitures arising under any enactment or~~

~~(b) to fund programs that support or improve the administration of justice or government initiatives, and that portion that is retained by the Crown belongs to the Crown and shall be deposited in the General Revenue Fund.~~

Commented [JB16]: This may violate the *Eurig* principle.

Civil recovery

30(1) In this section,

(a) “confirmation of contravention” means a form established by the Minister that confirms the commission of a contravention;

~~(b) “local authority” means the council of a city, town, village, summer village, municipal district, Metis settlement, or band;~~

(c) “municipality” means

~~(i) a city, town, or village; or~~

~~(ii) a summer village, municipal district or Metis settlement or reserve elsewhere than on a provincial highway under the *Highways Development and Protection Act*;~~

~~(b)(d)~~ “reserve” and “band” have the same meanings assigned to them as in the *Indian Act* (Canada).

(2) When a fine is imposed on a recipient and the fine is not paid within the longer of the period referred to in section 8(b) or the period allowed by the Director under section 28, the Minister or a person authorized by the Minister may, by filing the confirmation of contravention, enter as a judgment in the Court of Queen’s Bench the amount of the fine and any applicable surcharge and late payment charge, and the judgment is enforceable against the recipient in the same manner as if it were a judgment rendered against the recipient in that Court in a civil proceeding.

(3) If a confirmation of contravention has not been entered as a judgment under subsection (2) and an enactment provides that any fine or penalty imposed

~~(a) — in respect of a contravention occurring in a city, town or village, municipality enures to the benefit of the municipality’s local authority, city, town or village, or~~

~~(b) in respect of a contravention occurring in a summer village, municipal district, Metis settlement or reserve, elsewhere than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the summer village, municipal district, Metis settlement or band,~~

~~and the confirmation of contravention has not been entered as a judgment under subsection (2), an agent of the city, town, village, summer village, municipal district, Metis settlement, local authority or band, as the case may be, may enter the amount of a fine payable by the recipient for that contravention as a judgment under subsection (2).~~

Admissibility of confirmation of contravention

31 A document that appears to be a confirmation of contravention as defined in section 30(1) shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the document in any proceeding in respect of the alleged contravention set out in the document without proof of the signature or official character of the person who signed the document, if any.

Signatures

32(1) Where a document used under this Act is to be signed, that document, whether in electronic or non-electronic form, may, instead of being signed, be ~~marked, subscribed, endorsed, acknowledged or given any other form of~~ signification or be otherwise dealt with if so provided for under the regulations.

Electronic signatures

33(2) A requirement under this Act that a document be signed is satisfied by an electronic signature only if

- (a) the electronic signature identifies the person purporting to sign the document,
- (b) the electronic signature relates to the document, and
- (c) the electronic signature meets the requirements set out in the regulations.

Certified copies of documents

34(3) On the request by a person and payment of the prescribed fee, the Director may provide to that person a certified copy of any decision issued by an adjudicator that is requested by the person.

Part 5 Regulations

General regulations~~Ordinances~~

35(1)~~34(1)~~ The Lieutenant Governor in Council may make ~~regulations prescribing enactments or ordinances~~ to which this Act and the procedures under this Act apply.

~~(2) Any ordinance made by the Lieutenant Governor in Council has the same force and effect as if it had been enacted herein.~~

General regulations

~~(2)~~**35** The Minister may make regulations

- (a) respecting information to be included on a notice of administrative penalty;
- (b) prescribing the amounts of fines imposed in respect of contraventions;
- (c) respecting the imposition and amounts of applicable surcharges and late payment charges in respect of contraventions;
- (d) respecting terms for the payment of fines, applicable surcharges and late payment charges to the Crown, including, without limitation, the period within which those payments must be made;
- (e) permitting agents of the Crown to receive payments of fees, fines and any applicable surcharges and late payment charges, including, without limitation, regulations
 - (i) governing the qualifications of and requirements to be met by persons who wish to act as agents of the Crown;
 - (ii) governing the carrying out of duties and functions by those agents;
 - (iii) governing the holding and handling of money by those agents;

- (iv) permitting an agent to carry out other functions on behalf of the Crown with respect to notices of administrative penalties;
- (v) where an agent collects from a member of the public a voluntary payment, or otherwise provides a service to a member of the public in respect of a function carried out on behalf of the Crown, permitting the agent, for the agent's own benefit, to charge and collect from that member of the public a service charge for collecting the voluntary payment or in respect of providing a service;
- (vi) respecting the maximum and minimum amounts that may be charged by agents as service charges;
- (f) respecting the filing of requests for review with and the provision of records, representations and arguments to the Director;
- (g) respecting the provision of relevant records to a recipient under section 12, including, without limitation, providing for limits on the records;
- (h) respecting the grounds for a request for review under section 7 and for confirming or cancelling a notice of administrative penalty under section 21;
- (i) respecting the conduct of reviews, including, without limitation, regulations governing
 - (i) the procedure before an adjudicator;
 - (ii) adjournments of matters before an adjudicator;
 - (iii) the conduct of reviews by electronic means;
 - (iv) the taking and acceptance of evidence under oath;
 - (v) the applicability of the rules of evidence in reviews;
 - (vi) the receiving and recording of evidence;
 - (vii) the prescribed evidence or information an adjudicator may consider under section 18(2)(f);
- (j) respecting requests for late reviews under section 20;
- (k) prescribing exceptional circumstances for the purposes of sections 15, 20, 22 and 27;
- (l) respecting notifications by the Director to recipients of decisions under section 20 and by the adjudicator to recipients of decisions under section 22;
- (m) respecting the substitution by an adjudicator of applicable administrative penalties under section 21(2);
- (n) respecting the relief the Director may provide under section 23(2);
- (o) respecting applications under section 27 for an additional period of time to pay fines and applicable surcharges in respect of contraventions, including, without limitation, prescribing the maximum number of days the Director may grant a recipient to pay a fine and any applicable surcharge;
- (p) respecting the service, providing or sending of notices and any other documents under this Act, including, without limitation, regulations
 - (i) respecting a recipient's address for service;
 - (ii) respecting evidence of service of a notice of administrative penalty;
 - (iii) respecting the deemed service of notices and documents;
- (q) permitting and governing the use, processing and filing of electronic documents, including, without limitation, electronic notices of administrative penalty;
- (r) governing, where electronic documents are used, the issuance and use of any non-electronic documents that correspond to those electronic documents;

- (s) respecting the technological standards that electronic signatures authorized under this Act must meet;
- (t) establishing evidentiary presumptions in relation to electronic documents signed with electronic signatures;
- (u) respecting documents, whether in electronic or non-electronic form, that are to be signed, including, without limitation, regulations
 - (i) governing the signing of those documents, which may include dispensing with any requirement that the documents be signed;
 - (ii) providing for those documents, instead of being signed, to be marked, subscribed, endorsed, acknowledged or given any other form of signification or to be otherwise dealt with, and governing any matter relating to
 - (A) the marking, subscribing, endorsing, acknowledging or signification of or dealing with those documents, and
 - (B) the effect to be given to those documents;
- (v) notwithstanding anything in this Act, providing for and governing
 - (i) the carrying out of any functions under this Act by electronic means, and
 - (ii) the creation, registration, issuance, service, transmittal, storage, recording, presentation and handling of documents under this Act by electronic means;
- (w) respecting the fees payable with respect to any matter under this Act or the regulations, including, without limitation, respecting the refunding of those fees;
- (x) respecting forms to be used under this Act or the regulations;
- (y) respecting the collection, use and disclosure of information, including personal information, for the purposes of this Act;
- (z) respecting the confirmation by an officer of documents under section 14;
- (aa) respecting the applicability of provisions of Part XV of the *Criminal Code* (Canada) respecting search warrants and production orders in respect of matters to which this Act applies;
- (bb) respecting confirmations of contraventions, including, without limitation, the use of confirmations in other proceedings;
- (cc) prescribing or otherwise specifying, in whole or in part, the enactments or the penalties, fines or sums of money or forfeitures to which section 29(3) applies;
- (dd) respecting the portions of amounts that may be retained by the Crown under section 29(3);
- (ee) prescribing anything required to be prescribed under this Act or that this Act refers to as prescribed;
- (ff) defining any word or expression used but not defined in this Act;
- (gg) respecting any other matter or thing that the Minister considers necessary to carry out the intent of this Act.

Deficiency regulations

3637(1) ~~The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister considers are not provided for or are insufficiently provided for in this Act. The Lieutenant Governor in Council may make regulations that, in the opinion of the Minister, are advisable or necessary for implementing the purposes of this Act and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations, varying the operation of any provision of this Act for those purposes.~~

- (2) A regulation made under subsection (1) is repealed on the earliest of
 - (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act or any other enactment,

Commented [JB17]: If matters are not provided for under this act, then, axiomatically, they cannot be "matters coming under this Act".

(b) the coming into force of a regulation that repeals the regulation made under subsection (1), and

(c) 5 years after the regulation comes into force.

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

(4) ~~A regulation may not~~ No regulation shall be made under subsection (1) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of the 5-year period remains in force until it is repealed under subsection (2).

(5) ~~A regulation may not~~ No regulation shall be made under subsection (1) altering the provisions of subsection (2) or extending the 5-year period provided for in subsection (4).

Consequential changes to regulations

~~3738~~(1) The Lieutenant Governor in Council may, by regulation, amend any regulations filed under the *Regulations Act* to reflect changes made by this Act.

(2) An amendment made under subsection (1) may be made even though the regulation being amended was made by a member of the Executive Council or some other body or person.