

PROVINCE OF BRITISH COLUMBIA

Ministerial Order No.

M 051

REGULATION OF THE MINISTER OF COMMUNITY SERVICES AND MINISTER  
RESPONSIBLE FOR SENIORS' AND WOMEN'S ISSUES

*Community Charter*

I, Ida Chong, Minister of Community Services and Minister Responsible for Seniors' and Women's Issues, order that the attached Dispute Resolution Regulation is made.

March 7, 2006  
Date

Ida Chong  
Minister of Community Services and Minister  
Responsible for Seniors' and Women's Issues

*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section:- Community Charter, S.B.C. 2003, c. 26, s. 291

Other (specify):- \_\_\_\_\_

# DISPUTE RESOLUTION REGULATION

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### **Definitions**

- 1 In this regulation:
  - “**Act**” means the *Community Charter*;
  - “**arbitrator**” means a person selected as an arbitrator under section 287 (b) or 288 (a) of the Act;
  - “**party**” means a party to a dispute under section 284 (1) or 286 (1) of the Act.

### **Application**

- 2 (1) This regulation applies to an arbitration under Division 3 of Part 9 of the Act.
  - (2) The *Commercial Arbitration Act* does not apply to an arbitration conducted under Division 3 of Part 9 of the Act.

## **PART 1 – GENERAL**

### **Agreement on arbitration process**

- 3 (1) Subject to subsection (3), the parties may agree, no later than 28 days after the dispute resolution officer directs the dispute to binding arbitration under section 285 or 286 (2) of the Act, on the arbitration process they wish to use.
- (2) As soon as practicable after the time period described in subsection (1), the parties must, in writing, advise the dispute resolution officer of the agreement reached under subsection (1).
- (3) On request of a party, the dispute resolution officer may extend the time period in subsection (1) if the dispute resolution officer believes that an extension may facilitate agreement.

### **Statement of independence and impartiality**

- 4 (1) Before a person may be selected as an arbitrator, a signed statement that he or she knows of no circumstances likely to give rise to justifiable doubts as to his or her independence or impartiality in the dispute must be provided by the person to
  - (a) the parties, and
  - (b) the dispute resolution officer.
- (2) If circumstances that are likely to give rise to justifiable doubts as to his or her independence or impartiality in the dispute arise after the selection, an arbitrator must immediately
  - (a) disclose the circumstances to
    - (i) the parties, and
    - (ii) the dispute resolution officer, and
  - (b) resign, unless the parties and the arbitrator agree that the arbitrator will continue to act as arbitrator despite the circumstances.

### **Appointment and replacement of arbitrator**

- 5 (1) No later than 28 days after the arbitration process has been agreed upon by the parties or determined by the dispute resolution officer, the parties must select an arbitrator from the list referred to in section 289 (1) of the Act.
- (2) As soon as practicable after the time period in subsection (1), the parties must, in writing, advise the dispute resolution officer of the selection made under subsection (1).
- (3) On request of a party, the dispute resolution officer may extend the time period in subsection (1) if the dispute resolution officer believes that an extension would facilitate agreement.
- (4) On application of a party to the Supreme Court before conclusion of an arbitration, the court may revoke the appointment of an arbitrator if the court is satisfied that the arbitrator has, in the discharge of his or her obligations,
  - (a) breached section 6, 10 (b) or 15,
  - (b) behaved in a corrupt or fraudulent manner,

- (c) shown bias,
  - (d) exceeded his or her powers, or
  - (e) failed to observe the rules of natural justice.
- (5) An arbitrator who
- (a) resigns because of circumstances referred to in section 4 (2) or for another reason,
  - (b) is unable or refuses to act, or
  - (c) whose appointment is revoked under subsection (4)
- must be replaced by another arbitrator selected in the manner contemplated by the Act and this regulation.
- (6) An arbitrator who replaces an arbitrator may notify the parties
- (a) of a reasonable period of time, of not more than 14 days, that he or she requires to become acquainted with the arbitration, and
  - (b) that the time limits and the running of time in respect of the time limits in this regulation, except for that referred to in paragraph (a), are suspended for the period of time and the purpose referred to in paragraph (a).

**Communication between arbitrator and party**

- 6 Except as expressly permitted by this regulation, an arbitrator and a party must not engage in written or oral communications respecting the disputed issues without full and immediate disclosure of the communications to the other party.

**PART 2 – FINAL PROPOSAL ARBITRATION PROCESS**

**Interpretation**

- 7 In this Part, “**arbitration**” means the final proposal arbitration process under Division 3 of Part 9 of the Act.

**Representative of party**

- 8 A party must, in writing, advise the arbitrator and the other party, within 14 days of the date of the selection of the arbitrator, of the name, address and telephone number of the individual who represents that party.

**Identification of disputed issues**

- 9 (1) Within 28 days of the date of selection of the arbitrator, the parties must submit to the arbitrator a jointly prepared and agreed statement that identifies the disputed issues.
- (2) Within 42 days of selection of the arbitrator, each of the parties must file a written submission with the arbitrator and the other party that
- (a) addresses all or any of the disputed issues identified in the statement referred to in subsection (1) but no other issues,
  - (b) explains the position the party takes on each disputed issue it intends to address,

- (c) makes only one proposal to finally resolve each disputed issue,
  - (d) includes copies of the documents on which the party relies, and
  - (e) addresses the allocation of the fees and expenses of the arbitrator and administrative costs referred to in section 289 (2) (a) and (b) of the Act, if a submission on this issue is intended to be made by the party.
- (3) A party may not
- (a) revise or amend its submission after the submission has been filed with the arbitrator, or
  - (b) rebut or refute information contained in the other party's submission.
- (4) Subsection (3) must not be construed to limit settlement discussions between the parties.

#### **No meetings about disputed issues**

- 10 The arbitrator
- (a) is restricted to consideration of the written submissions filed by the parties, and
  - (b) may not meet with or discuss the disputed issues with the parties.

#### **Replacement of arbitrator**

- 11 An arbitrator who replaces an arbitrator must proceed with the arbitration from the stage at which it stood when the former arbitrator was replaced, and without limiting this, may not reconsider a matter that has already been decided by the former arbitrator.

#### **Decision of arbitrator**

- 12 (1) Unless the parties agree on a resolution of the disputed issues during the arbitration or the dispute resolution officer extends the time period, the arbitrator must settle the disputed issues within 63 days of the date of his or her selection.
- (2) The arbitrator must give the selections under section 287 (c) of the Act in writing and provide signed and dated copies of them to the parties and the dispute resolution officer.

### **PART 3 – FULL ARBITRATION PROCESS**

#### **Interpretation**

- 13 In this Part, “**arbitration**” means the full arbitration process under Division 3 of Part 9 of the Act.

#### **Representative of party**

- 14 A party must, in writing, advise the arbitrator and the other party, within 14 days of the date of the selection of the arbitrator, of the name, address and telephone number of the individual who represents that party.

### **Communication**

- 15 (1) The arbitrator must not meet with or discuss the disputed issues with a party or its representative or legal counsel unless the other party or its representative or legal counsel is present.
- (2) Copies of
- (a) documents exchanged between the parties as required under this Part must be given to the arbitrator, and
  - (b) written communication between the arbitrator and a party must be given to the other party at the same time.

### **Replacement of arbitrator**

- 16 (1) An arbitrator who replaces an arbitrator may determine his or her own procedures about, and manner in which he or she will continue, the arbitration.
- (2) Without limiting subsection (1), the arbitrator may rehear or reconsider a matter that has already been decided by the former arbitrator.

### **Conduct of arbitration**

- 17 (1) Subject to limitations in this Part or an agreement reached among the parties and the arbitrator, the arbitrator may conduct the arbitration in any manner the arbitrator considers appropriate and will facilitate the just and timely resolution of the disputed issues.
- (2) The arbitrator may direct that a record be kept of the arbitration.
- (3) The arbitrator may not extend the period of time referred to in section 25 (1).

### **Preliminary meeting**

- 18 (1) The arbitrator must convene a preliminary meeting, in person or by telephone conference call, with the parties within 21 days of his or her selection to
- (a) identify the disputed issues,
  - (b) discuss the procedures to be followed,
  - (c) set time periods within which specified actions must be taken, and
  - (d) discuss other matters that the arbitrator believes will facilitate the arbitration to proceed in an efficient and timely manner.
- (2) The arbitrator must give the parties written directions on the matters referred to in subsection (1) (b) and (c) as soon as possible after the preliminary meeting.

### **Exchange of statements**

- 19 (1) The parties must exchange written submissions of their positions on the disputed issues in the following manner:
- (a) the party that applied to the dispute resolution officer under section 284 (1) or 286 (2) of the Act must give to the arbitrator and the other party, no later than 28 days after the preliminary meeting under section 18 is held, a submission outlining the disputed issues, a discussion of its perspective on each issue and its proposal to resolve each disputed issue;

- (b) the other party must give to the arbitrator and the other party, no later than 14 days after receiving the submission referred to in paragraph (a), a submission outlining its responses to the submission referred to in paragraph (a).
- (2) A party must attach to its submission under subsection (1) a list of documents
  - (a) on which the party intends to rely, and
  - (b) that describes each document by kind, date, author, addressee and subject matter.
- (3) The arbitrator may at any time allow a party to amend or add to a submission referred to in this section, including the list of documents, if the arbitrator considers that the amendment or addition is relevant to the arbitration.

#### **Disclosure**

- 20 (1) The arbitrator may order a party to produce, within a specified time, documents that
  - (a) have not been listed under section 19 (2),
  - (b) the party has in its care, custody or control, and
  - (c) the arbitrator considers to be relevant.
- (2) A party must allow the other party access at reasonable times to inspect and take copies of the documents that the party has listed under section 19 (2) or that are the subject of an order under subsection (1).
- (3) No later than 21 days before an oral hearing commences, a party must give the other party and the arbitrator
  - (a) the name and address of a witness it intends to call and a written summary of the witness' evidence, and
  - (b) in the case of an expert witness, a written statement or report prepared by the expert witness.
- (4) No later than 14 days before an oral hearing commences, each party must give to the other party and the arbitrator copies of the documents on the list referred to in section 19 or that are the subject of an order under subsection (1).

#### **Oral hearings**

- 21 (1) The arbitrator must give the parties reasonable written notice of an oral hearing.
- (2) Subject to a direction of the arbitrator, the oral hearings are open to the public.
- (3) The dispute resolution officer may attend and observe any part of the arbitration.

#### **Evidence**

- 22 (1) Oral evidence must be taken
  - (a) under oath, and
  - (b) in the presence of the arbitrator and both of the parties, unless a party fails to appear at a scheduled oral hearing or in writing, waives the right to be present.

- (2) If the arbitrator permits the evidence of a witness to be presented as a written statement or report, including that of an expert witness, a party may require that the witness be made available for cross examination at the oral hearing.

#### **Default of party**

- 23 (1) If a party fails to provide the submission required by section 19 (1) (b), the arbitrator must
  - (a) continue the arbitration, and
  - (b) require the party who gave a submission referred to in section 19 (1) (a) to present the evidence to support its submission that the arbitrator may require before making a decision.
- (2) The arbitrator may continue the arbitration and make a decision based on the evidence presented if a party fails to
  - (a) appear at a scheduled oral hearing, or
  - (b) produce evidence.

#### **Reopening the hearing**

- 24 Subject to the time limits in this Part, if the arbitrator considers it to be just and appropriate, the arbitrator may at any time before making a decision reopen the hearings.

#### **Decision of arbitrator**

- 25 (1) Unless the parties agree on a resolution of the disputed issues during the arbitration or the dispute resolution officer extends the time for the arbitrator to make a decision, the arbitrator must make a decision as soon as possible and no later than 28 days after
  - (a) oral hearings have been concluded, or
  - (b) if no oral hearings have been held, the last written submission has been filed with the arbitrator.
- (2) The decision of the arbitrator must be in writing, be signed and dated, and state the reasons on which it is based.
- (3) The arbitrator must give a copy of the decision to the parties and to the dispute resolution officer.

#### **Amendments to and corrections of the decision**

- 26 (1) The arbitrator may amend or vary his or her decision to correct
  - (a) a clerical or typographical error, or
  - (b) an accidental error, slip, omission or other similar mistake.
- (2) An application by a party to the arbitrator to amend or vary a decision under subsection (1) must be made within 7 days after that party receives the decision.
- (3) Within 7 days after receipt of the decision, a party may apply to the arbitrator for clarification of the decision, and the arbitrator may amend a part of his or her decision if the arbitrator considers that the amendment will clarify the decision.



- (4) For the purposes of subsection (2) or (3), the arbitrator may not amend or vary the decision, without the consent of the parties, more than 14 days after the parties have received the decision.