



# **Judicial Review and Administrative Law**

## **Identified Issues**

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**Judicial Review and Administrative Law**  
**Identified Issues**

A committee has been struck to review the Rules on judicial review, and that committee is seeking input from interested persons and organizations. The committee has already identified some issues (see attached list), and invites comments on these and on any other any aspect of the Rules of Court relating to judicial review.

Comments should be sent to:

The Judicial Review Committee, Rules Project  
Alberta Law Reform Institute  
402 Law Centre  
University of Alberta  
Edmonton, AB T6G 2H5

or by e-mail to *reform@alri.ualberta.ca*.

Comments should be received by the Institute on or before **May 30, 2003**.

**1. Scope of the Rules**

Which of the following should be covered by the rules on judicial review:

- a) Civil rules on judicial review (Parts 56 and 56.1)
- b) Criminal rules on judicial review (Part 60)
- c) Controverted Elections (Part 58)
- d) Administrative Appeals to Queen's Bench
- e) Statutory provisions for review (eg. *Municipal Government Act*)

Specifically, can the civil and criminal rules on judicial review be combined?

**2. The General Rules**

To what extent are special Rules needed for judicial review and to what extent are the general Rules sufficient? Should the Rules on Notice to Admit, Offers of Judgment, Summary Judgment, Costs, etc., apply to judicial review? Should the presumption be that the general Rules do or do not apply?

**3. Discovery**

Should there be discovery in judicial review proceedings? Are affidavits of records needed? What about examinations for discovery, or under R. 266?

**4. Service**

Should service on the Attorney General always be required? How does one serve an unincorporated tribunal? Should every intervenor before the tribunal be served? What is the effect of failure to serve?

**5. Parties and Intervenors**

Should the tribunal be a respondent? Can and should the rules specifically deal with intervention? Should every party granted intervenor status before the tribunal be entitled to intervene in Queen's Bench?

**6. Returns**

Is a return always required on judicial review? What should be included in the return? Do all returns have to contain the same items? Should transcripts be required? How long should the tribunal be given to make a return?

**7. Timing**

Is the general 10-day notice period for Originating Notices appropriate? Are any special rules required for the service of affidavits?

**8. Procedure**

Does any aspect of judicial review proceedings require special procedures? Should briefs always be required, and should their contents be specified? Are special procedures required for *viva voce* hearings or for review without an oral hearing? Should judicial review be put on the trial list or in special chambers?

**9. Limitation Periods**

Should the six months (or any statutory) limitation period apply to the filing of the motion, the service of it, or the return date in court?