

Legislative
Assembly
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Bill 226

An Act to make changes to the appointments process for members of adjudicative tribunals, to establish a panel to provide recommendations to the Attorney General on matters relating to adjudicative tribunals and to provide for the establishment of temporary panels to adjudicate matters before the Human Rights Tribunal and the Landlord and Tenant Board

Co-sponsors:

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Private Members' Bill

1st Reading November 19, 2024

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill makes amendments to the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2019*, the *Human Rights Code* and the *Residential Tenancies Act, 2006*.

Section 14 of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2019* is re-enacted to require the Public Appointments Secretariat to compile a publicly available list of appointees and intended appointees to adjudicative tribunals that includes certain information, including information about their attendance before the Standing Committee on Government Agencies, and to prohibit the appointment or reappointment of a person to an adjudicative tribunal without the approval of the chair of the Tribunal. A new section 22.1 of the Act provides for the establishment of an Access to Justice Panel tasked with making recommendations to the Attorney General with respect to enhancing the independence of adjudicative tribunals and improving access to justice for people appearing before adjudicative tribunals.

The *Human Rights Code* and the *Residential Tenancies Act, 2006* are both amended to provide for Backlog Reduction Panels, those being panels of adjudicators tasked with resolving cases at, respectively, the Human Rights Tribunal and Landlord and Tenant Board. The Standing Committee on Government Agencies is to determine the cases to be resolved by the Backlog Reduction Panels. Each of the Backlog Reduction Panels is to be dissolved once all cases referred to it have been resolved.

**An Act to make changes to the appointments process for members of
adjudicative tribunals, to establish a panel to provide recommendations
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and to provide for the establishment of temporary panels to adjudicate matters
before the Human Rights Tribunal and the Landlord and Tenant Board**

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009

1 (1) Section 14 of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* is repealed and the following substituted:

Appointment to adjudicative tribunals

14 (1) The selection process for the appointment of members, including executive chairs, chairs, associate chairs and vice-chairs, to an adjudicative tribunal shall be a competitive, merit-based process and the criteria to be applied in assessing candidates shall include the following:

1. Experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal.
2. Aptitude for impartial adjudication.
3. Aptitude for applying alternative adjudicative practices and procedures that may be set out in the tribunal's rules.

Tribunal-specific qualifications

(2) If a member of an adjudicative tribunal is required by or under any other Act to possess specific qualifications, a person shall not be appointed to the tribunal unless he or she possesses those qualifications.

Publication, recruitment

(3) The responsible minister of an adjudicative tribunal shall make public the recruitment process to select one or more persons to be appointed to the tribunal and in doing so shall specify,

- (a) the steps intended to be taken in the recruitment process; and
- (b) the skills, knowledge, experience, other attributes and specific qualifications required of a person to be appointed.

Public Appointment Secretariat

(4) The Public Appointments Secretariat shall compile a publicly available list of all persons who have been appointed to adjudicative tribunals and all intended appointees that includes the following information:

1. The name of the person.
2. The position or positions to which they have been or will be appointed.
3. Brief biographical information about the person.
4. The term of the appointment or intended appointment.

Same

(5) The list referred to in subsection (4) shall be updated weekly.

Additional information

(6) If an intended appointee is asked to appear before the Standing Committee on Government Agencies, the Public Appointments Secretariat shall include in the information required under subsection (4) the following information:

1. The date of the appearance.
2. For any intended appointee who was asked to appear before the Standing Committee but did not do so, whether the intended appointee has provided a written explanation for their failure to appear.

Chair to approve appointments, reappointments

(7) No person shall be appointed or reappointed to an adjudicative tribunal without the approval of the chair of the tribunal following an assessment of the person's qualifications under subsections (1) and (2) and, in the case of a reappointment, of the member's performance of their duties on the tribunal.

Conflict with other Acts, regulations

(8) In the event of any conflict between this section and a provision of another Act or of a regulation made under another Act respecting the appointment of members of an adjudicative tribunal, the provision of the other Act or regulation prevails.

Transition

(9) Any member of an adjudicative tribunal appointed before the day subsection 1 (1) of the *Improving Access to Justice Act, 2024* comes into force remains a member of the adjudicative tribunal until the end of their term.

(2) The Act is amended by adding the following section:

Access to Justice Panel

22.1 (1) The Attorney General shall, no more than 60 days after the day this section comes into force, establish an Access to Justice Panel.

Composition

(2) The Access to Justice Panel shall be composed of members with demonstrated subject matter knowledge and dispute resolution expertise appointed by the Standing Committee on Government Agencies.

Functions

(3) The Access to Justice Panel shall make recommendations to the Attorney General with respect to enhancing the independence of adjudicative tribunals and improving access to justice for people appearing before adjudicative tribunals, including recommendations with respect to the following:

1. Options for the creation of an independent, arms-length Adjudicative Tribunal Justice Council with a mandate to oversee the adjudicative tribunal system, including oversight of the appointment and reappointment process.
2. Improving access to in-person hearings and to virtual hearings for parties without reliable internet access.
3. Improving access to legal services for people appearing before adjudicative tribunals.

Same

(4) In forming its recommendations, the Access to Justice Panel shall consult stakeholders, including Legal Aid Ontario-funded community legal clinics and the Administrative Justice Section of the Ontario Bar Association.

Report

(5) On or before the day that is six months after the day the Access to Justice Panel is established, the Access to Justice Panel shall report its recommendations to the Attorney General.

Same

(6) The Attorney General shall make the recommendations referred to in subsection (5) available to the public no later than 30 days after the report is received.

Implementation of recommendations

(7) On or before the day that is 90 days after the day the Access to Justice Panel reports its recommendations to the Attorney General under subsection (5), the Attorney General shall inform the Assembly of the recommendations of the Access to Justice Panel that the Attorney General recommends the Government of Ontario implement.

Same

(8) On or before the day that is one year after the day the Attorney General informs the Assembly of the recommendations under subsection (7), the Attorney General shall report to the Assembly on the progress the Government of Ontario has made in implementing the recommendations.

Remuneration and expenses

(9) The Lieutenant Governor in Council may determine the remuneration and expenses of any person appointed under subsection (2).

Appropriation required

(10) Subsection (9) does not apply unless money has been appropriated by the Legislature for the purpose of that subsection.

Human Rights Code

2 The *Human Rights Code* is amended by adding the following section:

Human Rights Tribunal of Ontario Backlog Reduction Panel

45.10 (1) The Minister shall, no more than 60 days after the day this section comes into force, establish a Human Rights Tribunal of Ontario Backlog Reduction Panel.

Composition

(2) The Human Rights Tribunal of Ontario Backlog Reduction Panel shall be composed of members with demonstrated knowledge of human rights and dispute resolution expertise appointed by the Standing Committee on Government Agencies.

Functions

(3) The Human Rights Tribunal of Ontario Backlog Reduction Panel shall function as a panel of adjudicators that resolves applications that have been filed with the Human Rights Tribunal of Ontario.

Same

(4) The Standing Committee on Government Agencies shall determine criteria for determining which cases are to be resolved by the Human Rights Tribunal of Ontario Backlog Reduction Panel.

Term

(5) The Human Rights Tribunal of Ontario Backlog Reduction Panel shall be dissolved once all cases referred to it in accordance with subsection (4) are resolved.

Report

(6) On or before the day that is six months after the day the Human Rights Tribunal of Ontario Backlog Reduction Panel is established, the Minister shall report to the Assembly on the scope and caseload of the Human Rights Tribunal of Ontario Backlog Reduction Panel.

Reporting

(7) The Human Rights Tribunal of Ontario Backlog Reduction Panel shall report directly to the Attorney General.

Remuneration and expenses

(8) The Lieutenant Governor in Council may determine the remuneration and expenses of any person appointed under subsection (2).

Appropriation required

(9) Subsection (8) does not apply unless money has been appropriated by the Legislature for the purpose of that subsection.

Residential Tenancies Act, 2006

3 The *Residential Tenancies Act, 2006* is amended by adding the following section:

Landlord and Tenant Board Backlog Reduction Panel

182.3.1 (1) The Attorney General shall, no more than 60 days after the day this section comes into force, establish a Landlord and Tenant Board Backlog Reduction Panel.

Composition

(2) The Landlord and Tenant Board Backlog Reduction Panel shall be composed of members with demonstrated knowledge of residential tenancy law and dispute resolution expertise appointed by the Standing Committee on Government Agencies.

Functions

(3) The Landlord and Tenant Board Backlog Reduction Panel shall function as a panel of adjudicators that resolves cases at the Landlord and Tenant Board.

Same

(4) The Standing Committee on Government Agencies shall determine criteria for determining which cases are to be resolved by the Landlord and Tenant Board Backlog Reduction Panel.

Term

(5) The Landlord and Tenant Board Backlog Reduction Panel shall be dissolved once all cases referred to it in accordance with subsection (4) are resolved.

Reporting

(6) The Landlord and Tenant Board Backlog Reduction Panel shall report directly to the Attorney General.

Remuneration and expenses

(7) The Lieutenant Governor in Council may determine the remuneration and expenses of any person appointed under subsection (2).

Appropriation required

(8) Subsection (7) does not apply unless money has been appropriated by the Legislature for the purpose of that subsection.

Commencement

4 This Act comes into force on the day it receives Royal Assent.

Short title

5 The short title of this Act is the *Fixing Tribunals Ontario Backlogs Act, 2024*.