

1980

c 224 Judicial Review Procedure Act

Ontario

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CHAPTER 224

Judicial Review Procedure Act

1. In this Act,

Interpre-
tation

- (a) “application for judicial review” means an application under subsection 2 (1);
- (b) “court” means the Supreme Court;
- (c) “licence” includes any permit, certificate, approval, registration or similar form of permission required by law;
- (d) “municipality” has the same meaning as in the *Municipal Affairs Act*, and includes a district, metropolitan and regional municipality and their local boards; R.S.O. 1980, c. 303
- (e) “party” includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 2 (1);
- (f) “statutory power of decision” means a power or right conferred by or under a statute to make a decision deciding or prescribing,
- (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not,
- and includes the powers of an inferior court;
- (g) “statutory power” means a power or right conferred by or under a statute,
- (i) to make any regulation, rule, by-law or order, or to give any other direction having force as subordinate legislation,

- (ii) to exercise a statutory power of decision,
- (iii) to require any person or party to do or to refrain from doing any act or thing that, but for such requirement, such person or party would not be required by law to do or to refrain from doing,
- (iv) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person or party. 1971, c. 48, s. 1; 1972, c. 1, s. 104 (6).

Applications
for
judicial
review

2.—(1) On an application by way of originating notice, which may be styled “Notice of Application for Judicial Review”, the court may, notwithstanding any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:

1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.
2. Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power.

Error of
law

(2) The power of the court to set aside a decision for error of law on the face of the record on an application for an order in the nature of certiorari is extended so as to apply on an application for judicial review in relation to any decision made in the exercise of any statutory power of decision to the extent it is not limited or precluded by the Act conferring such power of decision.

Lack of
evidence

(3) Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in the exercise of such power, the court may set aside the decision on an application for judicial review.

Power to
set aside

(4) Where the applicant on an application for judicial review is entitled to a judgment declaring that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may, in the place of such declaration, set aside the decision.

(5) Where, in any of the proceedings enumerated in subsection (1), the court had before the 17th day of April, 1972 a discretion to refuse to grant relief on any grounds, the court has a like discretion on like grounds to refuse to grant any relief on an application for judicial review. Power to refuse relief

(6) Subsection (5) does not apply to the discretion of the court before the 17th day of April, 1972 to refuse to grant relief in any of the proceedings enumerated in subsection (1) on the ground that the relief should have been sought in other proceedings enumerated in subsection (1). 1971, c. 48, s. 2. Where subs. (5) does not apply

3. On an application for judicial review in relation to a statutory power of decision, where the sole ground for relief established is a defect in form or a technical irregularity, if the court finds that no substantial wrong or miscarriage of justice has occurred, the court may refuse relief and, where the decision has already been made, may make an order validating the decision, notwithstanding such defect, to have effect from such time and on such terms as the court considers proper. 1971, c. 48, s. 3. Defects in form, technical irregularities

4. On an application for judicial review, the court may make such interim order as it considers proper pending the final determination of the application. 1971, c. 48, s. 4. Interim order

5. Notwithstanding any limitation of time for the bringing of an application for judicial review fixed by or under any Act, the court may extend the time for making the application, either before or after expiration of the time so limited, on such terms as it considers proper, where it is satisfied that there are *prima facie* grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay. 1971, c. 48, s. 5. Extension of time for bringing application

6.—(1) Subject to subsection (2), an application for judicial review shall be made to the Divisional Court. Application to Divisional Court

(2) An application for judicial review may be made to the High Court with leave of a judge thereof, which may be granted at the hearing of the application, where it is made to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice. Application to judge of High Court

(3) Where a judge refuses leave for an application under subsection (2), he may order that the application be transferred to the Divisional Court. 1971, c. 48, s. 6 (1-3). Transfer to Divisional Court

Appeal to
Court of
Appeal

(4) An appeal lies to the Court of Appeal, with leave of the Court of Appeal, from a final order of the High Court disposing of an application for judicial review pursuant to leave granted under subsection (2). 1976, c. 45, s. 1.

Summary
disposition
of
mandamus,
etc.

7. An application for an order in the nature of mandamus, prohibition or certiorari shall be deemed to be an application for judicial review and shall be made, treated and disposed of as if it were an application for judicial review. 1971, c. 48, s. 7.

Summary
disposition
of
actions

8. Where an action for a declaration or injunction, or both, whether with or without a claim for other relief, is brought and the exercise, refusal to exercise or proposed or purported exercise of a statutory power is an issue in the action, a judge of the High Court may on the application of any party to the action, if he considers it appropriate, direct that the action be treated and disposed of summarily, in so far as it relates to the exercise, refusal to exercise or proposed or purported exercise of such power, as if it were an application for judicial review and may order that the hearing on such issue be transferred to the Divisional Court or may grant leave for it to be disposed of in accordance with subsection 6 (2). 1971, c. 48, s. 8.

Sufficiency
of
application

9.—(1) It is sufficient in an application for judicial review if an applicant sets out in the notice the grounds upon which he is seeking relief and the nature of the relief that he seeks without specifying the proceedings enumerated in subsection 2 (1) in which the claim would have been made before the 17th day of April, 1972.

Exerciser
of power
may be
a party

(2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application.

Idem

(3) For the purposes of subsection (2), any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title. 1971, c. 48, s. 9 (1-3).

Notice to
Attorney
General

(4) Notice of an application for judicial review shall be served upon the Attorney General who is entitled as of right to be heard in person or by counsel on the application. 1971, c. 48, s. 9 (4); 1972, c. 1, s. 9 (7).

10. When notice of an application for judicial review of a decision made in the exercise or purported exercise of a statutory power of decision has been served on the person making the decision, such person shall forthwith file in the court for use on the application, the record of the proceedings in which the decision was made. 1971, c. 48, s. 10.

Record to
be filed in
S.C.O.

11. Where not inconsistent with this Act, the rules of practice and procedure of the court apply to applications for judicial review and to appeals from final orders therein, and the Rules Committee established under the *Judicature Act* may amend such rules or make additional rules applicable thereto. 1971, c. 48, s. 11.

Rules of
practice

R.S.O. 1980,
c. 223

12.—(1) Subject to subsection (2), where reference is made in any other Act or in any regulation, rule or by-law to any of the proceedings enumerated in subsection 2 (1), such reference shall, after the 16th day of April, 1972, be read and construed to include a reference to an application for judicial review.

References
in other
Acts, etc.

(2) Nothing in this Act affects proceedings under the *Habeas Corpus Act* or the issue of a writ of certiorari thereunder or proceedings pursuant thereto, but an application for judicial review may be brought in aid of an application for a writ of *habeas corpus*. 1971, c. 48, s. 12.

Proceedings
under
R.S.O. 1980,
c. 193

