

Court of Appeal for British Columbia

# **Summary of Changes**

Former Act and Rules compared with New Act and Rules

Effective July 18, 2022

## **Table of Contents**

1.0 COURT OF APPEAL ACT2
2.0 COURT OF APPEAL RULES

### **1.0 COURT OF APPEAL ACT**

Former Act	New Act	
s. 1 - definitions	s. 1 - interpretation	
s. 2 – constitution of the Court of Appeal	s. 2 – continuation of court	
	s. 3 – constitution of court	
s. 3 – oath of office	s. 8 – aath of office	
s. 4 – judicial rank	s. 7 – judicial rank	
s. 4.1 – powers after leaving office	s. 9 – continuing jurisdiction after leaving office	
s. 5 – seal	s. 2(2) – continuation of court	
s. 6 – appellate jurisdiction	s. 13 – appellate jurisdiction	
s. 7 – leave to appeal	s. 13(2)(a) – appellate jurisdiction	
s. 8 – appeals from tribunals	s. 16 – appeals from tribunals	
s. 9 – powers of Court of Appeal	Part 5, Division 1 – Powers of Court	
s. 10 – powers of a justice	Part 5, Division 2 – Powers of a Justice	
s. 11 – chief justice	s. 6 – chief justice	
s. 12 – exercise powers of chief justice		

#### COURT OF APPEAL ACT & RULES

Former Act	New Act
s. 13 – quorum and divisions of the court	s. 4 – quorum and divisions of the court
s. 14 – bringing an appeal	s. 15 – time limit for commencing appeal or application for leave to appeal
s. 15 – cross appeal	s. 14 – cross appeal
s. 16 – appeal book and transcript	
s. 17 – proceedings to be in Court of Appeal	s. 17 – proceedings related to appeal must be in court
s. 18 – stay of proceeding	s. 33 – stays of proceedings
s. 19 – no appeal to be defeated by irregularities	s. 19 – no appeal to be defeated by irregularities
s. 20 – preliminary objection	s. 20 – preliminary objections
s. 21 – delivery of judgment s. 22 – proceedings on judgment	s. 39 – pronouncement of judgments and orders s. 40 – delivery of judgment s. 41 – proceedings on a judgment s. 42 – decision of a justice s. 43 – amendments to orders
s. 23 – costs	s. 44 – costs s. 45 – powers of court or a justice in relation to costs s. 46 – powers of registrar in relation to costs
s. 24 – security for costs	s. 34 – payment of security
s. 25 – inactive appeals or applications for leave to appeal	s. 23 – appeals or applications for leave to appeal dismissed as abandoned
s. 26 – limiting argument	s. 26 – limiting hearings and requiring preparation of written arguments
s. 27 – new trial or hearing	s. 27 – ordering new trial or hearing
s. 28 – non-compliance	s. 36 – failure to comply
s. 29 – vexatious appeals	s. 22 – vexatious proceedings
s. 30 – if no provision in this Act or the rules	s. 18 – appeals must be conducted in accordance with Act and rules
s. 31 – registries	s. 12 – registries
s. 32 – administrators of court services and registrars	s. 10 – registrar s. 11 – administrators of court services

#### COURT OF APPEAL ACT & RULES

Former Act	New Act
	s. 21 – referral to court for summary determination
	s. 37 – general powers of registrar s. 38 – directives in relation to filing
	Part 8 – transitional provisions, repeal, and consequential amendments - sections 47 to 57

#### **2.0 COURT OF APPEAL RULES**

Former Rules	New Rules
R. 1 - definitions	R.1 – definitions and interpretation
R. 2 – naming of respondents	R. 6 – how to appeal
R. 2.1 – limited appeal orders	R. 18 – justice may add respondents to an appeal R. 11 – limited appeal orders
R. 3 – application for leave to appeal	R. 12 – when an application for leave to appeal is required
	R. 13 – how to apply for leave to appeal
R. 4 – amendment of notice of application for leave to appeal	R. 82(2)(b) – amending filed documents
R. 5 – filing of notice of appearance by respondent	R. 7 – how to respond to a notice of appeal
R. 6 – if notice of appearance is not filed	
R. 7 – notice of motion and motion book by appellant	R. – 13 – how to apply for leave to appeal
R. 8 – reply book by respondent	R. 14 – how to respond to an application for leave to appeal
R. 9 – application for stay of proceedings or stay of execution	R. 20 – applying for a stay of proceedings or execution
	R. 21 – responding to stay applications
R. 10 – service if application for leave to appeal is granted	
R.11 – notice of appeal	R. 6 – how to appeal
R. 12 – amendment of notice of appeal	R. 82(2) – amending filed documents
R. 13 – filing notice of appearance by respondent	R. 7(1) – how to respond to a notice of appeal
R. 14 – if notice of appearance not filed	R. 7(2) – how to respond to a notice of appeal
R. 15 – notice of cross appeal	R. 8 – when to bring a cross appeal
	R. 9 – how to bring a cross appeal
R. 16 – amendment of notice of cross appeal	R. 82(3) – amending filed documents
R. 17 – filing of notice of appearance by respondent	R. 10 – how to respond to a notice of cross appeal
R. 18 – if notice of appearance is not filed	R. 10(2) – how to respond to a notice of cross appeal
R. 19 – appeal records	R. 23 – appeal record

Former Rules	New Rules
R. 20 – transcripts of evidence	R. 24 – transcripts of proceedings in court appeal from
R. 21 – factums	R. 25 – factums
	R. 29 – factums on cross appeal
R. 22 – form and content of factums	R. 25(4) - factums
R. 23 – factums and replies on cross appeal	R. 29 – factums on cross appeal
	R. 25 – factums
R. 24 – reply if no cross appeal filed	R. 25 – factums
	R. 29 – factums on cross appeal
R. 25 – repealed	
R. 26 – appeal books	R. 26 – appeal book
R. 26.1 – settlement of appeal record, transcript or appeal book	R. 28 – settling the contents of a document
R. 27 – filing of transcript extracts	
R. 28 – appeal ready for hearing and certificate of readiness	R. 32 – when an appeal is ready for hearing
	R. 33 – appellant must obtain appeal hearing date
	R. 34 – respondent must obtain appeal hearing date
	R. 35 – registrar may set appeal hearing date
R. 29 – pre-hearing conference	R. 47 – case management
	R. 48 – powers of a justice on case management
R. 30 – points of law and authorities note cited in factum	R. 36 – points of law and authorities not cited in factum
R. 31 – further evidence	R. 59 – adducing fresh or new evidence
R. 32 – application	R. 52 – applications made to the court a justice or the registrar

Former Rules	New Rules
R. 33 – general requirements for applications to a justice	R. 53 – application hearing date must be obtained
	R. 54 – notice of application
	R. 55 – responding to applications
	R. 56 – registrar may set dates
R. 34 – specific requirements applicable to applications to vary an order of a	R. 62 – varying an order of a justice
justice	
R. 35 – applications to review an order or direction of the registrar	R. 63 – varying or cancelling an order of the registrar
R. 36 – applications for intervenor status	R. 61 – intervener status
R. 37 – applications to cross-examine on affidavits	R. 44 – cross examination on affidavits
R. 38 – application for order that no fees are payable	R. 85 – order that no fees payable
R. 39 – service of documents	R. 4 – permitted methods of service
	R. 80 – parties must have address for service
R. 40 – books of authorities	R. 27 – books of authorities
R. 41 – written argument	S. 26(2) Court of Appeal Act – limiting hearings and preparation of written arguments
R. 42 – registrar may request estimates of time	R. 35 – registrar may set appeal hearing date
	R. 56 – registrar may set dates
R. 43 – notification to registrar	R. 65 – adjourning applications before hearing date
R. 44 – hearings by telephone or video conference	R. 42 – attendance through telecommunications
	R. 64(4) – attendance at application hearings

Former Rules	New Rules
R. 45 – registrar may change time or place of hearing of appeals and motions	R. 35 – registrar may set appeal hearing date
	R. 56 – registrar may set dates
R. 46 – settlements or abandonments	R. 46 – abandoning an appeal or application for leave to appeal
R. 47 – drawing and approving orders	R. 66 – general requirements for orders
R. 48 – consent orders	R. 67 – consent orders
R. 49 – settlement of orders when necessary	R. 68 – settling the form or content of orders
R. 50 – correction of errors	s. 43 Court of Appeal Act – amendments to orders
R. 51 – order book to be kept by registrar	R. 66(4) – general requirements for orders
R. 52 – time limits may be extended or abridged	s. 32 Court of Appeal Act – dispensing with rules and varying time limits
R. 53 – documents for use in court	R. 79(2) – required form of documents
R. 54 – filing and form requirements	R. 79 – required form of documents
R. 54.1 – electronic filing rule	Registrar's filing directive
R. 55 – transmission of exhibits to the registrar	
R. 56 – justice may order that no fees payable	s. 30(c) Court of Appeal Act – powers of a justice
R. 57 – business hours of the registry	R. 83 – registry hours and deemed filing
R. 58 – Practice directives and practice notes	R. 89 – Practice directives
	Section 38 – directives in relations to filing
R. 59 – costs to be assessed under Appendix B	R. 69 – assessment of ordinary costs
R. 60 – costs assessed as increased costs	R. 70 – assessment of increased costs
R. 61 – costs assessed as special costs	R.71 – assessment of special costs
R. 62 – special costs as a lump sum	
R. 63 – certain duties of the registrar	R. 69 – assessment of Ordinary Costs
	R. 70 – assessment of Increased Costs
	R. 71 – assessment of Special Costs

Former Rules	New Rules
R. 64 – costs when party uses an employee as the party's lawyer	
R. 65 – costs of particular issues or of any part of proceedings	s. 45 Court of Appeal Act – powers of court or a justice in relation to costs
R. 66 – costs of estate or property	s. 45 Court of Appeal Act – powers of court or a justice in relation to costs
	R. 39(3) – applying to registrar for assessment of costs
R. 67 – discretion of registrar in specific circumstances	R.74 – costs owing between multiple parties
R. 68 – appointment to assess costs	R. 39 – applying to registrar for assessment of costs
R. 69 – certification of costs and enforcement	S. 46(2) Court of Appeal Act – powers of registrar in relation to costs
R. 70 – review of registrar's decision	R. 63 – varying or canceling an order of the registrar
R. 71 – consequences for solicitors for unnecessary or wasted costs	R. 78 – costs orders against lawyers