

6th Mini-LLB for Regulators

Applicable toward CPD Requirement

» Best practices to minimize the risk of regulator liability

Workshop Included:

CONSISTENCY IN TRIBUNAL DECISION MAKING

Participating organizations

- Bennett Jones LLP
- Canadian Nuclear Safety Commission
- College of Audiologists and Speech-Language Pathologists of Ontario
- Elections Canada
- Gowling Lafleur Henderson LLP
- Hydro Ottawa Limited
- Investment Industry Regulatory Organization of Canada
- J. Bruce McMeekin Law
- Natural Resources Canada
- Norton Rose Fulbright Canada LLP
- Stikeman Elliott LLP

Who should attend

Senior-level public servants from all government levels responsible for the regulatory process

Course highlights

Hear from some of Canada's sharpest legal minds and regulatory affairs experts on what regulators need to know about the law and administrative rules:

- * Administrative fairness guidelines and the duty of fairness
- * Statutes governing judicial review
- * Regulatory enforcement tools
- * Potential legal consequences for regulators
- * The role of accountability in regulatory discretion
- * Regulatory process requirements
- * Regulatory investigations best practices
- * Measures for achieving and enhancing consistency

Two-Day Event!



Course Leader,
Benoit M. Duchesne,
Gowling Lafleur Henderson
LLP

Course Leader,
Patrick Hoey,
Hydro Ottawa Limited



Usman M. Sheikh,
Bennett Jones LLP



John Foran,
Natural Resources Canada



Nicholas McHaffie,
Stikeman Elliott LLP



Sally A. Gomery,
Norton Rose Fulbright
Canada LLP



Graham Ragan,
Gowling Lafleur Henderson
LLP



Michael James,
Canadian Nuclear Safety
Commission



Natalija Popovic,
Investment Industry Regula-
tory Organization of Canada



Melisse Willems,
College of Audiologists and
Speech-Language Patholo-
gists of Ontario



Alexandra Clark,
Investment Industry Regula-
tory Organization of Canada



J. Bruce McMeekin,
J. Bruce McMeekin Law

Craig Anderson,
Elections Canada

COURSE LEADERS

PATRICK HOEY

Patrick Hoey has been the Director, Regulatory Affairs for **Hydro Ottawa Limited** since 2011 and is currently the Vice Chair of the Regulatory Committee of the Ontario Energy Association.

BENOIT M. DUCHESNE

Benoit M. Duchesne is a Partner at **Gowling Lafleur Henderson LLP**. He practices civil and commercial litigation, administrative law litigation, and bankruptcy and insolvency litigation.

CO-LECTURERS

CRAIG ANDERSON

Craig Anderson is a Business Analyst at **Elections Canada**. He supports the new Operational Risks, Compliance and Audit function by developing process maps and identifying risks as well as providing project management support.

ALEXANDRA CLARK

Alexandra Clark is Director of Enforcement Litigation at the **Investment Industry Regulatory Organization of Canada (IIROC)**.

JOHN FORAN

John Foran is Director of the Oil & Gas Policy & Regulatory Affairs Division of **Natural Resources Canada**.

SALLY A. GOMERY

Sally Gomery is a Partner at **Norton Rose Fulbright Canada LLP**. She leads the Business Ethics & Anti-Corruption team and advises organizations in their interactions with the private and public sector at the federal, provincial and municipal level.

MICHAEL JAMES

Michael James is Senior Counsel at **Canadian Nuclear Safety Commission**. He is responsible for compliance and enforcement matters.

NICHOLAS MCHAFFIE

Nicholas McHaffie is a Partner at **Stikeman Elliott LLP**. He practices in the area of litigation, with a primary emphasis on IP, public law, administrative/regulatory and commercial matters.

J. BRUCE MCMEEKIN

J. Bruce McMeekin is Principal at **J. Bruce McMeekin Law**. He has expertise in regulatory investigations, inspections, prosecutions and enforcement.

NATALIJA POPOVIC

Natalija Popovi is Senior Enforcement Counsel for the **Investment Industry Regulatory Organization of Canada**, the national regulator of its member investment firms and investment advisors.

GRAHAM RAGAN

Graham Ragan is a Partner in **Gowling Lafleur Henderson LLP**. His practice focuses on administrative and public law with a particular emphasis on public procurement.

USMAN M. SHEIKH

Usman M. Sheikh is a Litigator at **Bennett Jones LLP**. His area of expertise includes securities enforcement proceedings. He was formerly Litigation Counsel with the Enforcement Branch of the OSC.

MELISSE WILLEMS

Melisse Willems is the Director of Professional Conduct and General Counsel at the **College of Audiologists and Speech-Language Pathologists of Ontario**. She handles the College's complaints, reports and discipline programs.

COURSE PROGRAM

PROCEDURAL FAIRNESS IN ADMINISTRATIVE PROCEEDINGS

Procedural fairness should generally govern all action taken by administrative bodies. The content of the duty of procedural fairness is highly contextual. This session will examine the principles of procedural fairness and how they may be applied in various administrative contexts.

- Scope of the duty of procedural fairness
- Elements of the duty of procedural fairness
- Principles of procedural fairness as applied to administrative hearings
- Rule against bias
- Duty to give reasons

THE JUDICIAL REVIEW PROCESS

This session provides an overview of the judicial review process and explores how you can discharge your statutory duties and minimize the likelihood of being reversed by the courts. Topics to be covered include:

- Deference to the regulator's expertise
- Standards of review in judicial reviews and appeals
- Remedies available on judicial review
- Bars to judicial review
- Role of the regulator in judicial review proceedings

SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers' papers. See the list of presentations on page 4.



AV Proceedings

Audio/video segments clickable slide by slide
Papers and overheads also included
Print any of the material for your own use

- This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.
- For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.
- Attendance at this course can be reported as 9 hours of Continuing Professional Development (CPD) to the Law Society of B.C.
- The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members



REGULATORY COMPLIANCE & ENFORCEMENT

The goal of compliance and enforcement is to ensure that parties adhere to regulatory requirements. These initiatives centre on monitoring to gauge compliance, investigating allegations of non-compliance and holding accountable persons who breach their duties. This session will examine these processes and the tools used.

- Differences between compliance, enforcement and administration
- Tools to prevent and detect non-compliance

REGULATORY INVESTIGATIONS BEST PRACTICES

This session will help regulators distinguish between regulatory inspections/audits and investigations, and provide best practices for dealing with each scenario.

- Distinguishing inspections from investigations
- Inspections best practices
- Applying the predominant interest test: when does the relationship become adversarial
- Investigations best practices

PRUDENT REGULATORY PRACTICE: ENSURING FAVOURABLE TRIBUNAL DECISIONS

This session will highlight best practices for minimizing the chances of tribunal appearances and improving the chances of positive tribunal decisions.

- Disclosing the rules, processes & procedures: transparency
- Enforcement: proper notification and opportunities to comply
- The three 'Ds': due process, due diligence and documentation
- Managing the legal game plan

CROWN DISCRETION AND REGULATORY OFFENCES

Regulatory offences are typically prosecuted by Crown counsel from the Attorney General's office, who proceed based on a number of guiding principles, including in relation to the exercise of Crown discretion. Knowing the principles and understanding their basis can assist both regulators and the regulated community, often for different reasons, and this session will examine both.

- Independence of the Crown in management of cases
- AG prosecutorial function: guarding the public interest
- Preserving discretion and independent judgement

THE LEGAL/REGULATORY FRAMEWORK FOR PIPELINES IN CANADA

This discussion details the legal and regulatory framework for approving pipelines in Canada, including:

- Role of the NEB, NRCan, Cabinet, municipalities and provinces
- Public interest in pipeline matters
- Role, rights and powers of landowners and pipeline companies
- Pipeline arbitration process
- Requirements around consultations with First Nations

EFFECTIVE REGULATION WITH PUBLIC CONSULTATION

This session will examine best practices for public consultation in the regulatory reform process, including the duty to consult and other key obligations as part of the consultation process.

- Reasons for consultation
- Scope of consultation consultation

- Mechanisms available to ensure meaningful consultation with stakeholders
- Balancing competing interests when undertaking regulatory reform
- Ensuring regulator's decisions are transparent regarding public

DISCRETION IN THE REGULATORY PROCESS

The greater latitude provided to regulatory agencies for identifying and implementing substantive regulatory requirements, together with the ability of regulatory agencies to exercise discretion in particular situations, enhances a regulator's ability to respond to the ever-changing technical, economic and political conditions within which they operate. This session will examine the key issues involved.

- Executive discretion and administrative decision making
- Promoting regulatory innovation
- Role of accountability in regulatory discretion

INTERNATIONAL REGULATORY COOPERATION IN IMPLEMENTATION OF REGULATORY PROGRAMS

Government departments and agencies frequently have to coordinate their activities with their U.S. and other international counterparts. This session will examine the role of international regulatory cooperation in the development and implementation of regulatory programs.

- Development of cooperative approaches to regulatory programming
- Identifying & devising ways to overcome barriers to regulatory cooperation
- Information and funds sharing restrictions
- Dealing with regulatory process misalignment
- Establishment of regulatory partnerships between like-mandated Canadian and U.S. departments and agencies
- Best practices for effective partnerships and joint or aligned programming

WORKSHOP

CONSISTENCY IN TRIBUNAL DECISION MAKING

This workshop will examine the different methods, tools and practices used to address issues of consistency within adjudicative administrative tribunals.

- Necessity of consistency: the meaning of consistency
- Addressing the entire range of tribunal management and conduct
- Measures for achieving and enhancing consistency
- Discretion in decision making



Your registration includes an interactive multimedia CD-ROM comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio and accompanying slides.

For an additional \$299 to the registration fee, you can receive the multimedia proceedings of the course on CD-ROM, containing all presentations given at event. To receive the presentations described below as well as the presentations given at the event, the cost is \$799.00.

Legal framework for administrative hearings
Greg Sayer
AgriCorp.

The judicial review process
T. Nigel M. Campbell
Blake, Cassels & Graydon LLP

Role in the implementation of regulatory programs
Margot Priest
Governance and Legislative Reform Group

Consistency in tribunal decision making
Alexander Cobb
Osler, Hoskin & Harcourt LLP

Regulator liability
Alexander Cobb
Osler, Hoskin & Harcourt LLP

Prudent regulatory practice: Ensuring favourable tribunal decisions
John Norman
Gowling Lafleur Henderson LLP

Discretion in the regulatory process
Malcolm M. Mercer
McCarthy Tétrault LLP

Regulatory investigations best practices
Martin Masse
McMillan LLP

Tribunal independence
Linda Fuerst

Lenczner Slaght Royce Smith Griffin LLP

Regulating the regulator as policy-maker
Paul Cowling
Shaw Communications Inc.

Managing an investigation at the Competition Bureau
Josephine A. L. Palumbo
Department of Justice

Rules of evidence for administrative hearings
Patti Latimer
Stockwoods LLP

Regulatory governance: Avoiding liability
Larry Swartz
Morneau Shepell Ltd.

Regulatory compliance and enforcement
David A. Hausman
Fasken Martineau DuMoulin LLP

The implications of R v Nolet and R v Jarvis for regulatory investigators
Carole Sheppard
Public Prosecution Service of Canada

Natural justice & procedural fairness
Andrew M. Pinto
Pinto Wray James LLP

Following the scope and legal principles of regulatory investigation
Kenneth Jull
Baker & McKenzie LLP

Federal regulations process under the CDSR
Anne Tomalin
CanReg Inc.

Meeting the regulatory challenges of risk from a post-market perspective
Jean-Nicolas Bustros
Hazardous Materials Information Review Commission

Importance of risk assessment to regulation making and regulatory management
Allan McDougall
Evolutionary Security Management

Planning & developing a regulatory impact analysis
Andrew MacDonald
Policy Research Initiative

E-Discovery issues in regulatory proceedings
Alexandra S. Clark
Ontario Securities Commission

The legislative/regulatory consultation process
The Honourable, Dr. Carolyn Bennett
Government of Canada

A regulatory framework for licensing and compliance
François Rinfret
Canadian Nuclear Safety Commission

Regulatory reform best practices: Reducing overlap, duplication and inconsistencies
Cynthia Amsterdam
Heenan Blaikie LLP

Registration: To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

Location: Ottawa Marriott Hotel, 100 Kent Street, Ottawa, ON, K1P 5R7

Conditions: Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video.

Time: This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 5:00 p.m.

Cancellation: Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee less 15% administration fee will be provided upon cancellation in writing received prior to September 16, 2015. No refunds will be issued after this date.

Discounts: Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

Payment must be received prior to September 22, 2015

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

TO REGISTER FOR 6TH MINI-LLB FOR REGULATORS

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 Please bill my credit card: AMEX VISA Mastercard
 # _____ Expiration date: ____ / ____
 Signature: _____
 Payment enclosed: Please invoice. PO Number: _____

REGISTRATION COSTS

NUMBER OF PARTICIPANTS:
 COURSE: \$1975
 COURSE + PROCEEDINGS CD-ROM:
 \$1975 + \$299 = \$ 2274
 PROCEEDINGS plus multimedia presentations:
 \$799
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