

**CHAPTER 109B**

**ADMINISTRATIVE JUSTICE**

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## CHAPTER 109B

### ADMINISTRATIVE JUSTICE

*An Act to provide for the improvement of administrative justice in Barbados and for related matters.* 1980-63.

[7th July, 1983] Commence-  
ment.  
S.I. 1983  
No. 98.

#### *Citation*

1. This Act may be cited as the *Administrative Justice Act*. Short title.

#### *Interpretation*

2. In this Act, Definitions.

“act” includes any decision, determination, advice or recommendation made under a power or duty conferred or imposed by the Constitution or by any enactment;

“administrative act or omission” means an act or omission of a Minister, public official, tribunal, board, committee or other authority of the Government of Barbados exercising, purporting to exercise or failing to exercise any power or duty conferred or imposed by the Constitution or by any enactment;

“Court” means the High Court;

“enactment” has the same meaning as in the *Interpretation Act*. Cap. 1.

### PART I

#### *Judicial Review*

3. (1) An application to the Court for relief against an administrative act or omission may be made by way of an application for judicial review in accordance with this Act and with rules of court. Application for judicial review.

(2) Where the Court is of opinion that a person or body against whom an application for judicial review is made is not an authority of the Government of Barbados, the Court may allow the proceedings to continue, with any necessary amendment, as proceedings not governed by this Act and not seeking any remedy by way of certiorari, prohibition or mandamus.

Grounds  
for relief.

4. The grounds upon which the Court may grant relief by way of the remedies mentioned in this Act include the following:

- (a) that an administrative act or omission was in any way unauthorised or contrary to law;
- (b) excess of jurisdiction;
- (c) failure to satisfy or observe conditions or procedures required by law;
- (d) breach of the principles of natural justice;
- (e) unreasonable or irregular or improper exercise of discretion;
- (f) abuse of power;
- (g) fraud, bad faith, improper purposes or irrelevant considerations;
- (h) acting on instructions from an unauthorised person;
- (i) conflict with the policy of an Act of Parliament;
- (j) error of law, whether or not apparent on the face of the record;
- (k) absence of evidence on which a finding or assumption of fact could reasonably be based; and
- (l) breach of or omission to perform a duty.

Remedies.

5. (1) The remedies that the Court may grant by way of relief on an application for judicial review are

- (a) certiorari, for quashing unlawful acts;
- (b) prohibition, for prohibiting unlawful acts;
- (c) mandamus, for requiring performance of a public duty, including a duty to make a decision or determination or to hear and determine any case.

(2) The Court may, having regard to the scope of the remedies mentioned in subsection (1), grant in addition or alternatively

- (d) a declaratory judgment;
- (e) an injunction;
- (f) restitution or damages in money; or
- (g) an order for the return of property real or personal.

(3) Any of the remedies mentioned in subsections (1) and (2) may be applied for together or in the alternative in an application for judicial review; and the Court may grant one or more of them as law and justice may require, and whether applied for in the original application or not.

6. The Court may on an application for judicial review grant relief in accordance with this Act

Persons entitled to relief.

- (a) to a person whose interests are adversely affected by an administrative act or omission;
- (b) to any other person if the Court is satisfied that that person's application is justifiable in the public interest in the circumstances of the case.

7. (1) An interlocutory application may be made in any application for judicial review, and the Court or Judge may make any interlocutory order, including an order for discovery of documents, for interrogatories and for cross-examination, and may grant any interim relief that the Court or Judge thinks fit.

Interlocutory application.

(2) The Court or Judge may at any stage direct that the proceedings to which the application relates shall be stayed until further order.

8. The Court may if it thinks fit, refuse to grant any relief under this Act if it considers that there has been undue delay in making the application for judicial review, and that the grant of the relief sought would cause substantial hardship to, or would substantially prejudice the rights of, any person, or would be detrimental to good administration.

Power of Court to refuse relief.

9. Where the Court quashes an administrative act to which the application relates, it may in addition remit the matter to the court, tribunal or other authority concerned with a direction to

Power to remit.

reconsider the matter and to determine it in accordance with the Court's order.

Injunction restraining a person from acting in a public office.

**10.** (1) Where a person brings proceedings alleging that any person is not entitled to act in a public office, the Court may, if satisfied that the proceedings are justified, grant an injunction restraining that person from acting in the public office, and the Court may, if it thinks fit, declare the office to be vacant.

(2) Informations in the nature of *quo warranto* are hereby abolished.

Non-application.

**11.** Nothing in this Act affects

- (a) the law relating to habeas corpus;
- (b) the right of the Attorney-General to bring proceedings under this Act or otherwise, either of his own motion or at the relation of any person.

Rules.

**12.** The Judicial Advisory Council may make rules generally for the purposes of this Part.

## PART II

### *Administrative Procedures*

Reasons for decisions.

**13.** (1) It is the duty of any person or body making a decision to which this section applies, if requested in accordance with section 14 by any person adversely affected thereby, to supply to that person a statement of the reasons for the decision.

(2) This section applies to any decision that is required by law (including any enactment) or by contract to be made in accordance with the principles of natural justice or in a fair manner with the exception of

- (a) any decision for which by express provision of any enactment reasons are not to be required;
- (b) any such decision as is specified in the First Schedule.

First Schedule.

Request for reasons.

**14.** (1) A request for reasons under section 13 must be made on or before the date of giving or notification of the decision or within 14 days after that date.

(2) A request must be made in writing, except that where an oral hearing is held, the request may be made orally before the conclusion of the oral proceedings.

(3) In the case of postal communications, a request for reasons shall be deemed to be made at the time when it is posted and a notification of a decision at the time when it reaches the addressee.

**15. A statement of reasons under section 13**

Statement  
of reasons.

- (a) must be in writing, except where the person requesting it agrees that it may be made orally;
- (b) must be supplied within a reasonable time;
- (c) shall be deemed to be part of the decision and to be incorporated in the record.

**16. (1) The law relating to natural justice applies**

Principles  
of natural  
justice.

- (a) to any person or body refusing, modifying, or revoking any licence, permission, qualification or authority or imposing any penalty under powers conferred by any enactment;
- (b) to any person or body listed in the Second Schedule and making a decision of the kind there specified.

Second  
Schedule.

(2) This section does not restrict the application of the law relating to natural justice in any other case.

**17. The Governor-General may by order subject to negative resolution add any item to the First Schedule or the Second Schedule or remove any item therefrom.**

Alteration  
of  
Schedule.

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**FIRST SCHEDULE**

s.13(2).

- (a) Any decision other than a decision relating to a disciplinary matter made by
  - (i) the Judicial and Legal Service Commission;
  - (ii) the Public Service Commission;

- (iii) the Police Service Commission;
- (iv) the Statutory Boards Service Commission;
- Cap. 159. (v) the Defence Board or other authority under the *Defence Act*.
- Cap. 190. (b) Any decision of the Minister or of a Government Official under the *Immigration Act*.
- Cap. 188. (c) Any decision relating to an order made under the *Expulsion of Undesirables Act*.

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SECOND SCHEDULE

s. 16(1)(b).

*Person or body*

*Specified decision*

The Judicial and Legal Service Commission

The Public Service Commission

The Police Service Commission

The Statutory Boards Service Commission

A decision against a member of the service in question in a disciplinary matter.

The Minister responsible for Town and Country Planning

A decision to approve a development plan under section 9 of the *Town and Country Planning Act*;

Cap. 240.

A decision given upon a review under section 19 of that Act.