



NUMBER 9  
AUGUST 2000



# Practice *Direction*

---

## Constitutional questions

### Introduction

1. This *Practice Direction* provides further information about constitutional questions raised in an appeal as discussed in section 12 of the *Code of Procedure*.

### Circumstances where notice required/ to whom notice must be given

2. Where a party intends,
  - (a) to raise a question about the constitutional validity or applicability of legislation, a regulation or a by-law made under legislation, or a rule of common law, or
  - (b) to claim a remedy under the *Canadian Charter of Rights and Freedoms*, notice of a constitutional question shall be served on the IPC.

### Time limits

3. An appellant will be permitted to raise a constitutional question at first instance or an additional constitutional question only

within a 35-day period after giving the IPC notice of his or her appeal.

4. Any other party will be permitted to raise a constitutional question only within a 35-day period after receiving notice of the appeal.
5. The Adjudicator has the discretion not to consider a constitutional question raised after the applicable time limit if the appeal proceeds to inquiry.

### Form of notice

6. A notice of constitutional question shall be in the form attached to this *Practice Direction*, or in a similar form that contains the same information.
7. The party raising the constitutional question shall serve notice of the constitutional question on the IPC, leaving blank the dates when the constitutional question will be argued and when the Attorneys General of Canada and Ontario should notify the IPC of their intention to participate.

8. The IPC will add those dates and will ensure that the notice is served on the Attorneys General and on any other parties to the inquiry.

### Where IPC believes notice required

9. If the IPC notifies a party that in its opinion a matter raises a constitutional question and requires that a notice of constitutional question be served, the party shall within the time set out by the IPC either
- (i) serve the notice of constitutional question on the IPC, or
  - (ii) provide the IPC with submissions as to why the party believes a notice of constitutional question is not required.

### Representations on whether notice required

10. The IPC may seek representations from other parties as to whether the matter raises a constitutional question.

### Objection to notice

11. If the party objects to serving a notice of constitutional question, after receiving submissions, the IPC will either
- (i) notify the party that it is not necessary to serve a notice of constitutional question, or
  - (ii) direct the party to serve a notice of constitutional question and set a date for doing this.

### Sharing representations

12. The IPC may share representations on constitutional questions with all parties in accordance with the IPC's *Code of Procedure* and *Practice Direction* number 7.

## Practice *Direction*

is published by the **Office of the Information and Privacy Commissioner/Ontario**.

If you have any comments regarding this document, wish to advise of a change of address, or be added to the electronic mailing list, contact:

**Communications Department**  
Information and Privacy Commissioner/Ontario  
2 Bloor Street East, Suite 1400  
Toronto, Ontario M4W 1A8  
Telephone: 416-326-3333 • 1-800-387-0073  
Facsimile: 416-325-9195  
TTY (Teletypewriter): 416-325-7539  
Website: [www.ipc.on.ca](http://www.ipc.on.ca)

***Cette publication, intitulée « Directive de pratique », est également disponible en français.***



30% recycled  
paper

## Notice of Constitutional Question Form

### INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

IN THE MATTER OF Appeal Number *(insert appeal number)* under the  
*Freedom of Information and Protection of Privacy Act* (or the *Municipal Freedom of  
Information and Protection of Privacy Act*)

### NOTICE OF CONSTITUTIONAL QUESTION

The *(identify party)* intends to question the constitutional validity or applicability of *(identify the particular legislative provisions or the particular rule of common law)* (or to claim a remedy under subsection 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an act or omission of an institution) in an appeal to be argued in writing on *(day)*, *(month)*, *(year)*.

The following are the material facts giving rise to the constitutional question: *(Set out concisely the material facts that relate to the constitutional question. Attach the decision that is being appealed and any other relevant documentation where appropriate.)*.

The following is the legal basis for the constitutional question: *(Set out concisely the legal basis for each question, identifying the nature of the constitutional principles to be argued.)*.

An Attorney General who wishes to participate in the argument must file written representations on the constitutional question by the date set out above or notify the Information and Privacy Commissioner/Ontario at least five days before that date if an extension of time is requested.

*(Date)*

*(Name, address, telephone number of the party or the party's counsel or agent)*

To: Attorney General of Ontario  
Constitutional Law Branch  
4th Floor  
720 Bay Street  
Toronto, Ontario  
M7A 2S9  
fax: (416) 326-4015

Attorney General of Canada  
Suite 3400, Exchange Tower  
Box 36, First Canadian Place  
Toronto, Ontario  
M5X 1K6  
fax: (416) 973-3004

*(All other parties to the appeal)*