

THE POWER TO TAKE ACTION FOR CONTEMPT:

A DISCUSSION PAPER

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1 Introduction

As part of government's administrative justice reform initiative, the *Administrative Tribunals Act* (ATA) was enacted in 2004 to provide BC tribunals with modern, consistent powers and authorities. Government is now giving consideration whether to extend those powers and authorities to other entities.

The first stage of that consideration is whether to extend the ATA provisions for immunity protection, the power to summon witnesses and other evidence, and the opportunity to apply to the court for contempt to the various entities that still rely on the *Inquiry Act* as the basis for their authority in those areas. There are approximately 45 such entities, and they include various ministers and statutory decision makers, certain self governing professional bodies, some limited local government circumstances and certain of the Officers of the Legislature. (A list of these entities and their respective statutes is set out in Appendix A.)

This paper addresses the power to take action for contempt; immunity protection and the power to compel evidence are discussed in separate papers. These papers are intended to prompt discussion about whether to replace these powers with the ATA provisions or perhaps different provisions, or whether the power should be provided at all to a particular entity, with different entities likely to have different needs.

To prompt discussion about the power to take action for contempt, this paper provides an introduction to some of the legal concepts related to contempt and the ability of courts and other entities to take action for contempt, including under the *Inquiry Act* and the ATA provisions. Options and alternatives to punishing for contempt are then followed by some of the policy considerations for and against providing this power. The next step will be to develop criteria to apply to the various affected entities, to determine the extent and type of contempt powers a particular entity may need to replace their *Inquiry Act* powers.

Your thoughts and ideas about the power to take action for contempt and whether and how it should be available to the affected entities are important to assist the AJO in developing criteria to apply, and you are invited to share those thoughts and ideas with the Ministry of Attorney General's Administrative Justice Office at:

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Or you can use the Feedback option on the AJO Web site at: www.gov.bc.ca/ajo

Submission of comments by April 28, 2006 would be appreciated.

2 The Legal Concept of Contempt

Contempt is conduct that obstructs the proper administration of justice¹ and, depending on the intent of the person, will be considered as either criminal or civil contempt.

Criminal contempt is conduct that is intended as public defiance of the authority of the court and may involve publicly:

- disobeying a court order,
- abusing or threatening parties or witnesses to a court proceeding,
- or
- alleging bias or improper motives to a judge or court.

Criminal contempt proceedings are brought to punish the person for their conduct.

Civil contempt is the failure of a person to comply with a court order for a private reason. Civil contempt proceedings are brought to get the person to comply with the court or tribunal order.

A person found in criminal or civil contempt may be imprisoned, so in both types of proceedings, the actions of the person must be proved beyond a reasonable doubt.²

Contempt is further categorized depending whether the action happens inside the court (usually in an on-going proceeding, in the presence of a judge) or outside the court (not in the physical presence of a judge). However, the failure to attend in response to a court subpoena is considered contempt inside the court, but the failure to obey most other types of court orders is considered contempt outside the court.

3 The Power to Take Action for Contempt

Under the common law, superior courts, such as the BC Supreme Court, have the inherent power to take action against persons for civil and criminal contempt, whether the conduct occurred inside or outside of the court. Superior courts may also take action against persons for contempt inside and outside of administrative tribunals and for contempt outside of other courts (usually a court in another jurisdiction, as most courts will take direct action for conduct in their own proceedings).

Provincial courts have jurisdiction to take action for contempt inside that court.³

¹ See Black's Law Dictionary (Eighth Edition) and *Poje v British Columbia (Attorney General)*, [1953] 1 S.C.R. 516.

² *North Vancouver (District) v. Sorrenti*, 2004 BCCA 316 (CanLII).

Provincially created tribunals and other entities can take action for contempt when authorized by statute,⁴ which can include taking action for contempt outside of its proceedings, if granted by clear and unambiguous language, and the statute does not try to limit the superior court's jurisdiction.⁵ Generally the courts will interpret these contempt powers to permit the tribunal or entity only the minimum power necessary to effectively perform its duties.⁶

4 The Consequences of a Contempt Finding

As noted above, the general principle is that a civil contempt proceeding is intended to get the person to comply with an order, and criminal contempt is intended to punish the person for their actions. However, the same range of penalties is available for either civil or criminal contempt.

On finding a person to be in contempt, the court may order the person be imprisoned until the person complies with the order for which he or she was found in contempt (that is, until they "purge" the contempt), or for a set period of time.

In cases where there has been a mere technical contempt, no disrespect was intended to the court, the contempt is the result of a mere error in judgment, or the breach of an order is minor in nature, the court may order the person to pay the costs of the contempt proceedings.

The court may also impose a fine (the case law indicates the range of fines imposed can be very wide, and can be as much as \$250,000) or make an order against the person to pay money into court (known as security for costs) to ensure they comply with the order.

The kinds of things that an entity, other than the court, may do on finding a person in contempt may be limited by the statute that gives the authority to punish for contempt.⁷

³ Section 484 of the *Criminal Code* and section 53 of the *BC Offence Act* confirm that provincial court judges have the same power and authority to preserve order in a court over which they preside as may be exercised by the Supreme Court.

⁴ See Robert W. Macaulay and James L.H. Sprague, *Practice and Procedure Before Administrative Tribunals*, s. 29A.5(b)(ii).

⁵ *Chrysler Canada Ltd. v. Canada (Competition Tribunal)*, [1992] 2 S.C.R. 394, 1992 CanLII 68 (S.C.C.).

⁶ *Diamond v. Ontario Municipal Board* (1962), 32 D.L.R. (2d) 103.

⁷ For example, under Rule 19 of the Small Claims Rules, if a person at a hearing before a judge

- refuses to be sworn, or to affirm or to answer a question
- refuses to produce a record or other evidence
- does not obey a direction of the judge, or
- repeatedly fails to attend court when summoned or ordered to do so and does not provide adequate reasons for failing to attend,

5 The Power to Take Action for Contempt Under the *Inquiry Act*

Section 16 of the *Inquiry Act* gives a commissioner of inquiry the same power as judges of the Supreme Court, if a person has been served with a summons and:

- fails to appear at the time and place indicated in the summons or
- attends as required but refuses to
 - be sworn,
 - answer questions, or
 - produce documents.

A commissioner may also exercise the same power as judges of the Supreme Court, if a person is guilty of contempt of the commissioner or their office.⁸

While the consequences are presumably the same as when a judge makes finding of contempt, case law does not indicate any circumstances in recent years where a person was imprisoned simply on a commissioner's finding of contempt, and even fines may be difficult for a commissioner to enforce.

And, as the *Inquiry Act* was first enacted in the 1890s,⁹ it substantially predates the *Canadian Charter of Rights and Freedoms*. The ability of a commissioner to now rely on the contempt power to imprison a person, without an application to the court, may now be questionable. Other powers may be more valuable for a commissioner to control their hearings and obtain evidence.

Application of section 16 of the Inquiry Act to other entities

A broad range of individuals and entities have been granted the power to punish for contempt under section 16 of the *Inquiry Act*. Some have responsibility for broad public policy decisions or recommendations, such as the Information and Privacy Commissioner and the Electoral Boundaries Commission. Others make decisions on relatively private matters, such as the Chief Gold Commissioner or the Director of Debtor Assistance. Some are ministerial delegates with power to conduct inquiries into a range of subjects. Discipline and certification committees of a number of self-regulating professions, including biologists, lawyers, notaries

the judge may issue a warrant requiring the person to be imprisoned for a specified period of not more than 3 days. If the contemnor is the claimant or applicant, the judge may dismiss the claim or application. If the contemnor is the defendant or third party, the judge may continue with the proceeding as if no reply had been filed.

Under section 52 of the provincial *Offence Act*, a person who, being required by law to attend or remain in attendance to give evidence, fails, without lawful excuse, to attend or remain in attendance accordingly is guilty of contempt of court that is punishable by a fine of \$100, or to imprisonment for 90 days or to both, and may be ordered to pay the costs incidental to the service and execution of the subpoena and warrant and to his or her detention, if any.

⁸ Set out in Appendix B.

⁹ As *An Act respecting Inquiries concerning Public Matters*, R.S.B.C. 1897, c. 99.

and teachers have also been granted this power. Some entities are responsible for making quasi-judicial decisions, while others are empowered to conduct investigations, make recommendations and/or engage in fact-finding.

As noted above, the remedies available to one of these entities when finding a person in contempt are, practically speaking, likely to be limited. To provide an entity with a power or authority that is rarely used or difficult to use is questionable, although some may say that the simple “threat” of taking action for contempt may have some value in obtaining compliance.

6 The Power to Take Action for Contempt under the *Administrative Tribunals Act (ATA)* and Other Acts

Most tribunals have a variety of powers under the ATA that they can use to enforce their orders,¹⁰ and contempt proceedings are usually a last resort and used only to obtain evidence that is critical to a proceeding and otherwise unobtainable. These other powers are discussed in more detail in Section 8 of this paper.

Under sections 49(1) and (2) of the ATA, a tribunal must apply to the Supreme Court to take action for contempt.

An application can be made under sections 49(1) and (2) if the person fails to:

- attend a hearing,
- take an oath or affirmation,
- answer questions,
- produce the records or things in their custody or possession, or
- comply with an order for maintenance of order at a hearing.¹¹

Applications for orders pursuant to section 49 are commenced by filing an originating application with the Court and serving a copy of the application on the person who is alleged to have been in contempt.

To bring a proceeding for criminal contempt, the Attorney General must be invited to take over the proceedings as a prosecution.

Although contempt powers are not new for many tribunals, the lack of reported case law in both BC and other Canadian jurisdictions on contempt applications by tribunals would seem to indicate that tribunals have either chosen not to, or

¹⁰ See: *A Guide for Tribunals: Obtaining Compliance with Tribunal Processes*, available at: http://www.gov.bc.ca/ajo/down/obta_compliance.pdf

¹¹ The full text of section 49 of the ATA is set out in Appendix B. Section 49(3) also recognizes the Supreme Court’s inherent jurisdiction to find a person in contempt of an administrative tribunal for actions in addition to those listed.

have not needed to, rely on these powers. As noted above, in most situations, another ATA power will be easier to use and more effective than a contempt application (see also Section 8, below). However, in certain cases, section 49 may be suitable, for example, to compel evidence in cases where it is critical to the tribunal's decision.

Various other statutory entities are also permitted to apply to the Supreme Court for action respecting contempt.¹² The only entity with authority to punish criminal contempt, other than the court, is the Legislative Assembly, including Legislative Committees that may be struck to investigate matters of high public interest.¹³ This reflects the very special role of the Legislature and the need for respect for its processes.

7 Limits on Contempt Proceedings

Some limits on contempt proceedings are discussed in this section.

The Canadian Charter of Rights and Freedoms and the principles of fundamental justice

The *Charter* and the principles of fundamental justice apply to contempt proceedings. This has been interpreted by the courts to mean that a person has the right:

- to be notified without delay of the specific allegations of contempt
- to not be compelled as a witness against others accused of the same contempt, even in civil contempt proceedings
- to explain the alleged contemptuous conduct
- to “purge” his or her contempt (to “purge” contempt is to do that which the person originally failed or refused to do), and
- to make representations as to the appropriate punishment to be imposed.

Defences

It is a defence to a contempt allegation that the person:

- was unable to comply with an order because of circumstances beyond the person's control¹⁴

¹² See examples set out in Appendix B.

¹³ See the relevant sections of the *Legislative Assembly Privilege Act* set out in Appendix B.

¹⁴ For example, in *Metaxas v. Galaxis*, [1989] 1 F.C. 386 (T.D.) a Greek ship was seized and sold by public auction. Among the creditors was the Greek Minister of Merchant Marine, which administered pensions and other social benefits of seamen. The Court directed the Greek Minister to issue a certificate permitting registration of the ship in Greece in the purchaser's name, free and clear of all encumbrances and obligations. The Minister did not obey the order and another creditor applied for an order of contempt. Because evidence was provided that if the Greek Minister issued the certificate, under Greek law, he would attract both criminal and civil sanctions, the Court found that the inability to comply was a valid defence.

- had a justifiable reason for failing to comply with the order,¹⁵ or
- delayed complying with an order in order to seek clarification or guidance from the issuing body, provided that the person seeks such advice at the earliest possible opportunity.

However, it is not a defence to a contempt allegation that the person:¹⁶

- was acting on legal advice, although reliance on legal advice can be considered a mitigating factor in considering the appropriate punishment for a finding of contempt¹⁷
- is now in compliance with the order (this is merely a matter to be taken into account in assessing the penalty)
- acted out of concern for the safety of others
- is bankrupt and therefore cannot comply with the order¹⁸
- was acting out of necessity¹⁹
- was conscientiously objecting to the order, or
- was under duress, unless the duress took the form of threats of immediate death or bodily harm from a person who is present when the offence is committed.

8 Alternatives to the Power to Punish for Contempt

Contempt proceedings are generally a last resort. Under the ATA and other legislation, many tribunals and other entities have an array of other actions to sanction persons who do not comply. The focus of this paper is on those ATA powers as alternatives.

Rules of practice and procedure: Section 11 gives tribunals the power to make rules of practice and procedure, including for disclosure and exchange of documents and respecting the effects of non-compliance. Rule making can be the first step to ensuring that parties understand and comply with their obligations, so that contempt does not occur.

¹⁵ For example, in *R v Larsen* (1974), 19 C.C.C. (2D) 574, the appellant was served with a subpoena on April 13 to attend Court as a witness on April 17. The appellant was a high school student and a class field-trip to Toronto had been pre-arranged, leaving on April 16. At the time of service of the subpoena, the appellant, in the presence of others, informed the serving officer of these plans and the appellant and his mother were both left with the impression that in light of those plans it would not be necessary for him to appear in court in on April 17. The Court of Appeal overturned his contempt conviction.

¹⁶ See Macaulay and Srague S29A.9(d) and Jeffrey Miller *The Law of Contempt in Canada* (Scarborough: Carsell, 1997)

¹⁷ See *Glazer v. Union Contractors Ltd.* (1960), 34 W.W.R. 193 (B.C.C.A.).

¹⁸ *Manis v Manis* (2001), 13 C.P.C. (5th) 234 (Ont. C.A.).

¹⁹ In *MacMillan Bloedel v Krawczyk* (1994), 43 BCAC 136 it was found that necessity and justification of force were not defences to an allegation of contempt as no one can justify conduct that an order of the court specifically enjoins.

Proceeding without the summoned evidence

If a party fails to produce requested evidence or to answer questions, the entity may simply continue the proceedings without the summoned evidence.²⁰ The entity may:

- *Apply the burden of proof:* A party to a proceeding may have the obligation to produce sufficient evidence in support of a fact or issue. It is up to that party to provide the evidence necessary to do that, or the party will be unsuccessful, so if a party refuses to comply with a summons, they may lose their case.

However, simply applying the burden of proof may not be sufficient where the best evidence to prove a fact is in the possession of a third party who is not interested in the proceeding or opposes co-operating, or in cases where the proceeding is in a broad public interest and no party is required to prove the fact.

- *Make a negative inference:* If the party does not produce a document or other thing that they would be expected to produce to prove their case, and no reasonable explanation is provided for not providing it, the decision maker or person conducting the inquiry or investigation can “draw a negative inference”.

This means they may infer that the evidence would have been unfavourable to the party who failed to produce the document or thing. An adverse or negative inference can also be drawn where a person who reasonably could have been expected to assist the party, fails to give evidence which was in their power to give.

Applying a negative inference may not be the best option where the proceeding is in a broad public interest and no party is required to prove the fact.

Dismiss the application: Both sections 18 and 31(1)(e) of the ATA provide authority for a tribunal to take action with respect to non-compliance with its orders. The ATA is new, but these sections are anticipated to be a principal means used by tribunals to address most non-compliance issues.

Under section 18, if a party (an applicant or a respondent) fails to comply with an order of the tribunal or with the tribunal’s rules of practice and procedure, a tribunal may, on notice:

²⁰ The ability of some statutory entities to proceed without the attendance of a party who has been ordered to attend is included in their enabling statutes. For example, section 27(2) of the *Foresters Act* allows a panel to proceed with a discipline hearing whether or not the member appears in person or by legal counsel at the discipline hearing.

- continue with the application but restrict or eliminate any further opportunities for that party to make submissions, or
- dismiss the application.

Restrict or eliminate submissions: A tribunal's authority to restrict or eliminate submissions by a party in non-compliance can be useful where the non-complying party is the respondent. This allows the application to proceed without negative impact on the applicant and any other parties who are in compliance with the tribunal's order or rules.

Where the non-complying party is the applicant, dismissing the application may be more appropriate. However, restricting or eliminating submissions may be more appropriate where the non-complying party is the applicant, if the respondent and/or the public have an interest in the application continuing. In such a case, dismissal would defeat that interest and may not be appropriate.

Section 31(1)(e) is similar to section 18, but provides that the tribunal may dismiss all or part of an application if the applicant failed to comply with an order of the tribunal.²¹ Section 31 may be helpful where there is an overarching public interest in the application and/or the non-compliance only affects part of an application, so that the tribunal has an interest in otherwise hearing and determining the balance of the application.²²

A tribunal may be able to deal with non-compliance by an intervener under section 33, which permits limits to be imposed on interveners' participation in an application.

Applications to the BC Supreme Court: Section 34(4) allows the tribunal to apply for a court order to obtain compliance with its order. Examples of when section 34(4) may be useful include:

- If a respondent has evidence the tribunal needs to make its decision, but the respondent is unwilling to produce it and does not care if, under section 18, the tribunal limits his or her right to make submissions; and,
- If the proceeding has a broader public interest and evidence the tribunal needs in order to make its decision is available only through a person who is not a party and is unwilling to provide the evidence.

Costs: Section 47 of the ATA authorizes a tribunal to require the party to pay part of the actual costs and expenses of the tribunal if it considers the conduct of a party has been improper, vexatious, frivolous or abusive. Section 47(2) of the ATA provides that an order for costs, when filed in the Supreme Court Registry,

²¹ Section 31 does not apply if it is the respondent who fails to comply with an order of the tribunal. Only section 18 is available to the tribunal if the respondent is not in compliance.

²² A similar effect might be possible, by relying on section 18(a) to limit submissions to only those parts of an application.

has the same effect as an order of the Court for the payment of a debt and proceedings may be taken on it as if it were an order of the Court.

Maintenance of order at an oral hearing: Section 48 of the ATA provides a tribunal with the authority to make orders or give directions it considers necessary to maintain order at a hearing. Such orders may impose restrictions on or exclude a person (not just a party or an intervener) from further participation in or attendance at a proceeding.

If the person causing the disruption is the respondent, the tribunal may limit their opportunity to participate in the hearing. If the person causing the disruption is the applicant (and there is no overarching public interest in continuing the proceedings) the tribunal may consider dismissal under section 18 of the ATA.

Other statutes:

Referring the contemptuous acts to a professional association for action

Where a member of a self-regulating profession engages in contemptuous conduct that is unbecoming a member of that profession, an entity may make a complaint to the professional association. The code of conduct for the profession may explicitly reference the expected conduct of members before courts and tribunals.²³ Where a member breaches the code of conduct, or engages in “conduct unbecoming”, the self-regulating profession may take action against the member under its bylaws.

Applications to the BC Supreme Court

In addition to the ATA, other provincial statutes permit various entities to apply to the Supreme Court to commit a person for contempt. Even without statutory authority, the Supreme Court has the inherent jurisdiction to punish for contempt committed against tribunals.

9 Policy Discussion

Having canvassed the concept of contempt, the power to take action for contempt and some alternatives, the questions that need to be asked about a given tribunal’s power to take action for contempt are:

- whether a particular position or entity should have the power to take action for contempt, and
- whether there should be any limits on the power to take action for contempt.

²³ For example, Chapter 1 of the Law Society of British Columbia’s Professional Conduct Handbook indicates that lawyer’s conduct should at all times be characterized by candour and fairness. The lawyer should maintain toward a court or tribunal a courteous and respectful attitude and insist on similar conduct on the part of clients, at the same time discharging professional duties to clients resolutely and with self-respecting independence.

To answer those questions requires consideration of the possible implications to the various parties who may have an interest: the individuals and entities that may be granted the power to punish for contempt, the persons whose rights may be limited or restricted by the power to take action for contempt, and the general public who also have an interest in these matters. To assist in that consideration, some of the factors that might be considered are set out below.

Some factors to give an entity the power to punish for contempt include:

- ❖ Whether the entity needs this authority, or at least the “threat” of it, to obtain evidence and/or maintain order in proceedings before it.
- ❖ Whether, without the power to punish for contempt, witnesses may disobey orders to appear and produce documents that are critical to the entity carrying out its duties or powers.
- ❖ To have to apply to the Supreme Court for contempt may take more time and cost more money than simply allowing the entity to directly punish a person for contempt.
- ❖ Other options for controlling parties’ behaviour, such as the alternatives available under the ATA (discussed in Part 8 above), are not practical or available to the entity.

Some factors to not give an entity the power to punish for contempt include:

- ❖ A finding of contempt can carry the possibility of imprisonment, which requires due process. It may be that only courts should have this power, and which is only exercised after due process.
- ❖ Entities may be given other ways to get evidence and maintain order, and if those don’t work, they can apply to the Supreme Court to assist them and, if necessary, to punish for contempt.
- ❖ Except for those entities that have this power under the *Inquiry Act*, no provincial entities, other than the Legislative Assembly, have this power. Other statutorily created entities have only the power to apply to the Supreme Court to take action for contempt.
- ❖ Contempt is a difficult and complex area of law subject outside of the area of expertise of most statutory entities. A judge will have the necessary expertise in this area.
- ❖ Court challenges to an entity exercising this power may be expected, and may be expected to be costly. Applying directly to the court will be more effective in the long run.

- ❖ Other options for controlling parties' behaviour, such as the alternatives available under the ATA (discussed in Part 8 above), are more appropriate.

Your thoughts and ideas about the power to punish for contempt and whether and how it should apply to the affected entities are important. You are invited to share those thoughts and ideas with the Ministry of Attorney General's Administrative Justice Office at:

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Submission of comments by April 28, 2006 would be appreciated.

APPENDIX A

ENTITIES WITH *INQUIRY ACT* POWERS, BY TYPE OF ENTITY

Officers of the Legislature and similar entities
<i>Electoral Boundaries Commission Act</i> , s. 6 Electoral Boundaries Commission
<i>Freedom of Information and Protection of Privacy Act</i> , s. 44(1); <i>Personal Information Protection Act</i> , s. 38(1) Information and Privacy Commissioner
<i>Legislative Procedure Review Act</i> , s. 6(b) Speaker of the Legislative Assembly
<i>Members' Conflict of Interest Act</i> , s. 21(2) Conflict of Interest Commissioner
<i>Police Act</i> , s. 61(8) Adjudicator appointed by the Police Complaint Commissioner
<i>Public Service Act</i> , s. 20 Merit Commissioner

Self-Governing Professions
<i>Agrologists Act</i> , s. 28(1) Disciplinary Panel
<i>College of Applied Biology Act</i> , s. 31(1) Disciplinary Panel
<i>Foresters Act</i> , s. 27(5) Disciplinary Panel
<i>Legal Profession Act</i> , s. 44(1): Benchers, a panel or the special compensation fund committee
<i>Notaries Act</i> , s. 27(1) Disciplinary committee
<i>Real Estate Services Act</i> , ss. 42(2), 63(2) 42(2): Discipline committee 63(2): Compensation committee
<i>Teaching Profession Act</i> , ss. 26(5), (7), 32(3) 26(5): Qualifications committee 26(7): The council re: certification inquiries 32(3) The council, discipline committee re: conduct/competence inquiries

Local government
<i>Vancouver Charter</i> , s. 177 177: A barrister engaged to investigate an alleged misfeasance or any matter connected with the good government of the city

Named statutory decision makers
<i>Correction Act</i> , s. 28(2)(f) Director of the Investigation and Standards Office
<i>Debtor Assistance Act</i> , s. 6(b) Director of Debtor Assistance
<i>Employment Standards Act</i> , s. 84 Director of Employment Standards
<i>Financial Administration Act</i> , s. 8(2)(d) Comptroller General
<i>Gaming Control Act</i> , s. 52 General manager
<i>Health Act</i> , s. 15(3) The Provincial health officer
<i>Local Government Act</i> , s. 1021(3) Inspector of Municipalities of British Columbia
<i>Marriage Act</i> , s. 14(2) Marriage commissioner (limited application)
<i>Medicare Protection Act</i> , s. 5(3) Medical Services Commission
<i>Mineral Tenure Act</i> , ss. 13(9), 40(10) The chief gold commissioner
<i>Mines Act</i> , s. 8 An inspector re an accident investigation
<i>Ministry of Energy and Mines Act</i> , s. 8(2)(b) Persons appointed to conduct inquiries and investigations
<i>Private Investigators and Security Agencies Act</i> , s. 19(1) Director of Police Services
<i>Water Act</i> , s. 89 The comptroller or regional water manager re an inquiry

Ministers and others to whom powers may be delegated by statute or by minister, typically exercised on an ad hoc basis
<i>Corporation Capital Tax Act</i> , s. 24 Person authorized to make inquiries to ascertain tax liability
<i>Crown Counsel Agreement Continuation Act</i> , s. 4 (4) A Commission regarding bargaining between government and Crown Counsel
<i>Education Services Collective Agreement Act</i> , s. 5(4) A commission to inquire into collective bargaining structures and practices

<i>Environmental Assessment Act</i> , s. 14(4) Commission re project assessment
<i>Environmental Management Act</i> , s. 113(1): The minister or appointee holding an inquiry re: the environment
<i>Health Professions Act</i> , s. 18.1(3) A person appointed to inquire into the administration or operation of a college, or the practice of a health profession.
<i>Labour Relations Code</i> 76(4): Special mediator appointed to help settle collective agreements 79(7): An industrial inquiry commission 109: Special officer appointed to investigate a dispute 144: The minister or designee for the purpose of obtaining information
<i>Logging Tax Act</i> , s. 11(2) An officer appointed to make inquiries re: a taxpayer's income
<i>Ministry of Labour Act</i> , s. 6 The minister or any appointee to obtain information
<i>Provincial Court Act</i> , s. 27(1): A tribunal appointed to inquire into the fitness of a judge to perform their duties
<i>Railway and Ferries Bargaining Assistance Act</i> , ss. 4(a) and 18(3)(b) 4(a) A Special Commission re employer/ employee relations/trade unions 18(3)(b) A fact-finder appointed when needed
<i>Real Estate Services Act</i> , s. 129(2) A person appointed by the minister to review the real estate council, foundation, insurance corporation or any other matter relating to the Act
<i>Youth Justice Act</i> , s. 38(2) The minister or appointee making an inquiry into anything under the Act, based on a complaint

Others
<i>Environmental Management Act</i> , s. 93(11) Environmental Appeal Board
<i>Farm Practices Protection (Right to Farm) Act</i> , s. 11(5) Provincial Board appointed under the <i>Natural Products Marketing Act</i>
<i>Motor Dealer Act</i> , s. 15(7) Motor Dealer Customer Compensation Fund Board
<i>Public Sector Pension Plans Act</i> , s. 7(7) of Sch. A College Pension Board of Trustees
<i>Real Estate Development Marketing Act</i> , s. 29(2) Superintendent of Real Estate

APPENDIX B

CONTEMPT POWERS UNDER VARIOUS STATUTES

The contempt provisions set out below are a sample of the various provisions currently used and are provided to assist in the consideration of the contempt power, if any, that might be given to a particular entity.

Act	Contempt Provision
<i>Inquiry Act</i> , [RSBC 1996] c. 224	<p>16 (1) The commissioners have the same powers, to be exercised in the same way, as judges of the Supreme Court, if</p> <p>(a) any person on whom a summons has been served by the delivery of it to the person, or by leaving it at the person's usual residence,</p> <p>(i) fails to appear before the commissioners at the time and place specified in the summons, or</p> <p>(ii) having appeared before the commissioners, refuses to be sworn, to answer questions put to the person by the commissioners, or to produce and show to the commissioners any documents, writings, books, deeds and papers in the person's possession, custody or power touching or in any way relating to the subject matter of the inquiry, or</p> <p>(b) a person is guilty of contempt of the commissioners or their office.</p> <p>(2) All jailers, sheriffs, constables, bailiffs and all other police officers must assist the commissioners in the execution of their office.</p>
<i>Administrative Tribunals Act</i> , [SBC 2004] c. 45	<p>49 (1) The failure or refusal of a person summoned as a witness to do any of the following makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court:</p>

	<p>(a) attend a hearing;</p> <p>(b) take an oath or affirmation;</p> <p>(c) answer questions;</p> <p>(d) produce the records or things in their custody or possession.</p> <p>(2) The failure or refusal of a person to comply with an order or direction under section 48 makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court.</p> <p>(3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the court in respect of conduct by a person in a proceeding before the tribunal.</p>
<p><i>Legislative Assembly Privilege Act,</i> [RSBC 1996] c. 259</p>	<p>5 The Legislative Assembly has the rights and privileges of a court of record to summarily inquire into and punish, as breaches of privilege or as contempt of court, without prejudice to the liability of the offender to other prosecution and punishment, the following:</p> <p>(a) assaults, insults to or libels on members of the Assembly during the session of the Legislature, and 20 days before or after it;</p> <p>(b) obstructing, threatening or attempting to force or intimidate members of the Assembly;</p> <p>(c) offering to or acceptance of a bribe by a member of the Assembly to influence the member in proceedings as a member or offering to or acceptance of a fee, compensation or reward by a member for drafting, advising on, revising, promoting or opposing a Bill, resolution, matter or thing submitted to, or intended to be submitted to, the Assembly or a committee of it;</p> <p>(d) assaults on or interference with officers of the</p>

Assembly in the execution of their duty;

(e) tampering with a witness in regard to evidence to be given by the witness before the Assembly or a committee of it;

(f) giving false evidence, prevaricating or otherwise misbehaving in giving or refusing to give evidence or produce papers before the Assembly or a committee of it;

(g) disobedience to subpoenas or warrants issued under the authority of this Act to compel witnesses to attend before the Assembly or committee of it;

(h) presenting to the Assembly or a committee of it a forged or false document with intent to deceive the Assembly or committee;

(i) forging, falsifying or unlawfully altering records of the Assembly or a committee of it, or a document or petition presented or filed, or intended to be presented or filed, before the Assembly or committee, or setting the name of another person to such a document or petition with intent to deceive;

(j) bringing a civil action or prosecution against, or causing or effecting an arrest or imprisonment of, a member of the Assembly in a civil proceeding, for a matter or thing brought by the member by petition, Bill, regulation, motion or otherwise, or said by the member before the Assembly;

(k) causing or effecting the arrest, detention or molestation of a member of the Assembly for a debt or cause of a civil nature during a session of the Assembly, or 20 days before or after it.

6 For the purpose of this Act, the Assembly has all powers and jurisdiction necessary or expedient to inquire into, judge and pronounce on the matters listed in section 5 and to award and carry into execution the punishment of them provided for by this Act.

7 A person who, on an inquiry under section 5,

	<p>appears to have done an act, matter or thing mentioned in that section, in addition to any other penalty or punishment to which the person may be subject, is liable to imprisonment for a period during the session of the Legislative Assembly then being held as may be determined by the Assembly.</p> <p>8 If the Legislative Assembly declares a person guilty of contempt for an act, matter or thing mentioned in section 5, and directs the person to be taken into custody or imprisoned, the Speaker must issue a warrant to the Sergeant at Arms attending the House, or to the warden or keeper of the common jail for the County of Victoria, to take the person into custody and to keep and detain the person in accordance with the order of the Assembly.</p> <p>9 The determination of the Legislative Assembly on a proceeding under this Act, and within the legislative authority of British Columbia, is final and conclusive.</p>
<p><i>Forest Practices Code of British Columbia Act</i>, [RSBC 1996] c. 159</p>	<p>136 The failure or refusal of a person</p> <ul style="list-style-type: none"> (a) to attend, (b) to take an oath, (c) to answer questions, or (d) to produce the records or things in his or her custody or possession, <p>makes the person, on application to the Supreme Court, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.</p>