PUBLIC LAW

TABLE OF CONTENTS

|  |  |  |
| --- | --- | --- |
| **Ch.** | **Topic** | **Pages** |
| **65** | Public Law: Basic Principles | 543–550 |
| **66** | Practice Before Admin Tribunals | 551–554 |
| **67** | Judicial Review of Admin Action | 555–568 |
| **68** | Freedom of Information and Privacy | 569–574 |
| **69** | Division of Powers | 575–580 |
| **70** | Interpreting the Charter | 581–588 |
| **71** | Proving a Charter Claim | 589–592 |
| **72** | Procedure in Constitutional Cases | 593–600 |
| **70** | Aboriginal and Treaty Rights; Constitution Act, 1982, Section 35 | 601–604 |

ABBREVIATIONS

|  |  |
| --- | --- |
| **Abbreviation** | **Description** |
| **AA** | Arbitrations Act |
| **CJA** | Courts of Justice Act |
| **CLPA** | Crown Liability and Proceedings Act |
| **EA** | Evidence Act |
| **FCR** | Federal Court Rules |
| **FCA** | Federal Courts Act |
| **HRC** | Human Rights Code |
| **IRPA** | Individual’s Rights Protection Act |
| **JRPA** | Judicial Review Procedure Act |
| **PACA** | Proceedings Against the Crown Act |
| **RCP** | Rules of Civil Procedure |
| **SPPA** | Statutory Powers Procedure Act |

SECTION INDEX

|  |  |  |
| --- | --- | --- |
| **A** | | |
| “A federal board, commission or other tribunal”- Judicial Review – Band Council | 567(L) | 67.7.1 |
| **Aboriginal** – band council – judicial review | 567(L–R) | 67.7.1 |
| Aboriginal – Indians and reserve lands – division of powers | 576(R) | 69.3.4 |
| Aboriginal applicants – judicial review – FCA – Ontario Divisional Court under JRPA, SPPA | 566(R)-567(L) | 67.7 |
| Aboriginal applicants – judicial review – sample decisions | 566(R)-567(L) | 67.7 |
| Aboriginal – peoples – division of powers – Indians and reserve lands | 576(R) | 69.3.4 |
| Aboriginal – peoples – Indians and reserve lands – division of powers | 576(R) | 69.3.4 |
| **Aboriginal and treaty rights** – Aboriginal title – test – *Delgamuukw v. British Columbia* | 601(R) – 602(L);  604(L) | 73.2; 73.5.2 |
| Aboriginal and treaty rights – Aboriginal title – test – modified – *Delgamuukw v British Columbia* | 601(R) – 602(L) | 73.2 |
| Aboriginal and treaty rights – Aboriginal title – test – *R v Van der Peet* | 601(R) |  |
| Aboriginal and treaty rights – appropriate consultation / fair compensation – test | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – Constitution Act – s. 35 | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – Constitution Act – s. 35 – compared to Charter rights | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – consultation | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – context – criminal and quasi–criminal prosecutions | 603(R) | 73.5.1 |
| Aboriginal and treaty rights – criminal prosecution – remedy | 603(R) | 73.5.1 |
| **Aboriginal and treaty rights – duty to consult** – conditions for it to arise | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – duty to consult – scope and content | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – duty to consult – trigger of duty | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – duty to consult – trigger of duty – unresolved issues | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – duty to consult and accommodate | 603(L–R) | 73.4 |
| Aboriginal and treaty rights – existing aboriginal rights | 601(R) – 602(L) | 73.2 |
| Aboriginal and treaty rights – extinguishment | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – extinguishment – burden of proof | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – fiduciary relationship | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – identification – test – modification – Aboriginal title – *Delgamuukw v. British Columbia* | 601(R) – 602(L) | 73.2 |
| Aboriginal and treaty rights – identification – test – *Van der Peet* | 601(R) | 73.2 |
| Aboriginal and treaty rights – infringement | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – infringement | 604(L) | 73.5.2 |
| Aboriginal and treaty rights – infringement – remedy – equitable remedies | 604(L) | 73.5.2 |
| Aboriginal and treaty rights – interpretation of treaties | 602(L) | 73.2 |
| Aboriginal and treaty rights – interpretation of treaties – *R v. Badger* | 602(L) | 73.2 |
| Aboriginal and treaty rights –interpretation of treaties – *R v. Marshall* | 602(L) | 73.2 |
| Aboriginal and treaty rights – judicial considerations | 603(R) | 73.5 |
| Aboriginal and treaty rights – justification of infringement – test – *R v. Sparrow* | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – justification of infringement – test | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – land use dispute | 603(R)–604(R) | 73.5.2 |
| Aboriginal and treaty rights – limits upon rights – *Sparrow* test | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – Metis – test – modification – *R v. Powley* | 602(L) | 73.2 |
| Aboriginal and treaty rights – not limited by Charter generally – Charter – s.25 | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – not overidden by s.33 – Charter | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – not subject to s.33 | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – procedural issues | 604(R) | 73.6 |
| Aboriginal and treaty rights – *Proceedings Against the Crown Act* | 604(R) | 73.6 |
| Aboriginal and treaty rights – Royal fiat | 604(R) | 73.6 |
| Aboriginal and treaty rights – s.24 does not apply | 601(L–R) | 73.1 |
| Aboriginal and treaty rights – scope – limits on | 602(L) | 73.2 |
| Aboriginal and treaty rights – scope of treaties | 602(L) | 73.2 |
| Aboriginal and treaty rights – title claims – *Delgamuukw* | 604(L) | 73.5.2 |
| Aboriginal and treaty rights – title claims – Métis – *R v Powley*  SEE ALSO: Title claims – Aboriginal | 602(L) | 73.2 |
| Aboriginal and treaty rights – unextinguished | 602(R) – 603(L) | 73.3 |
| Aboriginal and treaty rights – use of s.35 and remedies | 603(R)–604(R) | 73.5 |
| Aboriginal and treaty rights – what is protected | 601(R) – 602(L) | 73.2 |
| Aboriginal and treaty rights – what is protected – test – *Van der Peet* | 601(R) | 73.2 |
| Aboriginal Applicant – judicial review | 566(R) | 67.7 |
| **Aboriginal title** – *Delgamuukw* | 604(L) | 73.5.2 |
| Aboriginal title – *Delgamuukw v. British Columbia* and *R. v. Van der Peet* | 601(R) – 602(L) | 73.2 |
| Aboriginal title – test – modified – *Delgamuukw v British Columbia* | 601(R) – 602(L); 604(L) | 73.2;  73.5.2 |
| Aboriginal title – test – *R v. Van der Peet* | 601(R) | 73.2 |
| Aboriginals – division of powers – Indians and reserve lands | 576(R) | 69.3.4 |
| Access – to personal information – by subject individual | 572(R) | 68.4.5.4 |
| *Access to Information Act* – Charter – proving Charter claim | 590(R) | 71.4.5 |
| **Action** – initiating constitutional challenge –provincial Superior Courts | 556(L) | 67.2 |
| Action – vs. application – Charter – procedure | 594(L) – 595(L) | 72.4.2 |
| Action – vs. application – Charter – procedure – Federal Court | 597(L-R) | 72.6.2 |
| **Administration of justice** – *Constitution Act, 1867* – s. 92(14) | 577(R) | 69.4.5 |
| Administration of justice – division of powers | 577(R) | 69.4.5 |
| Administration of justice – federalism | 577(R) | 69.4.5 |
| Administrative action – federal – judicial review – levels of courts | 563(L) | 67.4.1 |
| **Administrative action** – provincial – judicial review | 565(L) | 67.5 |
| Administrative action – provincial – judicial review – *SPPA* | 565(L-R) | 67.5.3 |
| **Administrative law** – application of, | 543(R) | 65.2 |
| Administrative law – what is it | 543(L) | 65.2 |
| **Administrative tribunal** – application of Charter by – remedy – s. 24(2) | 599(L) | 72.7.1.2 |
| Administrative tribunal – Charter – jurisdiction | 598(L) | 72.7.1 |
| Administrative tribunal – Charter – procedure – generally | 599(R) | 72.7.2 |
| Administrative tribunal – Charter – remedies | 599(L) | 72.7.1.2 |
| Administrative tribunal – Charter – remedy – s. 24 | 599(L) | 72.7.1.2 |
| Administrative tribunal – Charter – remedy – test | 599(L) | 72.7.1.2 |
| Administrative tribunal – Charter values | 599(L) | 72.7.1.3 |
| Administrative tribunal – constitutional question – notice of | 599(R) | 72.7.3 |
| Administrative tribunal – implied jurisdiction – constitutional question | 598(L)-599(L) | 72.7.1.1 |
| Administrative tribunal – interpretive tools – Charter | 599(L) | 72.7.1.3 |
| Administrative tribunal – jurisdiction – Charter challenges | 598(L) | 72.7.1 |
| Administrative tribunal – jurisdiction – constitution – Alberta | 598(L) | 72.7.1.1 |
| Administrative tribunal – jurisdiction – constitution – British Columbia | 598(L) | 72.7.1.1 |
| Administrative tribunal – jurisdiction – constitution – Ontario | 598(L) | 72.7.1.1 |
| Administrative tribunal – jurisdiction – remedy – *Constitution Act, 1982* – s. 52 | 598(L)-599(L) | 72.7.1.1 |
| Administrative tribunal – notice of constitutional question | 599(R) | 72.7.3 |
| Administrative tribunal – reference – Charter | 599(R) | 72.8 |
| Administrative tribunal – social benefits tribunal – jurisdiction – Charter | 598(L)-599(L) | 72.7.1.1 |
| ADR – participation permitted – *SPPA* | 554(L–R) | 66.5 |
| Adversary process – judicial or quasi–judicial decision – indicative of | 546(R) | 65.5.1.1 |
| Alternative Dispute Resolution – SEE ADR | 554(L–R) | 66.5 |
| Analogous grounds of discrimination – Charter – s.15 | 583(R) | 70.4.6 |
| **Ancillary powers** – division of powers | 578(R)–579(L) | 69.5.1(c) |
| Ancillary powers – federalism | 578(R)–579(L) | 69.5.1(c) |
| Ancillary powers – pith and substance | 578(R)–579(L) | 69.5.1(c) |
| **Appeal** – Divisional Court – Charter | 596(L-R) | 72.5.1 |
| Appeal – freedom of information – government access decision | 570(R) | 68.2.3.5 |
| Appeal – freedom of information – requirements | 570(R) | 68.2.3.5 |
| Appeal – government access decision – freedom of information | 570(R) | 68.2.3.5 |
| Appeal – judicial review – provincial | 566(L) | 67.5.5 |
| Appeal – provincial – judicial review | 566(L) | 67.5.5 |
| Appeal – v. judicial review – availability | 555(L) | 67.1 |
| Appeal – v. judicial review – distinctions | 555(L) | 67.1 |
| Appeal – v. judicial review – fresh evidence – admissibility | 561(R) | 67.3.5 |
| Appeal – v. judicial review – fresh evidence – admissibility | 561(R) | 67.3.5 |
| Appeal – v. judicial review – new evidence – admissibility | 561(R) | 67.3.5 |
| Appeal – v. judicial review – remedial jurisdiction | 555(L) | 67.1 |
| **Appeal mechanisms** – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| Appeal Mechanisms – delegated decision–making – original exercise of – examples | 545(L) | 65.4.1 |
| Appeal mechanisms – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| **Application** – initiating constitutional challenge in provincial Superior Court – r. 14.05(3)(g.1) | 594(R) | 72.4.2 |
| Application – judicial review – administrative action – federal | 563(R) | 67.4.2 |
| Application – judicial review – provincial – Divisional Court – dismissal – grounds for | 565(R) | 67.5.4 |
| Application – of administrative Law – applies to all agencies – boards & tribunals | 543(R) | 65.2 |
| Application – vs. action – Charter – procedure | 594(L–R) | 72.4.2 |
| Application – vs. action – Charter – procedure – Federal Court | 597(L-R) | 72.6.2 |
| Application of SPPA | 544(R); 552(L) | 65.3.3.1; 66.3 |
| Apprehension of bias – source for claim | 548(L) | 65.5.1.2(b)(iii) |
| Appropriate compensation – test – Aboriginal and treaty rights  SEE: *Haida Nation*; *Taku River Tlingit* | 603(L–R) | 73.4 |
| Appropriate remedy – Charter | 591(R) –592(L) | 71.4.9 |
| Appropriateness of severance – reading in or reading down | 592(L) | 71.4.9.1 |
| **Arbitrary detention** – Charter – s.9 | 583(L) | 70.4.5 |
| Arbitrary detention – right not to be – Charter – s. 9 | 583(L) | 70.4.5 |
| Arrest or detention – rights on – Charter – s.10 | 583(L) | 70.4.5 |
| Attorney General – adducing evidence before Federal Court – constitutional questions – FCA s.57(4) | 597(R) – 598(L) | 72.6.4 |
| Attorney General – deemed party before Federal Court – constitutional questions – FCA s.57(5) | 597(R) – 598(L) | 72.6.4 |
| Availability of judicial review | 556(R) | 67.3.1 |
| Available remedies in different courts - Band council – Judicial Review | 567(L) | 67.7.1 |
| **B** | | |
| *Baker v. Canada* – duty of fairness – content of – factors | 549(L–R) | 65.5.2(a) |
| *Baker v. Canada* – factors – content of duty of fairness | 549(L–R) | 65.5.2(a) |
| Balance of convenience – stay of proceedings – interim relief | 561(L) | 67.3.4.3 |
| Band council – judicial review of – Tribunal decisions | 567(L–R) | 67.7.1 |
| Band Council – judicial review – exclusive jurisdiction of FCA | 567(L) | 67.7.1 |
| Band council – Judicial Review – available remedies in different courts | 567(L) | 67.7.1 |
| Band council – Judicial review – proceed through ss. 18.1(3)-(4) of FCA | 567(R) | 67.7.1 |
| Band Council – Judicial review – extraordinary remedies under s. 18 of FCA | 567(R) | 67.7.1 |
| Band Council – power recognized in the *Indian Act* – considered to be “a federal board, commission or other tribunal” | 567(L) | 67.7.1 |
| Band Council – statutory power delegated by the province | 567(R) | 67.7.1 |
| Bars – to judicial review – where right of appeal exists | 559(L) | 67.3.3 |
| *Beckman v. Little Salmon / Carmacks First Nation* (duty to consult arises where there is already a signed, modern–day, land claims agreement; duty to consult is not to individuals) | 603(L–R) | 73.4 |
| Benefits – whether proportional to deleterious effects – s.1 defence | 591(R) | 71.4.8.4 |
| Benefits and deleterious effects – s. 1 | 591(R) | 71.4.8.4 |
| **Bias** – institutional – authorization by statute | 547(R) | 65.5.1.2(b)(ii) |
| Bias – institutional – outcome | 548(L) | 65.5.1.2(b) |
| Bias – institutional – perceived – natural justice | 547(L–R) | 65.5.1.2(b)(ii) |
| Bias – institutional – source of apprehension | 548(L) | 65.5.1.2(b)(iii) |
| Bias – institutional – statutory scheme | 547(R) | 65.5.1.2(b)(ii) |
| Bias – institutional and personal  SEE ALSO: Reasonable Apprehension of Bias | 547(L) | 65.5.1.2(b) |
| Bias – personal – apprehension of – threshold | 547(L) | 65.5.1.2(b)(i) |
| Bias – reasonable apprehension of – source of claim | 548(L) | 65.5.1.2(b)(iii) |
| Bias – reasonable apprehension of – test – *Committee for Justice and Liberty v National Energy Board* | 547(L) | 65.5.1.2(b) |
| Brandeis briefs – evidence – Charter | 589(R) | 71.3.2 |
| Brandeis briefs – proving a Charter claim | 589(R) | 71.3.2 |
| Breach – Charter – burden of proof | 590(R) | 71.4.7 |
| Breach – declaration of – constitutional right | 587(R) | 70.6.2.1 |
| Breach of law by test litigant – Charter – administrative tribunal | 600(L-R) | 72.9 |
| *British Columbia (Workers’ Compensation Board) v Figliola* (example of SCC setting aside tribunal decision and declining to remit matter to tribunal because result “inevitable”) | 550(R) | 65.6 |
| *British Columbia Motor Vehicle Act* (Hansard evidence that s. 7 only procedural not substantive rights rejected) | 589(R) | 71.3.1 |
| **Burden of proof** – Charter – breach of | 590(R) – 591(L) | 71.4.7 |
| Burden of proof – Charter – response to allegation of breach | 591(L) | 71.4.7 |
| Burden of proof – Charter – shift – where infringement proven | 591(L) | 71.4.8 |
| Burden of proof – establishing breach – Charter challenge | 590(R) – 591(L) | 71.4.7 |
| **C** | | |
| *C.U.P.E. Local 963 v. New Brunswick Liquor Corp.* (modern approach to judicial review is policy of restraint) | 550(L) | 65.6 |
| *C.U.P.E. v. Ontario (Minister of Labour)* (test for reasonable apprehension of bias is objective) | 547(L) | 65.5.1.2(b) |
| *Canada (Attorney General) v Hislop* (s. 15 has retroactive application to the date it came into force in April 1985) | 583(R) | 70.4.6 |
| *Canada (Attorney General) v PHS Community Services Society* (in practice, significant overlap between federal and provincial areas of jurisdiction) | 578(R) | 69.5.1(b) |
| *Canada (Attorney General) v. PHS Community Services Society* (example of mandatory injunction as remedy for Charter breach) | 587(R) | 70.6.2.2 |
| *Canada (Prime Minister) v. Khadr* (gov’t power must be exercised in accordance with constitution, but sensitivity required for handling needs of executive branch) | 588(L) | 70.6.2.3 |
| *Canada Mortgage and Housing Corp v Iness* (delegated decision–making must be in accordance with division of powers) | 544(L) | 65.3.2 |
| *Canada v. Bedford* (ability of courts to revisit issues addressed in prior constitutional cases) | 589(L) | 71.2 |
| *Canada v. Federation of Law Societies* (lawyer’s duty of commitment to client is principle of fundamental justice) | 582(R) | 70.4.4 |
| Canadian Bill of Rights – nature of the right – proving Charter claim | 590(R) | 71.4.6 |
| *Canadian Council of Churches v. Canada* (test for standing in constitutional cases) | 593(R) | 72.3.1 |
| *Canadian Western Bank v Alberta* (interjurisdictional immunity principles and application) | 579(L–R) | 69.5.2 |
| Capacity – administrative tribunal – determining constitutionality of a provision | 598(L)-599(L) | 72.7.1.1 |
| Capacity to consider constitutionality – administrative tribunal | 598(L) | 72.7.1 |
| *Carter v. Canada* (Supreme Court approved the trial judge revisiting of its decision in *Rodriguez v. British Columbia*) | 589(L) | 71.2 |
| *Certiorari* – prerogative writs | 560(L) | 67.3.4.1(b) |
| Challenging a statute – constitutional – other procedural options | 600(L-R) | 72.9 |
| **Charter – administrative tribunal** – notice of constitutional question | 599(R) | 72.7.3 |
| Charter – administrative tribunal – procedure – generally | 599(R) | 72.7.2 |
| Charter – administrative tribunal – reference | 599(R) | 72.8 |
| **Charter – application** – government action | 581(L) | 70.2 |
| Charter – application – hospitals | 581(L) | 70.2 |
| Charter – application – mandatory retirement – hospitals and universities | 581(L) | 70.2 |
| Charter – application – school boards and colleges | 581(L) | 70.2 |
| Charter – application – secondary picketing | 581(L) | 70.2 |
| Charter – application – who is bound | 581(L) | 70.2 |
| Charter – application – who is protected | 581(R) | 70.3 |
| Charter – application – who is protected – citizens | 581(R) | 70.3 |
| Charter – application – who is protected – corporations | 581(R) | 70.3 |
| Charter – application – who is protected – individuals | 581(R) | 70.3 |
| Charter – application – who is protected – presence in Canada | 581(R) | 70.3 |
| Charter – application of – administrative tribunal | 598(L)-599(L) | 72.7.1.1 |
| Charter – arbitrary detention – s.9 | 583(L) | 70.4.5 |
| Charter – as interpretive tool – administrative tribunal | 599(L) | 72.7.1.3 |
| Charter – as interpretive tool – tribunal | 599(L) | 72.7.1.3 |
| Charter – breach – burden of proof – on applicant | 590(R) – 591(L) | 71.4.7 |
| Charter – bringing administration of justice into disrepute – evidence – criminal cases | 588(R) | 70.6.2.5 |
| Charter – calculation of damages – remedy | 592(R) | 71.4.9.5 |
| **Charter – challenge** – jurisdiction of administrative tribunals | 598(L) | 72.7.1 |
| Charter – challenge – proving government action | 590(R) | 71.4.5 |
| Charter – challenging constitutionality of a statute – test litigant | 600(L-R) | 72.9 |
| Charter – citizens – who is protected | 581(R) | 70.3 |
| Charter – collateral challenge | 593(L) | 72.2 |
| Charter – constitutional exemption – remedy (interpreting the Charter) | 587(L) | 70.6.1.5 |
| Charter – constitutional exemption as remedy (proving a claim) | 592(L) | 71.4.9.3 |
| Charter – corporations – who is protected | 581(R) | 70.3 |
| **Charter – costs** | 592(R) | 71.4.9.6 |
| Charter – costs – proving Charter claim | 592(R) | 71.4.9.6 |
| Charter – court competent jurisdiction – s.24 – administrative tribunals | 599(L) | 72.7.1.2 |
| Charter – criminal justice rights – ss.8–14 | 583(L–R) | 70.4.5 |
| Charter – Crown prerogative | 588(L) | 70.6.2.3 |
| Charter – cruel/unusual punishment – s.12 | 583(L–R) | 70.4.5 |
| Charter – damages – calculation of | 592(R) | 71.4.9.5 |
| Charter – declaration of breach – s. 24 | 587(R) | 70.6.2.1 |
| Charter – declaration of invalidity | 585(R) – 586(L) | 70.6.1 |
| Charter – delegation must be in accordance with | 544(L) | 65.3.2 |
| Charter – democratic rights – ss. 3–5 | 582(L) | 70.4.2 |
| Charter – direct challenge | 593(L) | 72.2 |
| **Charter – Divisional Court** – collateral Charter challenge | 596(L-R) | 72.5.1 |
| Charter – Divisional Court – jurisdiction | 596(L-R) | 72.5.1 |
| Charter – Divisional Court – procedural considerations | 596(R) | 72.5.2 |
| Charter – Divisional Court – procedure | 596(L-R) | 72.5 |
| **Charter – equality rights** – s. 15 – *Law* test | 583(R) | 70.4.6 |
| Charter – equality rights – s. 15 – *Law* test – modifications to *Law* | 583(R)–584(L) | 70.4.6 |
| Charter – equality rights – s. 15 – personal circumstances | 584(L) | 70.4.6 |
| Charter – equality rights – s.15 | 583(R)–584(L) | 70.4.6 |
| Charter – equality rights – s.15(2) | 584(L) | 70.4.6 |
| Charter – exclusion of evidence – s. 24(2) | 588(R) | 70.6.2.5 |
| Charter – experts – proving a claim | 589(R) – 590(L) | 71.3.3 |
| Charter – factual issues – proving Charter claim | 590(L) | 71.4 |
| **Charter – Federal Court** – limitations and parties | 597(R) | 72.6.3 |
| Charter – Federal Court – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Charter – Federal Court – parties and limitations | 597(R) | 72.6.3 |
| Charter – Federal Court – procedure – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Charter – freedom of association – s. 2(d) | 582(L) | 70.4.1 |
| Charter – freedom of religion – content of | 582(L) | 70.4.1 |
| Charter – freedom of religion – s. 2(a) | 582(L) | 70.4.1 |
| Charter – freedom of thought & expression (s.2) | 581(R) – 582(L) | 70.4.1 |
| Charter – government action – proving – challenge | 590(R) | 71.4.5 |
| Charter – individuals – who is protected | 581(R) | 70.3 |
| *Charter* – influence of principles – duty of fairness – *Baker* (factor 6) | 549(R) | 65.5.2(a)(6) |
| Charter – injunctions as remedy | 587(R) | 70.6.2.2 |
| Charter – injunctions re. s.24(1) | 587(R) | 70.6.2.2 |
| Charter – interim relief – Divisional Court | 596(R) | 72.5.2 |
| Charter – internal limits on rights | 584(R) | 70.5.1 |
| Charter – interpretive limits | 584(R) | 70.5.2 |
| **Charter – jurisdiction** – administrative tribunals | 598(L) | 72.7.1 |
| Charter – jurisdiction – Federal Court | 596(R)–597(L) | 72.6.1 |
| Charter – jurisdiction – tribunal – implied jurisdiction – test for | 598(L)-599(L) | 72.7.1.1 |
| Charter – language rights – ss.16–23 | 584(L) | 70.4.7 |
| Charter – legislative facts – *stare decisis* | 589(L) | 71.1 |
| Charter – life, liberty and security of the person – s.7 – excludes corporations | 583(L) | 70.4.4 |
| Charter – life, liberty, security of person – s. 7 – application of | 582(R)–583(L) | 70.4.4 |
| Charter – mandatory injunction | 587(R) | 70.6.2.2 |
| Charter – mobility rights – s.6 | 582(L–R) | 70.4.3 |
| Charter – nature and purpose of right – sources | 590(R) | 71.4.6 |
| **Charter – nature of right** – Charter claim | 590(R) | 71.4.6 |
| Charter – nature of right – jurisprudence establishing | 590(R) | 71.4.6 |
| Charter – nature of right – proving Charter claim | 590(R) | 71.4.6 |
| Charter – notice – divisional court | 596(R) | 72.5.3 |
| Charter – notice – judicial review – Divisional Court | 596(R) | 72.5.3 |
| Charter – notwithstanding clause – s.33 | 585(R) | 70.5.4 |
| Charter – other remedies (s.24(1)) | 588(L–R) | 70.6.2.4 |
| Charter – override – s.33 | 585(R) | 70.5.4 |
| Charter – override s .33 – not applicable to Aboriginal and treaty rights | 601(L–R) | 73.1 |
| Charter – presence in Canada – who is protected | 581(R) | 70.3 |
| Charter – preventive injunction | 587(R) | 70.6.2.2 |
| Charter – procedural options – Federal Court | 597(L-R) | 72.6.2 |
| **Charter – procedure** – action vs. application | 594(L–R) | 72.4.2 |
| Charter – procedure – application vs. action | 594(L–R) | 72.4.2 |
| Charter – procedure – choice of – factors | 593(L) | 72.1 |
| Charter – procedure – constitutional question – notice of | 595(R) – 596(L) | 72.4.4 |
| Charter – procedure – constitutional question – notice of – consequence of failure to provide | 596(L) | 72.4.5 |
| Charter – procedure – constitutional question – notice of – Divisional Court | 596(R) | 72.5.3 |
| Charter – procedure – constitutional question – notice of – failure to provide | 596(L) | 72.4.5 |
| Charter – procedure – definitions | 593(L) | 72.2 |
| Charter – procedure – Divisional Court | 596(L-R) | 72.5 |
| Charter – procedure – Divisional Court – damages | 596(R) | 72.5.2 |
| Charter – procedure – Divisional Court – evidence – fresh evidence | 596(R) | 72.5.2 |
| Charter – procedure – Divisional Court – evidence – new evidence | 596(R) | 72.5.2 |
| Charter – procedure – Divisional Court – interim relief | 596(R) | 72.5.2 |
| Charter – procedure – Divisional Court – notice | 596(R) | 72.5.2 |
| Charter – procedure – Divisional Court – remedy | 596(R) | 72.5.2 |
| Charter – procedure – factors influencing choice of procedure | 593(L) | 72.1 |
| Charter – procedure – Federal Court – limitation periods | 597(R) | 72.6.3 |
| Charter – procedure – Federal Court – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Charter – procedure – Federal Court – parties | 597(R) | 72.6.3 |
| Charter – procedure – Federal Court – parties | 597(R) | 72.6.3 |
| Charter – procedure – limitation period | 595(L) | 72.4.3 |
| Charter – procedure – mootness | 593(R)–594(L) | 72.3.2 |
| Charter – procedure – notice – constitutional question | 595(R) – 596(L) | 72.4.4 |
| Charter – procedure – notice – constitutional question – consequence of failure to provide | 596(L) | 72.4.5 |
| Charter – procedure – notice – constitutional question – failure to provide | 596(L) | 72.4.5 |
| Charter – procedure – notice of claim | 595(L) | 72.4.3 |
| Charter – procedure – notice of claim – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| Charter – procedure – options | 594(L–R) | 72.4.2 |
| Charter – procedure – parties | 595(L) | 72.4.3 |
| Charter – procedure – proceeding – choice of | 594(L–R) | 72.4.2 |
| Charter – procedure – *Rules of Civil Procedure* – action vs. application | 594(R) | 72.4.2 |
| Charter – procedure – standing | 593(R) | 72.3.1 |
| Charter – procedure – standing – mootness | 593(R)–594(L) | 72.3.2 |
| Charter – procedure – standing – test | 593(R) | 72.3.1 |
| Charter – procedure (general) | 593(L) | 72.1 |
| Charter – procedure – the Crown’s special position – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| **Charter – proof of claim** – damages | 592(R) | 71.4.9.5 |
| Charter – proof of claim – remedies – constitutional exemption – evidence | 592(L) | 71.4.9.3 |
| Charter – proof of claim – remedies – injunctions | 592(R) | 71.4.9.4 |
| Charter – proof of claim – remedies – severance – appropriateness | 592(L) | 71.4.9.1 |
| Charter – proof of claim – remedies – suspended declaration of invalidity – evidence | 592(L) | 71.4.9.2 |
| Charter – proof of claim – remedy – damages | 592(R) | 71.4.9.5 |
| **Charter – provincial Superior Court** – consequences of failure to provide notice for constitutional question | 596(L) | 72.4.5 |
| Charter – provincial Superior Court – limitation period | 595(L) | 72.4.3 |
| Charter – provincial Superior Court – notice of claim | 595(L) | 72.4.3 |
| Charter – provincial Superior Court – notice of constitutional question | 595(R) – 596(L) | 72.4.4 |
| Charter – provincial Superior Court – parties | 595(L) | 72.4.3 |
| Charter – provincial Superior Court – procedural options | 594(L–R) | 72.4.2 |
| Charter – provincial superior courts – jurisdiction | 594(L) | 72.4.1 |
| **Charter – proving a claim** – adjudicative facts | 589(L) | 71.1 |
| Charter – proving a claim – Brandeis briefs | 589(R) | 71.3.2 |
| Charter – proving a claim – *Evidence Act* – s. 12 – leave for more than 3 experts | 589(R) | 71.3.3 |
| Charter – proving a claim – experts – social science | 589(R) – 590(L) | 71.3.3 |
| Charter – proving a claim – factual issues – checklist | 590(L) | 71.4 |
| Charter – proving a claim – factual issues – checklist – proceeding–specific facts | 590(L) | 71.4.1 |
| Charter – proving a claim – government action – proof of | 590(R) | 71.4.5 |
| Charter – proving a claim – legislative facts | 589(L) | 71.1 |
| Charter – proving a claim – legislative facts | 589(L) – 590(L) | 71.3 |
| Charter – proving a claim – legislative facts – Hansard | 589(L–R) | 71.3.1 |
| Charter – proving a claim – mootness (threshold issue) | 590(L) | 71.4.2 |
| Charter – proving a claim – social science experts | 589(R) – 590(L) | 71.3.3 |
| Charter – proving a claim – use of precedent | 589(L) | 71.2 |
| Charter – proving claim – defense – s. 1 | 591(L) | 71.4.8 |
| Charter – proving claim – factual issues – checklist – standing and mootness | 590(L) | 71.4.2 |
| Charter – proving claim – jurisdiction – tribunal – *Weber v Ontario Hydro* | 590(L) | 71.4.3 |
| Charter – proving claim – s. 1 – legislative objective | 591(L) | 71.4.8.1 |
| Charter – proving claim – s. 1 – minimal impairment | 591(R) | 71.4.8.3 |
| Charter – proving claim – s. 1 – proportionality | 591(R) | 71.4.8.4 |
| Charter – proving claim – s. 1 – rational connection | 591(L–R) | 71.4.8.2 |
| Charter – proving claim – s. 1 – rational connection – how to determine | 591(L–R) | 71.4.8.2 |
| Charter – proving government action – proving Charter claim | 590(R) | 71.4.5 |
| Charter – reading in/reading down – remedy | 586(L–R) | 70.6.1.2 |
| **Charter – reference** | 593(L) | 72.2 |
| Charter – reference – administrative tribunal | 599(R) | 72.8 |
| **Charter – remedies** – generally | 585(R) | 70.6 |
| Charter – remedies – severance – appropriateness | 592(L) | 71.4.9.1 |
| Charter – remedies – suspended declaration of invalidity – proving Charter claim – evidence | 592(L) | 71.4.9.2 |
| **Charter – remedy** – burden of proof | 591(R) –592(L) | 71.4.9 |
| Charter – remedy – calculation of damages | 592(R) | 71.4.9.5 |
| Charter – remedy – constitutional exemption | 587(L) | 70.6.1.5 |
| Charter – remedy – costs | 592(R) | 71.4.9.6 |
| Charter – remedy – declaration of breach – s. 24(1) | 587(R) | 70.6.2.1 |
| Charter – remedy – discretionary executive power – Crown prerogative | 588(L) | 70.6.2.3 |
| Charter – remedy – evidence needed | 591(R) –592(L) | 71.4.9 |
| Charter – remedy – exclusion of evidence – *Grant* test | 588(R) | 70.6.2.5 |
| Charter – remedy – exclusion of evidence – s. 24(2) | 588(R) | 70.6.2.5 |
| Charter – remedy – factual record | 591(R) –592(L) | 71.4.9 |
| Charter – remedy – injunctions | 587(R) | 70.6.2.2 |
| Charter – remedy – injunctions – mandatory | 587(R) | 70.6.2.2 |
| Charter – remedy – injunctions – preventive | 587(R) | 70.6.2.2 |
| Charter – remedy – injunctions – structural | 587(R) | 70.6.2.2 |
| Charter – remedy – other remedies – s. 24(1) | 588(L–R) | 70.6.2.4 |
| Charter – remedy – procedure – constitutional question – notice of | 595(R) – 596(L) | 72.4.4 |
| Charter – remedy – procedure – notice – constitutional question | 595(R) – 596(L) | 72.4.4 |
| Charter – remedy – severance | 586(R) | 70.6.1.3 |
| Charter – remedy – suspended declaration of invalidity  SEE also: Constitutional Exemption | 586(R) – 587(L); 587(L) | 70.6.1.4; 70.6.1.5 |
| Charter – revisiting an issue – use of precedent | 589(L) | 71.2 |
| Charter – right to vote – s. 3 | 582(L) | 70.4.2 |
| **Charter – rights** – who has benefit of | 581(R) | 70.3 |
| Charter – rights on arrest or detention – s.10 | 583(L) | 70.4.5 |
| **Charter – s. 1** – does not limit Aboriginal and treaty rights | 601(L–R) | 73.1 |
| Charter – s. 1 – limit on rights | 584(R) – 585(L) | 70.5.3 |
| Charter – s. 1 – limits on rights – *Oakes* test | 584(R) – 585(L) | 70.5.3 |
| Charter – s. 1 defence – minimal impairment – proving Charter claim | 591(R) | 71.4.8.3 |
| Charter – s. 1 defence – rational connection – proving Charter claim | 591(L–R) | 71.4.8.2 |
| Charter – s. 1 defense – proportionality | 591(R) | 71.4.8.4 |
| **Charter – s. 24** – Aboriginal and treaty right not enforceable under | 601(L–R) | 73.1 |
| Charter – s. 24 – administrative tribunal – test | 599(L) | 72.7.1.2 |
| Charter – s. 24 – administrative tribunals | 599(L) | 72.7.1.2 |
| Charter – s. 24 – court of competent jurisdiction – test | 599(L) | 72.7.1.2 |
| Charter – s. 24 – remedy | 587(L) – 588(L–R) | 70.6.2 |
| Charter – s. 24(1) – injunction | 587(R) | 70.6.2.2 |
| Charter – s. 24(1) – remedy – declaration of breach | 587(R) | 70.6.2.1 |
| Charter – s. 24(2) – exclusion of evidence | 588(R) | 70.6.2.5 |
| Charter – s. 24(2) – remedy – exclusion of evidence | 588(R) | 70.6.2.5 |
| **Charter – s. 25** – Aboriginal rights not limited | 601(L–R) | 73.1 |
| **Charter – s. 35** – what is protected | 601(R) – 602(L) | 73.2 |
| Charter – severance – remedy | 586(R) | 70.6.1.3 |
| Charter – standing | 593(R) | 72.3.1 |
| Charter – structural injunction | 587(R) | 70.6.2.2 |
| **Charter – tribunal** – remedy – s. 24 | 599(L) | 72.7.1.2 |
| Charter – tribunal – remedy – s. 24 – test | 599(L) | 72.7.1.2 |
| Charter – unreasonable search and seizure – s. 8 | 583(L) | 70.4.5 |
| Charter – use of precedent – *Canada v. Bedford* | 589(L) | 71.2 |
| Charter – values – administrative tribunals | 599(L) | 72.7.1.3 |
| Charter – values (common law can be challenged when inconsistent) | 581(L) | 70.2 |
| **Charter – who is bound** | 581(L) | 70.2 |
| Charter – who is bound – government action | 581(L) | 70.2 |
| Charter – who is bound – hospitals | 581(L) | 70.2 |
| Charter – who is bound – mandatory retirement – hospitals and universities | 581(L) | 70.2 |
| Charter – who is bound – school boards and colleges | 581(L) | 70.2 |
| **Charter – who is protected** | 581(R) | 70.3 |
| Charter – who is protected – citizens | 581(R) | 70.3 |
| Charter – who is protected – corporations | 581(R) | 70.3 |
| Charter – who is protected – individuals | 581(R) | 70.3 |
| Charter – who is protected – presence in Canada | 581(R) | 70.3 |
| *Chatterjee v Ontario (Attorney General)* (approach to pith and substance question – what is the essence of what the law does and how does it do it?) | 578(L) | 69.5.1(a) |
| Civil proceedings against government | 566(L) | 67.6.1 |
| Civil remedies against public authorities | 566(L) | 67.5.5 |
| ***CJA*** – s. 109 – notice of constitutional question – provincial tribunal | 599(R) | 72.7.3 |
| *CJA* – s. 109 – notice of constitutional question before Ontario tribunal | 562(R) | 67.3.7 |
| Classification – pith and substance doctrine – division of powers | 578(L) | 69.5.1(a) |
| Classification – pith and substance doctrine – federalism | 578(L) | 69.5.1(a) |
| Codification – prerogative writs | 559(R) | 67.3.4 |
| **Collateral challenge** – Charter | 593(L) | 72.2 |
| Collateral challenge – Charter – Divisional Court – jurisdiction to hear | 596(L-R) | 72.5.1 |
| Collateral challenge – Charter – Superior Courts – jurisdiction to hear | 594(L) | 72.4.1 |
| Collateral challenge – definition – Charter | 593(L) | 72.2 |
| Collateral challenge – Divisional Court –Charter | 596(L-R) | 72.5.1 |
| Collateral question – historical focus on – judicial review | 549(R) | 65.6 |
| College – Charter – application to | 581(L) | 70.2 |
| Commissioner – powers – of review – personal information | 572(R)–573(L–R) | 68.4.6 |
| Commissioners – freedom of information – powers of | 571(L) | 68.2.3.6 |
| Commissioners – freedom of information – role of | 571(L) | 68.2.3.6 |
| *Committee for Justice and Liberty v. National Energy Board* (test for reasonable apprehension of bias) | 547(L) | 65.5.1.2(b) |
| **Common law** – Charter – when inconsistent with | 581(L) | 70.2 |
| Common law – delegation – limits on | 544(L–R) | 65.3.3 |
| Common law – limit on delegated power – errors of law | 544(R) | 65.3.3.3 |
| Common law – limit on delegated power – fairness | 544(R) | 65.3.3.1 |
| Common law – limit on delegated power – jurisdictional limits | 544(R) | 65.3.3.2 |
| Common law – limit on delegated power –natural justice | 544(R) | 65.3.3.1 |
| Common Law – limits on delegation | 544(L–R) | 65.3.3 |
| Common law – procedural limits on delegated power | 544(R) | 65.3.3.1 |
| Common law – procedural rights – applies when SPPA doesn’t apply | 544(R) | 65.3.3.1 |
| **Communication** – interprovincial and international – *Constitution Act, 1867* – s. 91(29), 92(10) | 576(R) | 69.3.5 |
| Communication – interprovincial and international – division of powers | 576(R) | 69.3.5 |
| Communication – interprovincial and international – federalism | 576(R) | 69.3.5 |
| Comparison – Constitution Act s. 35 & Charter – Aboriginal and treaty rights | 601(L–R) | 73.1 |
| Complaint – freedom of information – government access decision | 570(R) | 68.2.3.5 |
| Complaint – freedom of information – requirements | 570(R) | 68.2.3.5 |
| Complaint – government access decision – freedom of information | 570(R) | 68.2.3.5 |
| Concurrent original jurisdiction of Federal Court | 596(R)–597(L) | 72.6.1 |
| Consent and Capacity Board – jurisdiction – constitutional validity | 598(L)-599(L) | 72.7.1.1 |
| Consequences of failure to provide notice to provincial Superior Court for constitutional question | 596(L) | 72.4.5 |
| **Constitution – procedure** – Divisional Court | 596(L-R) | 72.5 |
| Constitution – procedure – Federal Court – parties | 597(R) | 72.6.3 |
| Constitution – procedure – limitation period | 595(L) | 72.4.3 |
| Constitution – procedure – notice – constitutional question – consequence of failure to provide | 596(L) | 72.4.5 |
| Constitution – procedure – notice – constitutional question – failure to provide | 596(L) | 72.4.5 |
| Constitution – procedure – notice of claim | 595(L) | 72.4.3 |
| Constitution – procedure – notice of claim – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| **Constitution Act – delegation** – limits on | 544(L) | 65.3.2 |
| Constitution Act – delegation – limits on | 544(L) | 65.3.2 |
| Constitution Act – limit on delegation | 544(L) | 65.3.2 |
| Constitution Act – limits on delegation | 544(L) | 65.3.2 |
| ***Constitution Act, 1867*** – division of powers – overview | 575(L) | 69.2 |
| *Constitution Act, 1867* – federal powers – criminal law – s. 91(27) | 576(L–R) | 69.3.3 |
| *Constitution Act, 1867* – federal powers – criminal law – valid criminal law purpose – *Margarine Reference* | 576(L–R) | 69.3.3 |
| *Constitution Act, 1867* – federal powers – Indians and reserve land – s. 91(24) | 576(R) | 69.3.4 |
| *Constitution Act, 1867* – federal powers – interprovincial and international transportation and communication – s. 91(29), 92(10) | 576(R) | 69.3.5 |
| *Constitution Act, 1867* – federal powers – POGG – s. 91 | 575(L–R) | 69.3.1 |
| *Constitution Act, 1867* – federal powers – POGG – s. 91 – gap in division of powers | 575(R) | 69.3.1(b) |
| *Constitution Act, 1867* – federal powers – POGG – s. 91 – national emergency | 575(R) | 69.3.1(a) |
| *Constitution Act, 1867* – federal powers – POGG – s. 91 – national concern | 575(R) | 69.3.1(c) |
| *Constitution Act, 1867* – federal powers – trade and commerce – s. 91(2) | 575(R)–576(L) | 69.3.2 |
| *Constitution Act, 1867* – heads of power – definition | 575(L) | 69.2 |
| *Constitution Act, 1867* – provincial – administration of justice | 577(R) | 69.4.5 |
| *Constitution Act, 1867* – provincial – education – s. 93 | 577(L–R) | 69.4.3 |
| *Constitution Act, 1867* – provincial – health – s. 92(13) | 577(L) | 69.4.2 |
| *Constitution Act, 1867* – provincial – municipal institutions – s. 92(8) | 577(R) | 69.4.4 |
| *Constitution Act, 1867* – provincial – property and civil rights – s. 92(13) | 576(R)–577(L) | 69.4.1 |
| *Constitution Act, 1867* – provincial – property and civil rights – s. 92(13) – limits on | 577(L) | 69.4.1 |
| *Constitution Act, 1867* – s. 35 – vs. Charter – Aboriginal rights | 601(L–R) | 73.1 |
| ***Constitution Act, 1982*** – s. 35 – Aboriginal rights – overview | 601(L–R) | 73.1 |
| *Constitution Act, 1982* – s. 35 – vs. Charter – Aboriginal and treaty rights | 601(L–R) | 73.1 |
| *Constitution Act, 1982* – s. 52 – remedy – striking down | 586(L) | 70.6.1.1 |
| *Constitution Act, 1982* – s.52 – application by administrative tribunal | 598(L)-599(L) | 72.7.1.1 |
| *Constitution Act, 1982* – s.52 – remedies | 585(R) | 70.6.1 |
| *Constitution Act, 1982* – s.52 – tribunal with jurisdiction to consider constitution can consider remedies | 598(L)-599(L) | 72.7.1.1 |
| **Constitutional** – procedure – factors | 593(L) | 72.1 |
| Constitutional Exemption – hardship | 592(L) | 71.4.9.3 |
| Constitutional Exemption as remedy to Charter | 587(L) | 70.6.1.5 |
| Constitutional Exemption as remedy to Charter – proving Charter claim | 592(L) | 71.4.9.3 |
| Constitutional question – notice – provincial Superior Court – consequences of failure to provide | 596(L) | 72.4.5 |
| Constitutional question – notice of – failure to provide – consequences | 596(L) | 72.4.5 |
| Constitutional question – notice of – procedure – Charter | 595(R) – 596(L) | 72.4.4 |
| Constitutional question – notice of – Provincial Superior court – form (4F) | 595(R) – 596(L) | 72.4.4 |
| Constitutional question – procedure – Superior Court | 594(L–R) | 72.4.2 |
| Constitutional questions – competency of Federal Court to hear | 596(R)–597(L) | 72.6.1 |
| **Constitutional questions** – competency of provincial Superior Court to hear | 594(L) | 72.4.1 |
| Constitutional questions – judicial review – notice of | 562(R) | 67.3.7 |
| Constitutional questions – notice – Divisional Court | 596(R) | 72.5.3 |
| Constitutional questions – notice – provincial Superior courts – Charter ss.24(1)–52 | 595(R) – 596(L) | 72.4.4 |
| Constitutional questions – notice of – judicial review | 562(R) | 67.3.7 |
| Constitutional questions – parties to – Federal Court | 597(R) | 72.6.3 |
| Constitutional questions – procedure – Federal Court | 597(L-R) | 72.6.2 |
| Constitutional questions – standing | 593(R) | 72.3.1 |
| Consult and accommodate – duty to – Aboriginal rights | 603(L–R) | 73.4 |
| Consultation – institutional – potential to give rise to perceived bias | 547(R)–548(L) | 65.5.1.2(b)(ii) |
| Consultation – test – aboriginal and treaty rights | 603(L–R) | 73.4 |
| Content – *Baker* factors | 549(L–R) | 65.5.2(a) |
| Content – duty of fairness | 549(L–R) | 65.5.2(a) |
| Control – of exercise of delegation | 543(L) | 65.2 |
| *Coroners Act* – appeal scheme | 545(L) | 65.4.1 |
| *Coroners Act* – statutory reconsideration | 545(L) | 65.4.1 |
| **Correctness** – definition | 557(L) | 67.3.2.1 |
| Correctness – question of pure law – standard of appeal – *Housen v Nikolaisen* | 555(L) | 67.1 |
| Correctness – standard of | 557(L) | 67.3.2.1 |
| **Costs** – administrative tribunal hearing – circumstances where costs may be ordered – *SPPA* s. 25.1 | 551(R) | 66.2.3 |
| Costs – administrative tribunal hearing – orders under *SPPA* s.17.1 | 551(R) | 66.2.3 |
| Costs – Charter – proof of claim | 592(R) | 71.4.9.6 |
| Costs – Charter claim | 592(R) | 71.4.9.6 |
| Costs – remedy – Charter challenge | 592(R) | 71.4.9.6 |
| Court composition – Divisional Court | 565(R) | 67.5.1 |
| Court of competent jurisdiction – test – Charter s.24 | 599(L) | 72.7.1.2 |
| Criminal and quasi–criminal prosecution –Aboriginal and treaty rights – context | 603(R) | 73.5.1 |
| Criminal justice – rights – Charter – s. 8–14 | 583(L–R) | 70.4.5 |
| Criminal justice rights – Charter – s.8–14 | 583(L–R) | 70.4.5 |
| Criminal law – *Constitution Act, 1867* – s. 91(27) | 576(L–R) | 69.3.3 |
| **Criminal law** – division of powers | 576(L–R) | 69.3.3 |
| Criminal law – division of powers – provincial offenses – *Constitution Act, 1867* – s. 92(15) | 576(R) | 69.3.3 |
| Criminal law – division of powers – valid criminal law purpose – *Margarine Reference* | 576(L–R) | 69.3.3 |
| Criminal law – federalism | 576(L–R) | 69.3.3 |
| Criminal law – federalism – provincial offenses – *Constitution Act, 1867* – s. 92(15) | 576(R) | 69.3.3 |
| Criminal law – federalism – valid criminal law purpose – *Margarine Reference* | 576(L–R) | 69.3.3 |
| **Cross–examination** – hearing – limits on – *SPPA* | 552(R) | 66.3.2 |
| Cross–examination – hearing – tribunal – right to – *SPPA* | 552(R) | 66.3.2 |
| Cross–examination – right to – *SPPA* – s. 10.1(b) | 552(R) | 66.3.2 |
| Cross–examination – tribunal – hearing – right to – *SPPA* | 552(R) | 66.3.2 |
| **Crown** – federal – civil proceedings against | 566(L) | 67.6.1 |
| Crown – notice – *Proceedings Against the Crown Act* – procedure – Charter | 595(L) | 72.4.3 |
| Crown – position of – notice – procedure – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Crown – position of – procedure – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Crown – position of – *Proceedings Against the Crown Act* – procedure – Charter | 595(L) | 72.4.3 |
| Crown – prerogative – remedy – Charter | 588(L) | 70.6.2.3 |
| Crown – provincial – civil proceedings against | 566(L) | 67.6.1 |
| *Crown Liability and Proceedings Act* | 566(L) | 67.6.1 |
| Crown Prerogative – *Canada (Prime Minister) v. Khadr* | 588(L) | 70.6.2.3 |
| Crown prerogative – Charter | 588(L) | 70.6.2.3 |
| Cruel & unusual punishment – Charter – s.12 | 583(L–R) | 70.4.5 |
| **D** | | |
| *Dagenais v. Canadian Broadcasting Corp* (rephrased third prong of proportionality test in *Oakes*) | 585(L) | 70.5.3 |
| *Dagenais v. Canadian Broadcasting Corp.* (proportionality branch – s.1) | 585(L) | 70.5.3 |
| *Dagg v Canada (Minister of Finance)* (purpose of freedom of information legislation is to facilitate democracy) | 569(L) | 68.1 |
| **Damages** – Charter – remedy | 592(R) | 71.4.9.5 |
| Damages – Charter – remedy – proving Charter claim | 592(R) | 71.4.9.5 |
| Damages against the Crown in Ontario **-** Limitation period | 595(L) | 72.4.3 |
| Damages against the Crown in Ontario - limitation period –– equitable doctrine of laches | 595(L) | 72.4.3 |
| Damages against the Government of Ontario - Parties | 595(L) | 72.4.3 |
| Damages against the Government of Ontario – procedure – parties | 595(L) | 72.4.3 |
| Damages against the Government of Ontario – procedure – the Crown’s special position – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| **Decision** – adjudicated – reasonableness – *Doré v Barreau du Québec* | 544(L) | 65.3.2 |
| Decision – judicial – factors to suggest “judicial” or “quasi–judicial” | 546(R) | 65.5.1.1 |
| Decision – quasi–judicial – factors to suggest “judicial” or “quasi–judicial” | 546(R) | 65.5.1.1 |
| Decision – tribunal – delivery of decision required – *SPPA* – s. 18 | 554(R) | 66.6 |
| **Decision–maker** – expertise of – standard of review – factor | 558(R) | 67.3.2.2(c)(iii) |
| Decision–maker – independence of | 547(L) | 65.5.1.2(b)(i) |
| Decision–maker – natural law – unbiased | 544(R) | 65.3.3.1 |
| Decision–maker – right to fairness – unbiased | 544(R) | 65.3.3.1 |
| Decision–maker – unbiased – fairness | 544(R) | 65.3.3.1 |
| Decision–maker – unbiased – natural law | 544(R) | 65.3.3.1 |
| Decision–maker – unbiased – right to – natural justice | 547(L) | 65.5.1.2(b) |
| **Decision–making** – delegation – division of powers | 544(L) | 65.3.2 |
| Decision–making – federal bodies – review by provincial Superior Courts – where permitted | 556(L) | 67.2 |
| Decision–making – privacy – judicial review | 566(R) | 67.7 |
| Declaration – judicial review – equitable remedies | 560(R) | 67.3.4.2(a) |
| Declaration of breach – Charter s. 24(1) | 587(R) | 70.6.2.1 |
| Declaration of invalidity – *Constitution Act, 1982* – s.52 – remedy | 585(R) – 586(L) | 70.6.1 |
| Declaration of invalidity – suspending – evidence | 592(L) | 71.4.9.2 |
| Defence – of alleged Charter breach – s.1 | 591(L) | 71.4.8 |
| **Deference** – level of – standard of review | 556(R) – 557(L) | 67.3.2 |
| Deference – standard of appeal – standard of judicial review | 555(L) | 67.1 |
| Definition – collateral challenge | 593(L) | 72.2 |
| Definition – direct challenge | 593(L) | 72.2 |
| Definition – reference | 593(L) | 72.2 |
| Delegated decision–making – original exercise of – appeal mechanisms | 545(L) | 65.4.1 |
| Delegated decision–making – original exercise of – statutory reconsideration | 545(L) | 65.4.1 |
| **Delegated power** – broad discretion | 544(L) | 65.3.1 |
| Delegated power – how power exercised | 544(L) | 65.3.1 |
| Delegated power – limits | 544(L) | 65.3.1 |
| Delegated power – limits – common law – errors of law | 544(R) | 65.3.3.3 |
| Delegated power – limits – common law – jurisdictional limits | 544(R) | 65.3.3.2 |
| Delegated power – limits – common law – procedural limits | 544(R) | 65.3.3.1 |
| Delegated power – original exercise of – control of | 544(R) – 545(L) | 65.4 |
| Delegated power – range of power | 543(R) – 544(L) | 65.3.1 |
| Delegated power – source | 543(R) – 544(L) | 65.3.1 |
| Delegated power – spectrum of power | 543(R) – 544(L) | 65.3.1 |
| **Delegation** – common law limits on | 544(L–R) | 65.3.3 |
| Delegation – constitutional limits on | 544(L) | 65.3.2 |
| Delegation – decision–making – division of powers | 544(L) | 65.3.2 |
| Delegation – limits – common law | 544(L–R) | 65.3.3 |
| Delegation – limits – constitutional | 544(L) | 65.3.2 |
| Delegation – of authority by Parliament or legislature | 543(L) | 65.2 |
| *Delgamuukw v. British Columbia* (test for Aboriginal title) | 601(R) – 602(L) | 73.2; 73.5.2 |
| Delivery of notice – constitutional question | 590(L–R) | 71.4.4 |
| Delivery of notice – constitutional question – proving Charter claim | 590(L–R) | 71.4.4 |
| Democratic rights – Charter – ss.3–5 | 582(L) | 70.4.2 |
| Detention – arbitrary – right against – Charter – s. 9 | 583(L) | 70.4.5 |
| Determination – rational connection | 591(L–R) | 71.4.8.2 |
| Development of Aboriginal land – interim injunctions – prevention | 603(R)–604(R) | 73.5.2 |
| Developments – administrative law | 543(L–R) | 65.2 |
| **Direct challenge** – Charter – Divisional Court – jurisdiction to hear | 596(L-R) | 72.5.1 |
| Direct challenge – Charter – Superior Courts – jurisdiction to hear | 594(L) | 72.4.1 |
| Direct challenge – definition | 593(L) | 72.2 |
| Direct challenge – Divisional Court – Charter | 596(L-R) | 72.5.1 |
| Direct challenges of Ontario legislation - Parties | 595(L) | 72.4.3 |
| Discretionary bars to judicial review | 559(L) | 67.3.3 |
| Discrimination – enumerated and analogous grounds – s.15 | 583(R) | 70.4.6 |
| Dismissal – judicial review – provincial – Divisional Court – grounds for | 565(R) | 67.5.4 |
| Disrepute – bringing administration of justice into – Charter s. 24(2) | 588(R) | 70.6.2.5 |
| Distinctions – judicial review v. appeal | 555(L) | 67.1 |
| Division of powers – aboriginals – Indians and reserve lands | 576(R) | 69.3.4 |
| **Division of powers** – conflicting legislation – pith and substance – double aspect | 578(R) | 69.5.1(b) |
| Division of powers – conflicting legislation – pith and substance – incidental effect | 578(R) | 69.5.1(b) |
| Division of powers – *Constitution Act, 1867* – overview | 575(L) | 69.2 |
| Division of powers – federal – criminal law | 576(L–R) | 69.3.3 |
| Division of powers – federal – criminal law – valid criminal law purpose – *Margarine Reference* | 576(L–R) | 69.3.3 |
| Division of powers – federal – Indians and reserve lands | 576(R) | 69.3.4 |
| Division of powers – federal – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Division of powers – federal – interprovincial and international transportation and communication | 576(R) | 69.3.5 |
| Division of powers – federal – POGG – gap in division of powers | 575(R) | 69.3.1(b) |
| Division of powers – federal – POGG – national concern | 575(R) | 69.3.1(c) |
| Division of powers – federal – POGG – national emergency | 575(R) | 69.3.1(a) |
| Division of powers – federal – trade and commerce | 575(R)–576(L) | 69.3.2 |
| Division of powers – federal paramountcy | 579(R) – 580 (R) | 69.5.3 |
| Division of powers – federal paramountcy – conflict – definition of | 579(R) – 580 (R) | 69.5.3 |
| Division of powers – federal powers – POGG | 575(L–R) | 69.3.1 |
| Division of powers – federalism – overview | 575(L) | 69.2 |
| Division of powers – heads of power – definition | 575(L) | 69.2 |
| Division of powers – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Division of powers – interjurisdictional immunity – impairment – definition | 579(R) | 69.5.2 |
| Division of powers – judicial review – on grounds of | 577(R)–578(L) | 69.5 |
| Division of powers – judicial review – where conflicting legislation | 577(R)–578(L) | 69.5 |
| Division of powers – paramountcy | 579(R)–580(L–R) | 69.5.3 |
| Division of powers – paramountcy – conflict – definition of | 580(L–R) | 69.5.3 |
| Division of powers – pith and substance | 578(L–R)–579(L) | 69.5.1 |
| Division of powers – pith and substance – ancillary powers | 578(R)–579(L) | 69.5.1(c) |
| Division of powers – pith and substance – ancillary powers – test | 579(L) | 69.5.1(c) |
| Division of powers – pith and substance – classification | 578(L) | 69.5.1(a) |
| Division of powers – pith and substance – double aspect | 578(R) | 69.5.1(b) |
| Division of powers – pith and substance – incidental effect | 578(R) | 69.5.1(b) |
| Division of powers – pith and substance – purpose and effects | 578(L) | 69.5.1(a) |
| Division of powers – pith and substance – test for validity | 578(L) | 69.5.1(a) |
| Division of powers – provincial – administration of justice | 577(R) | 69.4.5 |
| Division of powers – provincial – education | 577(L–R) | 69.4.3 |
| Division of powers – provincial – health | 577(L) | 69.4.2 |
| Division of powers – provincial – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Division of powers – provincial – municipal institutions | 577(R) | 69.4.4 |
| Division of powers – provincial – property and civil rights | 576(R)–577(L) | 69.4.1 |
| Division of powers – provincial – property and civil rights – limits on | 577(L) | 69.4.1 |
| Division of powers – provincial – punishment for enforcement of laws – v. criminal law | 576(R) | 69.3.3 |
| Division of powers (delegating powers) | 544(L) | 65.3.2 |
| **Divisional Court** – Charter – jurisdiction | 596(L-R) | 72.5.1 |
| Divisional Court – Charter – procedural considerations | 596(R) | 72.5.2 |
| Divisional Court – Charter – procedure | 596(L-R) | 72.5 |
| Divisional Court – Charter – procedure – damages | 596(R) | 72.5.2 |
| Divisional Court – Charter – procedure – evidence – fresh evidence | 596(R) | 72.5.2 |
| Divisional Court – Charter – procedure – evidence – new evidence | 596(R) | 72.5.2 |
| Divisional Court – Charter – procedure – interim relief | 596(R) | 72.5.2 |
| Divisional Court – Charter – procedure – notice | 596(R) | 72.5.3 |
| Divisional Court – Charter – procedure – remedy | 596(R) | 72.5.2 |
| Divisional Court – Charter challenge – cannot hear direct challenge | 596(L-R) | 72.5.1 |
| Divisional Court – competent to hear collateral Charter challenge | 596(L-R) | 72.5.1 |
| Divisional Court – composition of court – judicial review | 565(L) | 67.5.1 |
| Divisional Court – constitution – procedure | 596(L-R) | 72.5 |
| Divisional Court – interim relief – Charter challenge – *SPPA* – s.25(1) | 596(R) | 72.5.2 |
| Divisional Court – judicial review – appeal | 566(L) | 67.5.5 |
| Divisional Court – judicial review – bars to – where right of appeal exists – *JRPA* – s. 2 | 559(L) | 67.3.3 |
| Divisional Court – judicial review – constitutional questions | 562(R) | 67.3.7 |
| Divisional Court – judicial review – constitutional questions – notice – *CJA* – s. 109 | 562(R) | 67.3.7 |
| Divisional Court – judicial review – constitutional questions – participation of Attorney General | 562(R) | 67.3.7 |
| Divisional Court – judicial review – jurisdiction | 556(R) | 67.2 |
| Divisional Court – judicial review – venue for | 556(R) | 67.2 |
| Divisional Court – jurisdiction – Charter | 596(L-R) | 72.5.1 |
| Divisional Court – jurisdiction – constitutional | 596(L-R) | 72.5.1 |
| Divisional Court – notice – Charter challenge | 596(R) | 72.5.3 |
| Divisional Court – procedure – Charter | 596(L-R) | 72.5 |
| Divisional Court – procedure – Charter – constitutional question – notice of | 596(R) | 72.5.3 |
| Divisional Court – procedure – Charter challenge | 596(R) | 72.5.2 |
| Divisional Court – procedure – constitutional | 596(L-R) | 72.5 |
| *Doré v Barreau du Québec* (reasonableness of adjudicated decision) | 544(L) | 65.3.2 |
| Double aspect – pith and substance – division of powers | 578(R) | 69.5.1(b) |
| Double aspect – pith and substance – federalism | 578(R) | 69.5.1(b) |
| *Doucet–Boudreau v. Nova Scotia* (example of structural injunction as remedy for Charter breach) | 587(R) | 70.6.2.2 |
| *Dunsmuir* – standard of review – test – summary | 558(R) | 67.3.2.2(d) |
| *Dunsmuir v New Brunswick* – determining standard of review | 557(L) | 67.3.2 |
| *Dunsmuir v. New Brunswick* – two common law standards of review | 550(L) | 65.6 |
| Duty of fairness – content | 549(L–R) | 65.5.2(a) |
| Duty of fairness – entitlement to – cease providing a benefit – *Re Webb and Ontario Housing Corporation* | 549(L–R) | 65.5.2(a)(3) |
| Duty of fairness – entitlement to – decision affecting property rights – *Homex Realty and Development Co v Wyoming (Village)* | 549(L) | 65.5.2(a)(3) |
| Duty of fairness – entitlement to – legislative decision – *Homex Realty and Development Co v Wyoming (Village)* | 549(L) | 65.5.2(a)(3) |
| **Duty to consult** – Aboriginal rights – conditions for it to arise | 603(L–R) | 73.4 |
| Duty to consult – Aboriginal rights – scope and content | 603(L–R) | 73.4 |
| Duty to consult – Aboriginal rights – trigger of duty | 603(L–R) | 73.4 |
| Duty to consult – Aboriginal rights – trigger of duty – unresolved issues | 603(L–R) | 73.4 |
| Duty to consult – *Huu–Ay–Aht First Nation v. British Columbia* | 604(R) | 73.5.2 |
| Duty to consult and accommodate – Aboriginal rights | 603(L–R) | 73.4 |
| **E** | | |
| **Education** – *Constitution Act, 1867* – s. 92(13), 92(7) | 577(L–R) | 69.4.3 |
| Education – division of powers | 577(L–R) | 69.4.3 |
| Education – federalism | 577(L–R) | 69.4.3 |
| *Eldridge v. British Columbia* (when Charter applies; whether action is “governmental” in nature) | 581(L) | 70.2 |
| *Ellis–Don Ltd. v. Ontario* (recognition that institutional consultation ensures consistency in administrative bodies) | 547(R)–548(L) | 65.5.1.2(b)(ii) |
| Enabling legislation – examine before start of hearing | 551(L–R) | 66.2.1 |
| Enabling statute – examine before start of hearing | 551(L–R) | 66.2.1 |
| Enforcement – Aboriginal rights – s.24 – Charter – not enforceable under | 601(L–R) | 73.1 |
| Enumerated grounds of discrimination – Charter – s.15 | 583(R) | 70.4.6 |
| **Equality** – analogous grounds – Charter – s. 15 | 583(R) | 70.4.6 |
| Equality – enumerated grounds – Charter – s. 15 | 583(R) | 70.4.6 |
| Equality – retroactive application – *Canada (Attorney General) v. Hislop* | 583(R) | 70.4.6 |
| Equality – right to – Charter – s. 15 – *Law* test | 583(R) | 70.4.6 |
| Equality – right to – Charter – s. 15 – *Law* test – modifications to *Law* | 583(R)–584(L) | 70.4.6 |
| Equality – right to – Charter – s. 15 – personal circumstances | 584(L) | 70.4.6 |
| Equality – right to – Charter – s.15(2) – ameliorative programs | 584(L) | 70.4.6 |
| Equality rights – Charter – s.15 | 583(R)–584(L) | 70.4.6 |
| **Equitable remedies** – judicial review | 560(R) | 67.3.4.2 |
| Equitable remedies – judicial review – declaration | 560(R) | 67.3.4.2(a) |
| Equitable remedies – judicial review – injunction | 561(L) | 67.3.4.2(b) |
| **Errors of law** – common law – limit on delegated power | 544(R) | 65.3.3.3 |
| Errors of law – judicial review – errors that permit judicial review | 550(R) | 65.6 |
| Errors of law – limit on delegated power | 544(R) | 65.3.3.3 |
| Evidence – acceptable to prove legislative facts | 589(L) – 590(L) | 71.3 |
| Evidence – excluding evidence – Charter – s.24  SEE: s.24(2) | 587(L) – 588(L–R); 588(R) | 70.6.2; 70.6.2.5 |
| **Evidence** – exclusion – criminal cases – s. 24(2) | 588(R) | 70.6.2.5 |
| Evidence – fresh – admissibility – judicial review | 561(L–R) | 67.3.5 |
| Evidence – new – admissibility – judicial review | 561(L–R) | 67.3.5 |
| Evidence – of government action – proving Charter claim | 590(R) | 71.4.5 |
| Evidence – tribunal – hearing – admissibility – threshold of admissibility | 553(L) | 66.3.4 |
| Evidence – tribunal – hearing – *SPPA* | 553(L) | 66.3.4 |
| *Evidence Act* – s.12 – proving a Charter claim – leave for more than 3 experts | 589(R) | 71.3.3 |
| Equitable doctrine of laches - Damages against the Crown in Ontario - limitation period – prior law | 595(L) | 72.4.3 |
| **Exclusion of evidence** – Charter – remedy – *Grant* test | 588(R) | 70.6.2.5 |
| Exclusion of evidence – criminal case – administration of justice | 588(R) | 70.6.2.5 |
| Exclusion of evidence – s. 24(2) – Charter | 588(R) | 70.6.2.5 |
| Exclusions – privacy – personal information | 572(L) | 68.4.4 |
| Exclusive jurisdiction of FCA - Band Council – judicial review | 567(L) | 67.7.1 |
| Exemption – constitutional exemption as remedy – proving Charter claim | 592(L) | 71.4.9.3 |
| Exercise of Delegations – control of | 543(L) | 65.2 |
| Exercise of statutory powers – failure to exercise – judicial review – availability | 556(R) | 67.3.1 |
| Exercise of statutory powers – judicial review – availability | 556(R) | 67.3.1 |
| Existence of breach – establishing – Charter challenge | 590(R) – 591(L) | 71.4.7 |
| Existing aboriginal right – definition | 601(R) – 602(L) | 73.2 |
| Existing Aboriginal rights – *Constitution Act, 1982* – s. 35 | 601(L–R) | 73.1 |
| Existing jurisprudence – standard of review | 557(L–R) | 67.3.2.2(b) |
| Expertise – of decision–maker – standard of review – factor | 558(R) | 67.3.2.2(c)(iii) |
| Experts – Charter – proving a claim | 589(R) – 590(L) | 71.3.3 |
| Expression – freedom of – Charter – s. 2(b) | 581(R) – 582(L) | 70.4.1 |
| Extraordinary remedies under s. 18 of FCA - Band Council – Judicial review | 567(R) | 67.7.1 |
| **F** | | |
| **Factors** – key factor – standard of review – nature of the question | 557(R)–558(L) | 67.3.2.2(c)(i) |
| Factors – standard of review – expertise | 558(R) | 67.3.2.2(c)(iii) |
| Factors – standard of review – nature of the question | 557(R)–558(L) | 67.3.2.2(c)(i) |
| Factors – standard of review – nature of the question – guidelines | 558(L) | 67.3.2.2(c)(i) |
| Factors – standard of review – privative clause | 558(L–R) | 67.3.2.2(c)(ii) |
| Factors – standard of review – purpose of the tribunal and enabling statute | 558(R) | 67.3.2.2(c)(iv) |
| **Facts** – findings of – standard of appeal – palpable and overriding error | 555(L) | 67.1 |
| Facts – judicial notice of – tribunal – hearing – *SPPA* – s. 16 | 553(L) | 66.3.4 |
| Facts – legislative – proving – Charter claim | 589(L) – 590(L) | 71.3 |
| Factual issue checklist – Charter – proving a claim | 590(L) | 71.4 |
| Factual issues – Charter claim – Failure to provide notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Factual issues – proving a Charter claim | 590(L) | 71.4 |
| Factual issues – proving a Charter claim – checklist – proceeding–specific facts | 590(L) | 71.4.1 |
| Factual issues – proving a Charter claim – checklist – standing and mootness | 590(L) | 71.4.2 |
| Failure to provide notice – constitutional question | 590(L–R) | 71.4.4 |
| Failure to provide notice – provincial Superior Court – constitutional question | 596(L) | 72.4.5 |
| **Fairness** – *Baker* test – factors | 549(L–R) | 65.5.2(a) |
| Fairness – doctrine of | 548(R)–549(L) | 65.5.2 |
| Fairness – doctrine of – purpose | 548(R)–549(L) | 65.5.2 |
| Fairness – duty of – entitlement to – cease providing a benefit – *Re Webb and Ontario Housing Corporation* | 549(L–R) | 65.5.2(a)(3) |
| Fairness – duty of – entitlement to – decision affecting property rights – *Homex Realty and Development Co v Wyoming (Village)* | 549(L) | 65.5.2(a)(3) |
| Fairness – duty of – entitlement to – legislative decision – *Homex Realty and Development Co v Wyoming (Village)* | 549(L) | 65.5.2(a)(3) |
| Fairness – duty of – factors affecting content of duty | 549(L–R) | 65.5.2(a) |
| Fairness – factors – importance to the individual (factor 3) | 549(L–R) | 65.5.2(a)(3) |
| Fairness – factors – influence of *Charter* principles (factor 6) | 549(R) | 65.5.2(a)(6) |
| Fairness – factors – legitimate expectations (factors 4) | 549(R) | 65.5.2(a)(4) |
| Fairness – factors – nature of decision being made (factor 1) | 549(L) | 65.5.2(a)(1) |
| Fairness – factors – nature of statutory scheme (factor 2) | 549(L) | 65.5.2(a)(2) |
| Fairness – factors – procedural choices of agency/decision–maker (factor 5) | 549(R) | 65.5.2(a)(5) |
| Fairness – factors – where property rights considered | 549(L–R) | 65.5.2(a)(3) |
| Fairness – inquiry into whether hearing was procedurally fair | 548(R)–549(L) | 65.5.2 |
| Fairness – pre–decision right | 548(R) | 65.5.2 |
| Fairness – pre–decision right to – elements | 548(R) | 65.5.2 |
| Fairness – right to know the case against you | 548(R) | 65.5.2 |
| Fairness – right to make submissions | 548(R) | 65.5.2 |
| Fairness – test | 548(R)–549(L) | 65.5.2 |
| ***FCA*** – judicial review – overview of | 546(L) | 65.4.2 |
| *FCA* – judicial review – relief – where right of appeal exists – s. 18.5 | 559(L) | 67.3.3 |
| *FCA* – s. 18.1(1) – standing – judicial review | 562(L) | 67.3.6 |
| *FCA* – s. 18.1(3) – codify prerogative writs | 559(R) | 67.3.4 |
| *FCA* – s. 18.1(4) – codify – common law grounds for judicial review | 562(R) | 67.3.8 |
| *FCA* – s. 18.1(4) – judicial review – common law grounds for – codified | 562(R) | 67.3.8 |
| *FCA* – s. 18.2 – interim relief – judicial review | 561(L) | 67.3.4.3 |
| *FCA* – s. 18.5 – judicial review – availability – where statutory right of appeal exists | 563(L) | 67.4.1 |
| *FCA* – s. 2.(1) – availability of judicial review | 556(R) | 67.3.1 |
| FCA – s. 57 – notice of constitutional question – federal tribunal | 599(R) | 72.7.3 |
| *FCA* – s.18.5 – no judicial review where statutory right of appeal exists | 563(L) | 67.4.1 |
| *FCA* – s.28(1) – judicial review | 597(L-R) | 72.6.2 |
| *FCA* – s.57 – notice of constitutional question (federal court) | 597(R) – 598(L) | 72.6.4 |
| *FCA* – writs and injunctions – jurisdiction of Federal Courts to issue – s.18 | 556(L–R) | 67.2 |
| Federal action – judicial review of | 563(L) | 67.4 |
| “Federal board, commission or other tribunal”- Judicial Review – Band Council | 567(L) | 67.7.1 |
| “Federal board, commission or other tribunal”- Band Council - Judicial Review | 567(L) | 67.7.1 |
| **Federal Court** – Charter – jurisdiction | 596(R)–597(L) | 72.6.1 |
| Federal Court – Charter – no inherent jurisdiction | 596(R)–597(L) | 72.6.1 |
| Federal Court – Charter – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Federal Court – Charter – procedural options | 597(L-R) | 72.6.2 |
| Federal Court – Charter – procedure – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Federal Court – constitution – jurisdiction | 596(R)–597(L) | 72.6.1 |
| Federal Court – expertise | 596(R)–597(L) | 72.6.1 |
| Federal Court – judicial review – bars to – where right of appeal exists – *FCA* – s. 18.5 | 559(L) | 67.3.3 |
| Federal Court – judicial review – constitutional questions – notice – *FCA* – s. 57 | 562(R) | 67.3.7 |
| Federal Court – judicial review – constitutional questions – notice – *FCR* – r. 69 | 562(R) | 67.3.7 |
| Federal Court – judicial review – constitutional questions – participation of Attorney General | 562(R) | 67.3.7 |
| Federal Court – judicial review – time for application | 563(R) | 67.4.2 |
| Federal Court – judicial review – time for application – laches | 563(R) | 67.4.2 |
| Federal Court – judicial review – time for application – limitations period | 563(R) | 67.4.2 |
| Federal Court – judicial review – whether trial or appeal level | 563(L) | 67.4.1 |
| Federal Court – judicial review brought by way of application (FCR r. 300(a)) | 597(L-R) | 72.6.2 |
| Federal Court – jurisdiction – Charter | 596(R)–597(L) | 72.6.1 |
| Federal Court – jurisdiction – constitutional | 596(R)–597(L) | 72.6.1 |
| Federal Court – jurisdiction – expertise – immigration | 596(R)–597(L) | 72.6.1 |
| Federal Court – jurisdiction – expertise – immigration | 596(R)–597(L) | 72.6.1 |
| Federal Court – jurisdiction – expertise – intellectual property | 596(R)–597(L) | 72.6.1 |
| Federal Court – jurisdiction – judicial review | 563(L) | 67.4.1 |
| Federal Court – jurisdiction – judicial review – where statutory right of appeal | 563(L) | 67.4.1 |
| Federal Court – limitation periods (Charter procedure) | 597(R) | 72.6.3 |
| Federal Court – limitations and parties – Charter | 597(R) | 72.6.3 |
| Federal Court – no jurisdiction to hear direct constitutional questions (not a court of inherent jurisdiction) | 596(R)–597(L) | 72.6.1 |
| Federal Court – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Federal Court – parties and limitations – Charter | 597(R) | 72.6.3 |
| Federal Court – parties before – Charter | 597(R) | 72.6.3 |
| Federal Court – procedural options – Charter | 597(L-R) | 72.6.2 |
| Federal Court – procedure – Charter | 597(L-R) | 72.6.2 |
| Federal Court – procedure – Charter – action – vs. application | 597(L-R) | 72.6.2 |
| Federal Court – procedure – Charter – application – vs. action | 597(L-R) | 72.6.2 |
| Federal Court – procedure – Charter – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Federal Court – procedure – notice of constitutional question | 597(R) – 598(L) | 72.6.4 |
| Federal Court – proceedings brought by way of action (FCR r. 61(1)) | 597(L-R) | 72.6.2 |
| Federal courts – judicial review – exclusive jurisdiction to review federal bodies | 555(R) | 67.2 |
| Federal courts – judicial review – venue for | 555(R) | 67.2 |
| *Federal Courts Rules* – r. 61(1) – proceedings brought by way of action | 597(L-R) | 72.6.2 |
| **Federal paramountcy** – division of powers | 579(R)–580(L–R) | 69.5.3 |
| Federal paramountcy – division of powers – conflict – definition of | 580(L–R) | 69.5.3 |
| Federal paramountcy – federalism | 579(R)–580(L–R) | 69.5.3 |
| Federal paramountcy – federalism – conflict – definition of | 580(L–R) | 69.5.3 |
| **Federalism** – aboriginals – Indians and reserve lands | 576(R) | 69.3.4 |
| Federalism – applicability – of legislation – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Federalism – conflicting legislation – pith and substance – double aspect | 578(R) | 69.5.1(b) |
| Federalism – conflicting legislation – pith and substance – incidental effect | 578(R) | 69.5.1(b) |
| Federalism – *Constitution Act, 1867* – division of powers – overview | 575(L) | 69.2 |
| Federalism – decision–making – delegation | 544(L) | 65.3.2 |
| Federalism – delegation – decision–making | 544(L) | 65.3.2 |
| Federalism – division of powers – overview | 575(L) | 69.2 |
| Federalism – federal paramountcy | 579(R)–580(L–R) | 69.5.3 |
| Federalism – federal paramountcy – conflict – definition of | 580(L–R) | 69.5.3 |
| Federalism – federal power – criminal law | 576(L–R) | 69.3.3 |
| Federalism – federal power – criminal law – valid criminal law purpose – *Margarine Reference* | 576(L–R) | 69.3.3 |
| Federalism – federal power – Indians and reserve lands | 576(R) | 69.3.4 |
| Federalism – federal power – interprovincial and international transportation and communication | 576(R) | 69.3.5 |
| Federalism – federal power – POGG – gap in division of powers | 575(R) | 69.3.1(b) |
| Federalism – federal power – POGG – national concern | 575(R) | 69.3.1(c) |
| Federalism – federal power – POGG – national emergency | 575(R) | 69.3.1(a) |
| Federalism – federal power – trade and commerce | 575(R)–576(L) | 69.3.2 |
| Federalism – federal powers – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Federalism – federal powers – POGG | 575(L–R) | 69.3.1 |
| Federalism – heads of power – definition | 575(L) | 69.2 |
| Federalism – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Federalism – interjurisdictional immunity – impairment – definition | 579(R) | 69.5.2 |
| Federalism – judicial review – on grounds of | 577(R)–578(L) | 69.5 |
| Federalism – judicial review – where conflicting legislation | 577(R)–578(L) | 69.5 |
| Federalism – operability – of provincial legislation – where conflicts with federal legislation – paramountcy | 579(R)–580(L–R) | 69.5.3 |
| Federalism – paramountcy | 579(R)–580(L–R) | 69.5.3 |
| Federalism – paramountcy – conflict – definition of | 580(L–R) | 69.5.3 |
| Federalism – pith and substance | 578(L–R)–579(L) | 69.5.1 |
| Federalism – pith and substance – ancillary powers | 578(R)–579(L) | 69.5.1(c) |
| Federalism – pith and substance – ancillary powers – test | 579(L) | 69.5.1(c) |
| Federalism – pith and substance – classification | 578(L) | 69.5.1(a) |
| Federalism – pith and substance – double aspect | 578(R) | 69.5.1(b) |
| Federalism – pith and substance – incidental effect | 578(R) | 69.5.1(b) |
| Federalism – pith and substance – purpose and effects | 578(L) | 69.5.1(a) |
| Federalism – pith and substance – test for validity | 578(L) | 69.5.1(a) |
| Federalism – provincial power – administration of justice | 577(R) | 69.4.5 |
| Federalism – provincial power – education | 577(L–R) | 69.4.3 |
| Federalism – provincial power – health | 577(L) | 69.4.2 |
| Federalism – provincial power – municipal institutions | 577(R) | 69.4.4 |
| Federalism – provincial power – property and civil rights | 576(R)–577(L) | 69.4.1 |
| Federalism – provincial power – property and civil rights – limits on | 577(L) | 69.4.1 |
| Federalism – provincial power – punishment for enforcement of laws – v. criminal law | 576(R) | 69.3.3 |
| Federalism – provincial powers – interjurisdictional immunity | 579(L–R) | 69.5.2 |
| Federalism – validity – of legislation – where legislation conflicts – pith and substance | 577(R)–578(L) | 69.5 |
| Fiduciary duty – Aboriginal title | 604(L) | 73.5.2 |
| Final decision – judicial review – availability | 556(R) | 67.3.1 |
| Finality – decisions with element of – judicial review – availability | 556(R) | 67.3.1 |
| Finality of decision – judicial review – availability | 556(R) | 67.3.1 |
| *FIPPA* – s. 10(1) – government records – access to | 569(L) | 68.2.1 |
| **Freedom of association** – Charter – s. 2(d) | 582(L) | 70.4.1 |
| **Freedom of expression** – Charter – s. 2(b) | 581(R) – 582(L) | 70.4.1 |
| Freedom of expression – Charter – s. 2(b) – content | 581(R) – 582(L) | 70.4.1 |
| **Freedom of information** – appeal – government access decision | 570(R) | 68.2.3.5 |
| Freedom of information – appeal – requirements | 570(R) | 68.2.3.5 |
| Freedom of information – Commissioners – powers of | 571(L) | 68.2.3.6 |
| Freedom of information – complaint – government access decision | 570(R) | 68.2.3.5 |
| Freedom of information – complaint – requirements | 570(R) | 68.2.3.5 |
| Freedom of information – government access decision – appeal | 570(R) | 68.2.3.5 |
| Freedom of information – government access decision – complaint | 570(R) | 68.2.3.5 |
| Freedom of information – laws – federal – *ATIA* | 569(L) | 68.2.2 |
| Freedom of information – laws – government information – purpose of legislation | 569(L) | 68.1 |
| Freedom of information – laws – municipal – *MFIPPA* | 569(L) | 68.2.1 |
| Freedom of information – laws – provincial – *FIPPA* | 569(L) | 68.2.1 |
| Freedom of information – laws – provincial – Ontario statute – *Freedom of Information and Protection of Privacy Act* | 569(L) | 68.2.1 |
| Freedom of information – laws – public sector – purpose of laws | 569(L) | 68.1 |
| Freedom of information – request – government response – failure to respond | 570(L) | 68.2.3.3 |
| Freedom of information – request – government response – timing | 570(L) | 68.2.3.3 |
| Freedom of information – request – grounds for refusal – exclusions | 570(L–R) | 68.2.3.4(b) |
| Freedom of information – request – grounds for refusal – exclusions – provincial | 570(L–R) | 68.2.3.4(b) |
| Freedom of information – request – grounds for refusal – exclusions – federal | 570(R) | 68.2.3.4(b) |
| Freedom of information – request – grounds for refusal – exemptions | 570(L) | 68.2.3.4(a) |
| Freedom of information – request – grounds for refusal – exemptions – partial exemption | 570(L) | 68.2.3.4(a) |
| Freedom of information – request – grounds for refusal – invalid grounds | 570(R) | 68.2.3.4(c) |
| Freedom of information – request – refusal – grounds for refusal | 570(L) | 68.2.3.4 |
| Freedom of information – rules – fees | 569(R)–570(L) | 68.2.3.2 |
| Freedom of information – rules – making a request | 569(L–R) | 68.2.3.1 |
| Freedom of information – rules – making a request – formal request | 569(R) | 68.2.3.1 |
| Freedom of information – rules – routine disclosure practices | 569(R) | 68.2.3.1 |
| *Freedom of Information and Protection of Privacy Act* – additional documentary evidence for hearing – written request – s. 24 | 545(R) | 65.4.1 |
| *Freedom of Information and Protection of Privacy Act* – Charter challenge – proving governmental action | 590(R) | 71.4.5 |
| **Freedom of religion** – Charter – content of | 582(L) | 70.4.1 |
| Freedom of religion – Charter – s. 2(a) | 582(L) | 70.4.1 |
| Freedom of thought and expression – Charter (s.2) | 581(R) – 582(L) | 70.4.1 |
| Friend of the court – intervene - constitutional cases Rule 13 of the *Rules of Civil Procedure* – Parties – | 595(L) | 72.4.3 |
| Fundamental justice – principles of – test for | 582(R) | 70.4.4 |
| **G** | | |
| Gap in division of powers – POGG ground | 575(R) | 69.3.1(b) |
| *Gardner v. Ontario (Civilian Commission on Police Services)* (reasonable apprehension of institutional bias found) | 547(R) | 65.5.1.2(b)(ii) |
| *General Motors of Canada Ltd v City National Leasing* (five indicia for federal jurisdiction over trade and commerce power) | 576(L) | 69.3.2 |
| Government – federal – civil proceedings against | 566(L) | 67.6.1 |
| Government – provincial – civil proceedings against | 566(L) | 67.6.1 |
| Government action – *Municipal Freedom of Information and Protection of Privacy Act* | 590(R) | 71.4.5 |
| **Government action** – proof of – Charter claim – proving | 590(R) | 71.4.5 |
| Government action – proving Charter claim | 590(R) | 71.4.5 |
| **Government records** – federal – access to – *ATIA* – s. 4(1) | 569(L) | 68.2.2 |
| Government records – municipal – access to – *MFIPPA* – s. 4(1) | 569(L) | 68.2.1 |
| Government records – provincial – access to – *FIPPA* – s. 10(1) | 569(L) | 68.2.1 |
| Grounds for judicial review must be indicated | 562(R) | 67.3.8 |
| **H** | | |
| ***Habeus corpus*** – jurisdiction to grant – concurrent jurisdiction – factors | 560(R) | 67.3.4.1(d) |
| *Habeus corpus* – jurisdiction to grant – *FCA* – s. 18 | 560(L–R) | 67.3.4.1(d) |
| *Habeus corpus* – prerogative writs | 560(L–R) | 67.3.4.1(d) |
| Habeus corpus – right to – Charter – s.10 | 583(L) | 70.4.5 |
| *Haida Nation v. British Columbia* (test for appropriate consultation and fair compensation) | 603(L–R) | 73.4 |
| Hansard – evidence – Charter | 589(L–R) | 71.3.1 |
| Hansard – proving a Charter claim | 589(L–R) | 71.3.1 |
| Heads of power – *Constitution Act, 1867* – definition | 575(L) | 69.2 |
| **Health** – *Constitution Act, 1867* – s. 92(13), 92(7) | 577(L) | 69.4.2 |
| Health – division of powers | 577(L) | 69.4.2 |
| Health – federalism | 577(L) | 69.4.2 |
| *Health Care Consent Act* – Charter – administrative tribunals | 598(L)-599(L) | 72.7.1.1 |
| Health Services Appeal and Review Board – Charter – administrative tribunals | 598(L) | 72.7.1.1 |
| Hearing – administrative tribunal – costs – ability to award – *SPPA* s. 17.1 | 551(R) | 66.2.3 |
| Hearing – administrative tribunal – costs – circumstances where costs may be ordered – *SPPA* s. 25.1 | 551(R) | 66.2.3 |
| Hearing – form of – natural justice | 546(L) | 65.5.1.2(a) |
| Hearing – motions at | 553(L–R)–554(L) | 66.4 |
| Hearing – natural justice – *SPPA* | 544(R) | 65.3.3.1 |
| Hearing – notice of – natural justice | 546(R)–547(L) | 65.5.1.2(a) |
| Hearing – re. factor in determination of judicial or quasi–judicial decision | 546(R) | 65.5.1.1 |
| Hearing – right to – natural justice | 546(R) | 65.5.1.2(a) |
| Hearing – tribunal – evidence at – *SPPA* | 553(L) | 66.3.4 |
| *Homex Realty and Development Co Wyoming (Village)* (legislative decision can give rise to duty of fairness if affects property rights) | 549(L–R) | 65.5.2(a)(3) |
| **Hospital** – Charter – application to | 581(L) | 70.2 |
| Hospitals – application of Charter to | 581(L) | 70.2 |
| *Housen v Nikolaisen* (standard of review for question of pure law is correctness) | 555(L) | 67.1 |
| *Human Rights Code* – HRTO required to consider a policy approach by OHRC if requested – s. 45.5(a) | 551(R)–552(L) | 66.2.4 |
| Human rights commissions – application of Charter to | 581(L) | 70.2 |
| Human rights legislation – administrative tribunals may consider | 598(R) | 72.7.1.1 |
| *Huu–Ay–Aht First Nation v. British Columbia* (declaration that Crown had duty to consult as remedy) | 604(R) | 73.5.2 |
| **I** | | |
| Immigration – Federal Court has expertise | 596(R)–597(L) | 72.6.1 |
| Impartial decision–maker – right to – natural justice | 547(L) | 65.5.1.2(b) |
| Implied jurisdiction – administrative tribunal – constitutional question | 598(L)-599(L) | 72.7.1.1 |
| Incidental effect – pith and substance – division of powers | 578(R) | 69.5.1(b) |
| Incidental effect – pith and substance – federalism | 578(R) | 69.5.1(b) |
| Independence of decision maker – natural justice | 547(R) | 65.5.1.2(b)(ii) |
| *Indian Act* – judicial review | 567(L) | 67.7.1 |
| **Indians and reserve land** – *Constitution Act, 1867* – s. 91(2) | 576(R) | 69.3.4 |
| Indians and reserve land – division of powers | 576(R) | 69.3.4 |
| Indians and reserve land – federalism | 576(R) | 69.3.4 |
| Infringement – Aboriginal and treaty rights | 604(L–R) | 73.5.2 |
| Injunction – judicial review – equitable remedies | 561(L) | 67.3.4.2(b) |
| Injunction – remedy – proving Charter claim | 592(R) | 71.4.9.4 |
| Injunctions – evidence of the status quo – balance of harm – irreparable harm | 592(R) | 71.4.9.4 |
| Injunctions – three types | 592(R) | 71.4.9.4 |
| *Insite* case (in practice, significant overlap between federal and provincial areas of jurisdiction) – SEE *Canada (AG) v PHS Community Services Society* | 578(R) | 69.5.1(b) |
| **Institution** – municipal – *Constitution Act, 1867* – s. 92(8) | 577(R) | 69.4.4 |
| Institution – municipal – division of powers | 577(R) | 69.4.4 |
| Institution – municipal – federalism | 577(R) | 69.4.4 |
| Institutional bias – perceived – natural justice | 547(L–R) | 65.5.1.2(b)(ii) |
| Intellectual property – Federal Court has expertise | 596(R)–597(L) | 72.6.1 |
| Interim injunctions – use to prevent development of Aboriginal land | 604(L–R) | 73.5.2 |
| **Interim order** – tribunal – hearing – advocacy on | 554(L) | 66.4 |
| Interim order – tribunal – power to grant – *SPPA* – s. 16.1 | 553(R) | 66.4 |
| Interim relief – Charter challenge – Superior Court of Justice | 594(L) | 72.4.2 |
| Interim relief – judicial review | 561(L) | 67.3.4.3 |
| Interim relief – judicial review – Divisional Court – *JRPA* – s.4 | 596(R) | 72.5.2 |
| **Interjurisdictional immunity** – division of powers | 579(L–R) | 69.5.2 |
| Interjurisdictional immunity – federalism | 579(L–R) | 69.5.2 |
| Internal limits on rights – Charter | 584(R) | 70.5.1 |
| Interpretation – Charter – nature of right – sources | 590(R) | 71.4.6 |
| Interpretation – treaty – Aboriginal | 602(L) | 73.2 |
| *Interpretation Act* – s.7 | 590(R) | 71.4.5 |
| Interpretation of treaties – Aboriginal rights – *R v. Marshall* | 602(L) | 73.2 |
| Interpretation of treaties – *R v. Badger*  SEE: *R v. Marshall* | 602(L) | 73.2 |
| Interpretive limits – Charter | 584(R) | 70.5.2 |
| Intervene - Friend of the court –constitutional cases - Rule 13 of the *Rules of Civil Procedure* – Parties | 595(L) | 72.4.3 |
| Invalid legislation – suspension of validity  SEE also: Constitutional Exemption | 586(R) – 587(L); 587(L) | 70.6.1.4; 70.6.1.5 |
| Invalidity – declaration of – *Constitution Act, 1982* – s. 52 | 585(R) – 586(L) | 70.6.1 |
| Invalidity – suspending declaration of invalidity – evidence | 592(L) | 71.4.9.2 |
| **J** | | |
| ***JRPA*** – judicial review – bars – where right of appeal exists – s. 2 | 559(L) | 67.3.3 |
| *JRPA* – limitation period | 545(R) | 65.4.2 |
| *JRPA* – overview | 545(R) | 65.4.2 |
| *JRPA* – s. 2 – codify – common law grounds for judicial review | 562(R) | 67.3.8 |
| *JRPA* – s. 2 – codify prerogative writs | 559(R) | 67.3.4 |
| *JRPA* – s. 2 – judicial review – common law grounds for – codified | 562(R) | 67.3.8 |
| *JRPA* – s. 4 – interim relief – judicial review | 561(L) | 67.3.4.3 |
| Judicial decision–makers – natural justice | 546(L) | 65.5.1.1 |
| Judicial decision–makers – natural justice applies to | 546(L) | 65.5.1.1 |
| Judicial notice – facts – tribunal – hearing – *SPPA* – s. 16 | 553(L) | 66.3.4 |
| Judicial restraint – on judicial review – general policy of | 550(L) | 65.6 |
| **Judicial review** – aboriginal – band council decision | 567(L–R) | 67.7.1 |
| Judicial review – aboriginal applicant | 566(R) | 67.7 |
| Judicial review – administrative action – federal | 563(L) | 67.4.1 |
| Judicial review – administrative action – provincial | 565(R) | 67.5 |
| Judicial review – admissibility – fresh evidence | 561(L–R) | 67.3.5 |
| Judicial review – admissibility – new evidence | 561(L–R) | 67.3.5 |
| Judicial review – application – notice of | 562(R) | 67.3.8 |
| Judicial review – application – notice of – how to bring claim | 562(R) | 67.3.8 |
| Judicial review – availability | 556(R) | 67.3.1 |
| Judicial review – availability – exercise of or failure to exercise statutory powers | 556(R) | 67.3.1 |
| Judicial review – availability – final decision | 556(R) | 67.3.1 |
| Judicial review – availability – public action or decision–making | 556(R) | 67.3.1 |
| Judicial review – availability – where statutory right of appeal – *FCA* – s. 18.5 | 563(L) | 67.4.1 |
| Judicial review – available relief | 546(L) | 65.4.2 |
| Judicial review of – Band council –Tribunal decisions | 567(L–R) | 67.7.1 |
| Judicial review – Band Council –exclusive jurisdiction of FCA | 567(L) | 67.7.1 |
| Judicial Review – Band council –available remedies in different courts | 567(L) | 67.7.1 |
| Judicial review - Band council – proceed through ss. 18.1(3)-(4) of FCA | 567(R) | 67.7.1 |
| Judicial review – Band Council –extraordinary remedies under s. 18 of FCA | 567(R) | 67.7.1 |
| Judicial Review – Band Council – “a federal board, commission or other tribunal” | 567(L) | 67.7.1 |
| Judicial review –decision – procedure | 567(L–R) | 67.7.1 |
| Judicial review – bars – where right of appeal exists | 559(L) | 67.3.3 |
| Judicial review – broad overview | 555(L–R) | 67.2 |
| Judicial review – Charter – brought before Federal Court by way of application (FCR r. 300(a)) | 597(L-R) | 72.6.2 |
| Judicial review – Charter – challenge before Divisional Court | 596(L - R) | 72.5 |
| Judicial review – constitutional questions – notice | 562(R) | 67.3.7 |
| Judicial review – definition | 545(R) | 65.4.2 |
| Judicial review – discretionary bars | 559(L) | 67.3.3 |
| Judicial review – discretionary remedy | 555(L) | 67.1 |
| Judicial review – Divisional Court – appeal | 566(L) | 67.5.5 |
| Judicial review – Divisional Court – bars – *JRPA* – where right of appeal exists – s. 2 | 559(L) | 67.3.3 |
| Judicial review – Divisional Court – composition of court | 565(L) | 67.5.1 |
| Judicial review – Divisional Court – notice to AG | 565(L) | 67.5.2 |
| Judicial review – Divisional Court – provincial administrative action | 565(L) | 67.5.1 |
| Judicial review – Divisional Court – v. Federal Court – parties | 565(L) | 67.5.2 |
| Judicial review – duty of fairness – *Baker* factors | 549(L–R) | 65.5.2(a) |
| Judicial review – duty of fairness – content of duty – factors | 549(L–R) | 65.5.2(a) |
| Judicial review – errors that permit | 550(R) | 65.6 |
| Judicial review – fairness – duty of – *Baker* factors | 549(L–R) | 65.5.2(a) |
| Judicial review – fairness – factors assessing content of duty | 549(L–R) | 65.5.2(a) |
| **Judicial review – federal** – application – time for | 563(R) | 67.4.2 |
| Judicial review – federal – applications – which court | 563(L) | 67.4.1 |
| Judicial review – federal – converting application into an action | 564(R) | 67.4.4 |
| Judicial review – federal – *FCA* | 545(R)–546(L) | 65.4.2 |
| Judicial Review – federal – level of court | 563(L) | 67.4.1 |
| Judicial review – federal – parties | 563(R) | 67.4.3 |
| Judicial review – federal – procedure | 564(L–R) | 67.4.4 |
| Judicial review – federal – procedure – issuance of notice of application | 564(L) | 67.4.4 |
| Judicial review – federal – procedure – notice of appearance | 564(L) | 67.4.4 |
| Judicial review – federal – procedure – records | 564(L–R) | 67.4.4 |
| Judicial review – federal – procedure – request for material in possession of tribunal | 564(L) | 67.4.4 |
| Judicial review – federal – procedure – requisition for hearing | 564(R) | 67.4.4 |
| Judicial review – federal – procedure – service of notice of application | 564(L) | 67.4.4 |
| Judicial review – federal – procedure – supporting affidavits and documentary material | 564(L) | 67.4.4 |
| Judicial review – federal – time for application | 563(R) | 67.4.2 |
| Judicial review – federal action | 563(L) | 67.4 |
| Judicial review – Federal Court – application | 563(L) | 67.4.1 |
| Judicial review – Federal Court – bars – *FCA* – where right of appeal exists – s. 18.5 | 559(L) | 67.3.3 |
| Judicial review – fresh evidence – admissibility | 561(L–R) | 67.3.5 |
| Judicial review – grounds – division of powers | 577(R)–578(L) | 69.5 |
| Judicial review – grounds – federalism | 577(R)–578(L) | 69.5 |
| Judicial review – grounds for – codification – *FCA* – s. 18.1(4) | 562(R) | 67.3.8 |
| Judicial review – grounds for – codification – *JRPA* – s. 2 | 562(R) | 67.3.8 |
| Judicial review – grounds need to be indicated | 562(R) | 67.3.8 |
| Judicial review – how to bring claim – notice of application | 562(R) | 67.3.8 |
| Judicial review – *Indian Act* | 567(L–R) | 67.7.1 |
| Judicial review – interim relief | 561(L) | 67.3.4.3 |
| Judicial Review – jurisdiction of the courts | 555(R)–556(L) | 67.2 |
| Judicial review – limits on remedial jurisdiction | 555(L) | 67.1 |
| Judicial review – modern approach – *CUPE Local 963 v New Brunswick Liquor Corp* | 550(L) | 65.6 |
| Judicial review – new evidence – admissibility | 561(L–R) | 67.3.5 |
| Judicial Review – no need for statutory right | 555(L) | 67.1 |
| Judicial review – notice – constitutional questions | 562(R) | 67.3.7 |
| Judicial review – Ontario – procedure – *JRPA* | 545(R) | 65.4.2 |
| Judicial review – Ontario – procedure – Rules of Civil Procedure | 545(R) | 65.4.2 |
| Judicial review – parties – federal administrative action | 563(R) | 67.4.3 |
| Judicial review – prerogative writs – *certiorari* | 560(L) | 67.3.4.1(b) |
| Judicial review – prerogative writs – *habeus corpus* | 560(L–R) | 67.3.4.1(d) |
| Judicial review – prerogative writs – *mandamus* | 559(R) | 67.3.4.1(a) |
| Judicial review – prerogative writs – prohibition | 560(L) | 67.3.4.1(c) |
| Judicial review – prerogative writs – *quo warranto* | 560(R) | 67.3.4.1(e) |
| Judicial review – prerogative writs – relief | 559(R) | 67.3.4 |
| Judicial Review – procedural entitlements – fairness | 548(R)–549(L) | 65.5.2 |
| **Judicial review – procedure** – federal – issuance of notice of application | 564(L) | 67.4.4 |
| Judicial review – procedure – federal – notice of appearance | 564(L) | 67.4.4 |
| Judicial review – procedure – federal – records | 564(L–R) | 67.4.4 |
| Judicial review – procedure – federal – request for material in possession of tribunal | 564(L) | 67.4.4 |
| Judicial review – procedure – federal – requisition for hearing | 564(R) | 67.4.4 |
| Judicial review – procedure – federal – service of notice of application | 564(L) | 67.4.4 |
| Judicial review – procedure – federal – supporting affidavits and documentary material | 564(L) | 67.4.4 |
| **Judicial review – provincial** – administrative action | 565(R) | 67.5 |
| Judicial review – provincial – appeal | 566(L) | 67.5.5 |
| Judicial Review – provincial – notice periods | 565(R) | 67.5.4 |
| Judicial Review – provincial – notice to AG | 565(L) | 67.5.2 |
| Judicial review – provincial – parties | 565(L) | 67.5.2 |
| Judicial Review – provincial – procedure | 565(R)-566(L) | 67.5.4 |
| Judicial review – provincial – *SPPA* – application of | 565(L) | 67.5.3 |
| Judicial review – provincial Superior Courts – review of federal bodies | 556(L) | 67.2 |
| Judicial review – purpose | 545(R) | 65.4.2 |
| **Judicial review – relief** – declaration | 560(R)–561(L) | 67.3.4.2(a) |
| Judicial review – relief – equitable remedies – declaration | 560(R)–561(L) | 67.3.4.2(a) |
| Judicial review – relief – equitable remedies – injunction | 561(L) | 67.3.4.2(b) |
| Judicial review – relief – interim relief | 561(L) | 67.3.4.3 |
| Judicial review – relief – interim relief – stay of proceedings | 561(L) | 67.3.4.3 |
| Judicial review – relief – prerogative writs – *certiorari* | 560(L) | 67.3.4.1(b) |
| Judicial review – relief – prerogative writs – *certiorari* | 560(L) | 67.3.4.1(c) |
| Judicial review – relief – prerogative writs – *habeas corpus* | 560(L–R) | 67.3.4.1(d) |
| Judicial review – relief – prerogative writs – *mandamus* | 559(R) | 67.3.4.1(a) |
| Judicial review – relief – prerogative writs – *quo warranto* | 560(R) | 67.3.4.1(e) |
| Judicial review – relief – stay of proceedings | 561(L) | 67.3.4.3 |
| Judicial review – relief available | 546(L) | 65.4.2 |
| Judicial review – relief available | 559(R) | 67.3.4 |
| Judicial Review – remedial jurisdiction | 555(L) | 67.1 |
| Judicial review – remedies | 546(L) | 65.4.2 |
| Judicial review – remedy – remit to decision–making body | 550(R) | 65.6 |
| Judicial review – remedy – set aside tribunal’s decision – *British Columbia (Workers’ Compensation Board) v Figliola* | 550(R) | 65.6 |
| **Judicial review – standard of review** – correctness | 557(L) | 67.3.2.1 |
| Judicial Review – standard of review – definitions | 557(L) | 67.3.2.1 |
| Judicial review – standard of review – existing jurisprudence | 557(L–R) | 67.3.2.2(b) |
| Judicial review – standard of review – overview | 556(R)–557(L) | 67.3.2 |
| Judicial review – standard of review – reasonableness | 557(L) | 67.3.2.1 |
| Judicial review – standard of review – whether existing jurisprudence has aL–Ready identified | 557(L–R) | 67.3.2.2(b) |
| Judicial Review – standards of review – determining the appropriate standard – summary | 557(L) | 67.3.2.2(a) |
| **Judicial Review – standing** | 561(R) – 562(R) | 67.3.6 |
| Judicial review – standing – public interest | 562(L) | 67.3.6 |
| Judicial review – substantive review of decision – core | 549(R) | 65.6 |
| Judicial Review – Superior Court – urgent review | 565(R) | 67.5.4 |
| Judicial review – time limit – laches | 545(R) | 65.4.2 |
| Judicial review – v. appeal – availability | 555(L) | 67.1 |
| Judicial review – v. appeal – distinctions | 555(L) | 67.1 |
| Judicial review – v. appeal – new evidence – admissibility | 561(R) | 67.3.5 |
| Judicial review – v. appeal – remedial jurisdiction | 555(L) | 67.1 |
| Judicial review – venues – where to pursue | 555(R) | 67.2 |
| Judicial review – what is it | 555(L–R)  563(R) | 67.1  67.4.2 |
| Judicial review – where permitted – errors of law | 550(R) | 65.6 |
| Judicial review – where required | 545(R) | 65.4.2 |
| **Jurisdiction** – administrative tribunal –Charter challenge | 598(L) | 72.7.1 |
| Jurisdiction – Charter – administrative tribunal | 598(L) | 72.7.1 |
| Jurisdiction – Divisional Court – Charter | 596(L-R) | 72.5.1 |
| Jurisdiction – Divisional Court – Charter – collateral challenge | 596(L-R) | 72.5.1 |
| Jurisdiction – Divisional Court – Charter – direct challenge | 596(L-R) | 72.5.1 |
| Jurisdiction – Divisional Court – constitutional | 596(L-R) | 72.5.1 |
| Jurisdiction – Federal Court – Charter | 596(R)–597(L) | 72.6.1 |
| Jurisdiction – Federal Court – Charter – grounds – non–constitutional relief | 596(R)–597(L) | 72.6.1 |
| Jurisdiction – Federal Court – constitution – grounds – non–constitutional relief | 596(R)–597(L) | 72.6.1 |
| Jurisdiction – provincial Superior Court | 594(L) | 72.4.1 |
| Jurisdiction – Superior Court – Charter | 594(L) | 72.4.1 |
| Jurisdiction – Superior Courts – Charter – collateral challenge | 594(L) | 72.4.1 |
| Jurisdiction – Superior Courts – Charter – direct challenge | 594(L) | 72.4.1 |
| Jurisdiction – tribunal – Charter – implied jurisdiction – test for | 598(L)-599(L) | 72.7.1.1 |
| Jurisdiction – tribunal – constitutional – implied jurisdiction – test for | 598(L)-599(L) | 72.7.1.1 |
| Jurisdiction – tribunal – to grant Charter relief | 590(L) | 71.4.3 |
| Jurisdiction – tribunal – to hear Charter claim | 590(L) | 71.4.3 |
| Jurisdiction – tribunals – remedy – *Constitution Act, 1982* – s. 52 | 598(L)-599(L) | 72.7.1.1 |
| Jurisdiction of the Tribunal – Charter claim | 590(L) | 71.4.3 |
| Jurisdiction of tribunal – *Weber v. Ontario Hydro* | 590(L) | 71.4.3 |
| Jurisdictional limit – common law | 544(R) | 65.3.3.2 |
| Jurisdictional limit – on delegated power | 544(R) | 65.3.3.2 |
| Justice – administration of – *Constitution Act, 1867* – s. 92(14) | 577(R) | 69.4.5 |
| Justice – administration of – division of powers | 577(R) | 69.4.5 |
| Justice – administration of – federalism | 577(R) | 69.4.5 |
| **K** | | |
| *Kirkbi AG v Ritvik Holdings Inc* (federal statutory remedy upheld where otherwise would have infringed property and civil rights because sufficiently integrated into valid federal law) | 579(L) | 69.5.1(c) |
| *Knight v. Indian Head School Division No. 19* (courts reluctant to mandate specific procedural steps where certain elements of fairness met in decision–making process) | 548(R)–549(L) | 65.5.2 |
| **L** | | |
| Laches – application of – judicial review | 545(R) | 65.4.2 |
| Laches – time for application – judicial review – federal administrative action | 563(R) | 67.4.2 |
| Land use dispute – Aboriginal and treaty rights | 603(R)–604(R) | 73.5.2 |
| Language rights – Charter – ss.16–23 | 584(L) | 70.4.7 |
| *Lavigne v Canada (Office of the Commissioner of Official Languages)* (public sector privacy laws are necessary to the preservation of a free and democratic society) | 571(L) | 68.3 |
| *Law v. Canada (Minister of Employment and Immigration)* (test for s. 15) | 583(R) | 70.4.6 |
| Legislation – conflicting – division of powers | 577R)–578(L) | 69.5 |
| Legislation – conflicting – federalism | 577(R)–578(L) | 69.5 |
| Legislative facts – proving a Charter claim | 589(L) – 590(L) | 71.3 |
| Legislative objective – s.1 defence | 591(L) | 71.4.8.1 |
| Legitimate expectations – fairness – limits on (factor 4) | 549(R) | 65.5.2(a)(4) |
| Legitimate expectations – fairness (factor 4) | 549(R) | 65.5.2(a)(4) |
| Level of court – judicial review – federal administrative action | 563(L) | 67.4.1 |
| Life, liberty, security of the person – Charter – s. 7 – application of | 582(R)–583(L) | 70.4.4 |
| **Life, liberty, security of the person** – Charter – s.7 | 582(R)–583(L) | 70.4.4 |
| **Limit on delegated power** – common law – errors of law | 544(R) | 65.3.3.3 |
| Limit on delegated power – common law – fairness | 544(R) | 65.3.3.1 |
| Limit on delegated power – common law – jurisdictional limits | 544(R) | 65.3.3.2 |
| Limit on delegated power – common law – natural justice | 544(R) | 65.3.3.1 |
| Limit on delegated power – common law – procedural limits | 544(R) | 65.3.3.1 |
| Limit on delegated power – statutory – *SPPA* | 544(R) | 65.3.3.1 |
| Limit on delegation – common law | 544(L–R) | 65.3.3 |
| Limit on delegation – Constitution Act | 544(L) | 65.3.2 |
| **Limitation period** – damages against the Crown in Ontario | 595(L) | 72.4.3 |
| Limitation period – constitutional challenge – Federal Court | 597(R) | 72.6.3 |
| Limitation period – damages against the Crown in Ontario – equitable doctrine of laches | 595(L) | 72.4.3 |
| Limitation period – *JRPA* | 545(R) | 65.4.2 |
| Limitation period – prior law – Charter - equitable doctrine of laches | 595(L) | 72.4.3 |
| Limitation periods – judicial review | 545(R) | 65.4.2 |
| Limitation periods – laches – judicial review | 545(R) | 65.4.2 |
| **Limitations** – s. 25 – Charter can not limit aboriginal or treaty rights | 601(L–R) | 73.1 |
| Limitations – s.1 – does not limit s. 35 Aboriginal and treaty rights | 601(L–R) | 73.1 |
| Limitations – s.33 – does not override aboriginal rights | 601(L–R) | 73.1 |
| **Limits** – on rights – Charter – notwithstanding clause – s. 33 | 585(R) | 70.5.4 |
| Limits – s.35 – Aboriginal and treaty rights | 602(R) – 603(L) | 73.3 |
| Limits on – delegated power | 544(L) | 65.3.1 |
| Limits on – judicial review | 555(L) | 67.1 |
| **M** | | |
| *M. v. H.* (approval of Brandeis briefs for establishing social context of a law) | 589(R) | 71.3.2 |
| *M. v. H.* (example of severance of part of a statute) | 586(R) | 70.6.1.3 |
| *Mandamus* – prerogative writs | 559(R) | 67.3.4.1(a) |
| Mandatory injunction – Charter | 587(R) | 70.6.2.2 |
| *Margarine Reference (Reference re Validity of Section 5(a) Dairy Industry Act)* (definition of valid criminal law purpose) | 576(L–R) | 69.3.3 |
| *Martineau v. Matsqui* (natural justice and fairness not distinct categories of procedural requirements) | 546(L) | 65.5 |
| Material to examine before administrative hearing starts | 551(L)–552(L) | 66.2 |
| *May v Ferndale Institution* (provincial superior courts have concurrent jurisdiction with federal courts to grant *habeus corpus*) | 560(L–R) | 67.3.4.1(d) |
| *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)* (federal government had duty to consult where lands were to be “taken up” pursuant to treaty) | 603(L–R) | 73.4 |
| **Minimal impairment** – *Oakes* test | 585(L) | 70.5.3 |
| Minimal impairment – s. 1 – *Oakes* test | 585(L) | 70.5.3 |
| Minimal impairment – s.1 defence | 591(R) | 71.4.8.3 |
| Minimal impairment – s.1 defence – proving Charter claim | 591(R) | 71.4.8.3 |
| Minimal impairment – test | 591(R) | 71.4.8.3 |
| *Minister of Justice of Canada v. Borowski* (expanded test for standing to deal with issue of mootness) | 593(R)–594(L) | 72.3.2 |
| *Minister of National Revenue v. Coopers and Lybrand* (factors for whether a decision is judicial vs. quasi–judicial) | 546(L–R) | 65.5.1.1 |
| *Ministry of Health Appeal and Review Boards Act* – Charter – administrative tribunals | 598(L)-599(L) | 72.7.1.1 |
| Mobility rights – Charter – s.6 | 582(L–R) | 70.4.3 |
| **Mootness** – Charter | 593(R)–594(L) | 72.3.2 |
| Mootness – Charter – proving claim | 590(L) | 71.4.2 |
| Mootness – Charter challenge | 593(R)–594(L) | 72.3.2 |
| Mootness – threshold issue | 593(R)–594(L) | 72.3.2 |
| **Motions** – tribunal – hearing | 553(L–R)–554(L) | 66.4 |
| Motions – tribunal – hearing – advocacy on | 553(L) | 66.4 |
| Motions – tribunal – hearing – power to grant – *SPPA* | 553(L–R) | 66.4 |
| Motions – tribunal – hearing – *SPPA* – whether to bring | 553(R) | 66.4 |
| Motions – tribunals – whether inherent jurisdiction | 554(L) | 66.4 |
| *Multani v. Commission Scolaire Marguerite–Bourgeoys* (comparing minimal impairment with duty to accommodate) | 585(L) | 70.5.3 |
| *Municipal Freedom of Information and Protection of Privacy Act* – proving Charter claim | 590(R) | 71.4.5 |
| *Municipal Freedom of Information and Protection of Privacy Act* – government action | 590(R) | 71.4.5 |
| Municipal institutions – *Constitution Act, 1867* – s. 92(8) | 577(R) | 69.4.4 |
| Municipal institutions – division of powers | 577(R) | 69.4.4 |
| Municipal institutions – federalism | 577(R) | 69.4.4 |
| **Municipality** – application of Charter to | 581(L) | 70.2 |
| Municipality – *Constitution Act, 1867* – s. 92(8) | 577(R) | 69.4.4 |
| Municipality – division of powers | 577(R) | 69.4.4 |
| Municipality – federalism | 577(R) | 69.4.4 |
| **N** | | |
| National concern – POGG ground – test – *R v Crown Zellerbach* | 575(R) | 69.3.1(c) |
| National emergency – POGG ground | 575(R) | 69.3.1(a) |
| **Natural Justice** | 548(L) | 65.5.1 |
| Natural Justice – apprehension of bias – source of claim | 548(L) | 65.5.1.2(b)(iii) |
| Natural Justice – codified (SPPA) | 544(R) | 65.3.3.1 |
| Natural justice – content of | 546(R) | 65.5.1.2 |
| Natural Justice – decision maker –apprehension of personal bias | 547(L) | 65.5.1.2(b)(i) |
| Natural justice – fairness – right to know the case against you | 548(R) | 65.5.2 |
| Natural justice – fairness – right to make submissions | 548(R) | 65.5.2 |
| Natural justice – hearing – right to | 546(R) | 65.5.1.2(a) |
| Natural Justice – impartial decision maker – right to | 547(L) | 65.5.1.2(b) |
| Natural Justice – impartial decision–maker – right to – institutional bias | 547(L–R) | 65.5.1.2(b)(ii) |
| Natural justice – impartial decision–maker – right to – personal bias | 547(L) | 65.5.1.2(b)(i) |
| Natural justice – principles | 546(L) | 65.5.1 |
| Natural justice – principles – when required | 546(L–R) | 65.5.1.1 |
| Natural justice – right to a hearing | 546(R) | 65.5.1.2(a) |
| Natural justice – right to be heard | 546(R) | 65.5.1.2(a) |
| Natural justice – rules of – codification – *SPPA* | 544(R) | 65.3.3.1 |
| Nature of the question – standard of review – guidelines | 558(L) | 67.3.2.2(c)(i) |
| Nature of the question – standard of review – where relevant to inquiry | 557(R)–558(L) | 67.3.2.2(c)(i) |
| *Nicholson v. Haldimand–Norfolk Regional Board of Commissioners of Police* (right to fairness even though no procedural rights in statute) | 548(R) | 65.5.2 |
| *Northern Telecom Canada Ltd. v. Communication Workers of Canada (No. 2)* (Federal Court does not have jurisdiction to hear direct constitutional or Charter challenges) | 596(R)–597(L) | 72.6.1 |
| **Notice** – constitutional question – delivery | 590(L–R) | 71.4.4 |
| Notice – constitutional question – delivery – failure – consequences of | 590(L–R) | 71.4.4 |
| Notice – constitutional question – Divisional Court | 596(R) | 72.5.3 |
| Notice – constitutional question – failure to provide – consequence | 596(L) | 72.4.5 |
| Notice – constitutional question – failure to provide – proving Charter claim | 590(L–R) | 71.4.4 |
| Notice – constitutional question – failure to serve | 590(L–R) | 71.4.4 |
| Notice – constitutional question – Federal Court – Charter | 597(R) – 598(L) | 72.6.4 |
| Notice – constitutional question – provincial Superior Court | 595(R) – 596(L) | 72.4.4 |
| Notice – constitutional question – provincial Superior Court – failure to provide | 596(L) | 72.4.5 |
| Notice – constitutional question before Federal Court | 597(R) – 598(L) | 72.6.4 |
| Notice – constitutional question before Provincial Superior court | 595(R) – 596(L) | 72.4.4 |
| Notice – constitutional questions – administrative tribunals | 599(R) | 72.7.3 |
| Notice – constitutional questions – judicial review | 562(R) | 67.3.7 |
| Notice – constitutional questions – judicial review – Divisional Court | 562(R) | 67.3.7 |
| Notice – constitutional questions – judicial review – Federal Court | 562(R) | 67.3.7 |
| Notice – Divisional Court – Charter | 596(R) | 72.5.3 |
| Notice – judicial review – Divisional Court – AG | 565(L) | 67.5.2 |
| Notice – judicial review – provincial – consequences | 565(R)-566(L) | 67.5.4 |
| Notice – right to – fairness | 544(R) | 65.3.3.1 |
| Notice – right to – natural justice | 544(R) | 65.3.3.1 |
| Notice – to Crown – s. 7 of *Proceedings Against the Crown Act* – procedure | 595(L) | 72.4.3 |
| Notwithstanding clause – Charter – s.33 | 585(R) | 70.5.4 |
| *Nova Scotia (Workers’ Compensation Board) v. Martin* – Charter – administrative tribunals | 598(L)-599(L) | 72.7.1.1 |
| *Nova Scotia (Workers’ Compensation Board) v. Martin* (test for implied jurisdiction of tribunal to make decisions re constitutional validity | 598(L)-599(L) | 72.7.1.1 |
| **O** | | |
| ***Oakes* test** – limit on rights | 584(R) – 585(L) | 70.5.3 |
| *Oakes* test – proportionality – valid objectives | 585(L); 587(L) | 70.5.3; 70.6.1.4 |
| Objectives – legislative – s. 1 | 591(L) | 71.4.8.1 |
| *Ocean Port Hotel Ltd. v B.C. (General Manager, Liquor Control and Licensing Branch)* (degree of independence required of tribunal members may be ousted by express statutory language) | 547(R) | 65.5.1.2(b)(ii) |
| Offense – breach – of privacy | 573(R) | 68.4.7 |
| Offense – privacy – breach of | 573(R) | 68.4.7 |
| *Ontario Disability Support Program Act* – appeal scheme | 545(L) | 65.4.1 |
| *Ontario Disability Support Program Act* – statutory reconsideration | 545(L) | 65.4.1 |
| *Ontario Works Act* – Charter – administrative tribunals | 598(L)-599(L) | 72.7.1.1 |
| O.Reg. 649/93 – *Sales of Unmarked Cigarettes on Indian Reserves – Band Council* | 567(R) | 67.7.1 |
| Other Remedies – s.24 – Charter | 588(L–R) | 70.6.2.4 |
| Override – Charter – notwithstanding clause | 585(R) | 70.5.4 |
| **P** | | |
| Palpable and overriding error – findings of fact – standard of appeal | 555(L) | 67.1 |
| **Paramountcy** – division of powers | 579(R)–580(L–R) | 69.5.3 |
| Paramountcy – division of powers – conflict – definition of | 580(L–R) | 69.5.3 |
| Paramountcy – federalism | 579(R)–580(L–R) | 69.5.3 |
| Paramountcy – federalism – conflict – definition of | 580(L–R) | 69.5.3 |
| **Parties** – collateral constitutional challenge – Federal Court | 597(R) | 72.6.3 |
| Parties – federal administrative action – judicial review | 563(R) | 67.4.3 |
| Parties – judicial review – Divisional Court – v. Federal Court | 565(L) | 67.5.2 |
| Parties – judicial review – federal actions | 563(R) | 67.4.3 |
| Parties – judicial review – provincial | 565(L) | 67.5.2 |
| Parties – judicial review – provincial – tribunal | 565(L) | 67.5.2 |
| Parties – limitations and notice of claim | 595(L) | 72.4.3 |
| Parties – procedure – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Parties – standing – judicial review – *FCA* – s. 18.1(1) | 562(L) | 67.3.6 |
| Parties – damages against the Government of Ontario | 595(L) | 72.4.3 |
| Parties – direct challenges of Ontario legislation | 595(L) | 72.4.3 |
| Parties – rule 5.03 of the rules – constitutional cases | 595(L) | 72.4.3 |
| Parties – rule 13 of the rules – friend of the court – intervene - constitutional cases | 595(L) | 72.4.3 |
| Past tribunal decisions – material to examine before hearing | 552(L) | 66.2.5 |
| Patent unreasonableness | 550(L) | 65.6 |
| Peace, order, good governance – SEE POGG | 575(L–R) | 69.3.1 |
| *Personal Health Information Protection Act* – application of – where personal health information | 571(R) | 68.4.3 |
| **Personal information** – access to – by subject individual | 572(R) | 68.4.5.4 |
| Personal information – accuracy of – rules for | 572(R) | 68.4.5.2 |
| Personal information – Commissioner – federal – powers | 573(L) | 68.4.6 |
| Personal information – Commissioner – powers | 572(R)–573(L–R) | 68.4.6 |
| Personal information – Commissioner – provincial – powers | 573(L) | 68.4.6 |
| Personal information – definition | 571(R) | 68.4.3 |
| Personal information – definition – examples | 571(R) | 68.4.3 |
| Personal information – definition – identifiable individual | 571(R) | 68.4.3 |
| Personal information – definition – recorded information | 571(R) | 68.4.3 |
| Personal information – disclosure of – rules for | 572(R) | 68.4.5.3 |
| Personal information – disposal of – rules for | 572(R) | 68.4.5.2 |
| Personal information – personal health information | 571(R) | 68.4.3 |
| Personal information – privacy – laws – definition | 571(R) | 68.4.3 |
| Personal information – privacy – laws – public sector – federal | 571(R) | 68.4.2 |
| Personal information – privacy – laws – public sector – municipal | 571(R) | 68.4.1 |
| Personal information – privacy – laws – public sector – provincial | 571(L–R) | 68.4.1 |
| Personal information – privacy – rules – exclusions | 572(L) | 68.4.4 |
| Personal information – retention of – rules for | 572(L) | 68.4.5.2 |
| Personal information – rules – collection | 572(L) | 68.4.5.1 |
| Personal information – rules for handling | 572(L) | 68.4.5 |
| Personal information – use of – rules for | 572(R) | 68.4.5.3 |
| **Pith and substance** – ancillary powers | 578(R)–579(L) | 69.5.1(c) |
| Pith and substance – ancillary powers – test | 579(L) | 69.5.1(c) |
| Pith and substance – definition | 578(L) | 69.5.1(a) |
| Pith and substance – division of powers | 578(L–R)–579(L) | 69.5.1 |
| Pith and substance – double aspect | 578(R) | 69.5.1(b) |
| Pith and substance – federalism | 578(L–R)–579(L) | 69.5.1 |
| Pith and substance – incidental effect | 578(R) | 69.5.1(b) |
| Pith and substance – test for validity | 578(L) | 69.5.1(a) |
| Pith and substance – test for validity – classification | 578(L) | 69.5.1(a) |
| Pith and substance – test for validity – purpose and effects | 578(L) | 69.5.1(a) |
| **POGG** – *Constitution Act, 1867* – s. 91 | 575(L–R) | 69.3.1 |
| POGG – division of powers | 575(L–R) | 69.3.1 |
| POGG – federalism | 575(L–R) | 69.3.1 |
| POGG – grounds – gap in division of powers | 575(R) | 69.3.1(b) |
| POGG – grounds – national concern | 575(R) | 69.3.1(c) |
| POGG – grounds – national emergency | 575(R) | 69.3.1(a) |
| POGG – national concern – test – *R v Crown Zellerbach Canada Ltd* | 575(R) | 69.3.1(c) |
| Policies & Practice Directions – review before admin hearing starts | 551(R)–552(L) | 66.2.4 |
| Policy – created by tribunal – material to examine before hearing | 551(R) | 66.2.4 |
| **Practice before admin tribunals** – material to examine before administrative hearing starts – Legislation | 551(L–R) | 66.2.1 |
| Practice before admin tribunals – material to examine before administrative hearing starts – Regulations | 551(R) | 66.2.2 |
| Practice before admin tribunals – material to examine before administrative hearing starts – Rules | 551(R) | 66.2.3 |
| Practice before admin tribunals – material to examine before administrative hearing starts – Policy & practice directions | 551(R)–552(L) | 66.2.4 |
| Practice before admin tribunals – material to examine before administrative hearing starts – Tribunal Decisions | 552(L) | 66.2.5 |
| Practice before admin tribunals – material to examine before hearing starts | 551(L)–552(L) | 66.2 |
| Practice Directions – created by tribunal – material to examine before hearing | 551(R) | 66.2.4 |
| Practice Directions & Policies – review before admin hearing starts | 551(R)–552(L) | 66.2.4 |
| Pragmatic and functional approach – judicial review | 550(L) | 65.6 |
| **Prerogative writs** – *certiorari* | 560(L) | 67.3.4.1(b) |
| Prerogative writs – codification – federal – *FCA* – s. 18.1(3) | 559(R) | 67.3.4 |
| Prerogative writs – codification – provincial – *JRPA* – s. 2 | 559(R) | 67.3.4 |
| Prerogative writs – *habeas corpus* | 560(L–R) | 67.3.4.1(d) |
| Prerogative writs – judicial review – relief | 559(R) | 67.3.4 |
| Prerogative writs – jurisdiction to issue – federal vs. provincial courts | 556(L–R) | 67.2 |
| Prerogative writs – *mandamus* | 559(R) | 67.3.4.1(a) |
| Prerogative writs – prohibition | 560(L) | 67.3.4.1(c) |
| Prerogative writs – *quo warranto* | 560(R) | 67.3.4.1(e) |
| Prerogative writs – relief – judicial review | 559(R) | 67.3.4.1 |
| Prescribed by law – Charter – s. 1 | 585(L) | 70.5.3 |
| Preventive injunction – Charter | 587(R) | 70.6.2.2 |
| Principles of fundamental justice – test for | 582(R) | 70.4.4 |
| Principles of natural justice | 546(L) | 65.5.1 |
| Prior law - Equitable doctrine of laches - Damages against the Crown in Ontario - limitation period | 595(L) | 72.4.3 |
| Prior tribunal decisions – material to examine before hearing | 552(L) | 66.2.5 |
| **Privacy** – breach of – offenses | 573(R) | 68.4.7 |
| Privacy – Commissioner – federal – powers – personal information | 573(L) | 68.4.6 |
| Privacy – Commissioner – provincial – powers – personal information | 573(L) | 68.4.6 |
| **Privacy – freedom of information** – Commissioners | 571(L) | 68.2.3.6 |
| Privacy – freedom of information – Commissioners – powers of | 571(L) | 68.2.3.6 |
| Privacy – freedom of information – Commissioners – role of | 571(L) | 68.2.3.6 |
| Privacy – freedom of information – request – government response – failure to respond | 570(L) | 68.2.3.3 |
| Privacy – freedom of information – request – government response – timing | 570(L) | 68.2.3.3 |
| Privacy – freedom of information – request – grounds for refusal – exemptions | 570(L) | 68.2.3.4(a) |
| Privacy – freedom of information – request – grounds for refusal – exemptions – partial exemption | 570(L) | 68.2.3.4(a) |
| Privacy – freedom of information – request – grounds for refusal – exclusions | 570(L–R) | 68.2.3.4(b) |
| Privacy – freedom of information – request – grounds for refusal – exclusions – provincial | 570(L–R) | 68.2.3.4(b) |
| Privacy – freedom of information – request – grounds for refusal – exclusions – federal | 570(R) | 68.2.3.4(b) |
| Privacy – freedom of information – request – grounds for refusal – invalid grounds | 570(R) | 68.2.3.4(c) |
| Privacy – freedom of information – request – refusal – grounds for refusal | 570(L) | 68.2.3.4 |
| **Privacy – government records** – federal – access to | 569(L) | 68.2.2 |
| Privacy – government records – municipal – access to | 569(L) | 68.2.1 |
| Privacy – government records – provincial – access to | 569(L) | 68.2.1 |
| **Privacy – laws** – public sector | 571(L) | 68.3 |
| Privacy – laws – public sector – federal – personal information | 571(R) | 68.4.2 |
| Privacy – laws – public sector – municipal – personal information | 571(R) | 68.4.1 |
| Privacy – laws – public sector – provincial – personal information | 571(L–R) | 68.4.1 |
| Privacy – laws – public sector – purpose of | 571(L) | 68.3 |
| Privacy – personal health information | 571(R) | 68.4.3 |
| **Privacy – personal information** – access to – by subject individual | 572(R) | 68.4.5.4 |
| Privacy – personal information – accuracy of – rules for | 572(R) | 68.4.5.2 |
| Privacy – personal information – collection of | 572(L) | 68.4.5.1 |
| Privacy – personal information – Commissioner – federal – powers | 573(L) | 68.4.6 |
| Privacy – personal information – Commissioner – powers | 572(R)–573(L–R) | 68.4.6 |
| Privacy – personal information – Commissioner – provincial – powers | 573(L) | 68.4.6 |
| Privacy – personal information – definition | 571(R) | 68.4.3 |
| Privacy – personal information – disclosure of – rules for | 572(R) | 68.4.5.3 |
| Privacy – personal information – disposal of – rules for | 572(R) | 68.4.5.2 |
| Privacy – personal information – examples | 571(R) | 68.4.3 |
| Privacy – personal information – exclusions | 572(L) | 68.4.4 |
| Privacy – personal information – personal health information | 571(R) | 68.4.3 |
| Privacy – personal information – retention of – rules for | 572(L) | 68.4.5.2 |
| Privacy – personal information – rules – collection | 572(L) | 68.4.5.1 |
| Privacy – personal information – rules for handling | 572(L) | 68.4.5 |
| Privacy – personal information – use of – rules for | 572(R) | 68.4.5.3 |
| **Privacy – rules** – personal information – access to – by subject individual | 572(R) | 68.4.5.4 |
| Privacy – rules – personal information – accuracy of | 572(R) | 68.4.5.2 |
| Privacy – rules – personal information – disclosure of | 572(R) | 68.4.5.3 |
| Privacy – rules – personal information – disposal of | 572(R) | 68.4.5.2 |
| Privacy – rules – personal information – handling of | 572(L) | 68.4.5 |
| Privacy – rules – personal information – retention of | 572(L) | 68.4.5.2 |
| Privacy – rules – personal information – use of | 572(R) | 68.4.5.3 |
| Privative clause – standard of review – factors | 558(L–R) | 67.3.2.2(c)(ii) |
| Procedural choices – of decision maker – fairness (factor 5) | 549(R) | 65.5.2(a)(5) |
| Procedural Choices of the Decision Maker (factor 5) | 549(R) | 65.5.2(a)(5) |
| Procedural considerations – Charter – divisional court | 596(R) | 72.5.2 |
| Procedural Constraints – Charter – factors influencing choice of procedure | 593(L) | 72.1 |
| Procedural entitlements – fairness | 548(R)–549(L) | 65.5.2 |
| Procedural entitlements – historical categories – natural justice and fairness | 546(L) | 65.5 |
| Procedural entitlements – sources | 546(L) | 65.5 |
| **Procedural fairness** – tribunals – minimum threshold – *SPPA* | 565(L-R) | 67.5.3 |
| Procedural fairness – tribunals – minimum threshold – where *SPPA* does not apply | 565(L-R) | 67.5.3 |
| Procedural issues – Aboriginal and treaty rights | 604(R) | 73.6 |
| **Procedural Limits** – common law | 544(R) | 65.3.3.1 |
| Procedural limits – delegated power – common law | 544(R) | 65.3.3.1 |
| Procedural limits – delegated power – decision making | 544(R) | 65.3.3.1 |
| Procedural limits – delegated power – statutory | 544(R) | 65.3.3.1 |
| Procedural options – federal court – Charter | 597(L-R) | 72.6.2 |
| Procedural options – provincial Superior Court | 594(L) – 595(L) | 72.4.2 |
| Procedural questions – provincial Superior Court – Charter | 594(L) -595(L) | 72.4.2 |
| Procedure – Aboriginal and treaty rights – *Proceedings Against the Crown Act* | 604(R) | 73.6 |
| Procedure – administrative tribunal – Charter – generally | 599(R) | 72.7.2 |
| **Procedure – Charter** | 593(L) | 72.1 |
| Procedure – Charter – action vs. application | 594(L) – 595(L) | 72.4.2 |
| Procedure – Charter – application vs. action | 594(L) – 595(L) | 72.4.2 |
| Procedure – Charter – choice of – factors | 593(L) | 72.1 |
| Procedure – Charter – collateral challenge – definition | 593(L) | 72.2 |
| Procedure – Charter – constitutional question – notice of | 595(R) – 596(L) | 72.4.4 |
| Procedure – Charter – constitutional question – notice of – consequence of failure to provide | 596(L) | 72.4.5 |
| Procedure – Charter – constitutional question – notice of – Divisional Court | 596(R) | 72.5.3 |
| Procedure – Charter – constitutional question – notice of – failure to provide | 596(L) | 72.4.5 |
| Procedure – Charter – direct challenge – definition | 593(L) | 72.2 |
| Procedure – Charter – Divisional Court | 596(L-R) | 72.5 |
| Procedure – Charter – Divisional Court – damages | 596(R) | 72.5.2 |
| Procedure – Charter – Divisional Court – evidence – fresh evidence | 596(R) | 72.5.2 |
| Procedure – Charter – Divisional Court – evidence – new evidence | 596(R) | 72.5.2 |
| Procedure – Charter – Divisional Court – interim relief | 596(R) | 72.5.2 |
| Procedure – Charter – Divisional Court – remedy | 596(R) | 72.5.2 |
| Procedure – Charter – Federal Court – action – vs. application | 597(L-R) | 72.6.2 |
| Procedure – Charter – Federal Court – application – vs. action | 597(L-R) | 72.6.2 |
| Procedure – Charter – Federal Court – limitation period | 597(R) | 72.6.3 |
| Procedure – Charter – Federal Court – parties | 597(R) | 72.6.3 |
| Procedure – Charter – limitation period – Federal Court | 597(R) | 72.6.3 |
| Procedure – Charter – mootness | 593(R)–594(L) | 72.3.2 |
| Procedure – Charter – notice – constitutional question | 595(R) – 596(L) | 72.4.4 |
| Procedure – Charter – notice – constitutional question – consequence of failure to provide | 596(L) | 72.4.5 |
| Procedure – Charter – notice – constitutional question – failure to provide | 596(L) | 72.4.5 |
| Procedure – Charter – options | 594(L) – 595(L) | 72.4.2 |
| Procedure – Charter – parties | 595(L) | 72.4.3 |
| Procedure – Charter – parties – Federal Court | 597(R) | 72.6.3 |
| Procedure – Charter – proceeding – choice of | 594(L) – 595(L) | 72.4.2 |
| Procedure – Charter – provincial Superior Court | 594(L) – 595(L) | 72.4.2 |
| Procedure – Charter – reference – administrative tribunal | 599(R) | 72.8 |
| Procedure – Charter – reference – definition | 593(L) | 72.2 |
| Procedure – Charter – remedy – constitutional question – notice of | 595(R) – 596(L) | 72.4.4 |
| Procedure – Charter – remedy – notice – constitutional question | 595(R) – 596(L) | 72.4.4 |
| Procedure – Charter – *Rules of Civil Procedure –* action vs. application | 594(R) | 72.4.2 |
| Procedure – Charter – standing | 593(R) | 72.3.1 |
| Procedure – Charter – standing – mootness | 593(R)–594(L) | 72.3.2 |
| Procedure – Charter – standing – test | 593(R) | 72.3.1 |
| Procedure – Charter – the Crown’s special position – *Proceedings Against the Crown Act –* s. 7 | 590(R) – 591(L) | 72.4.3 |
| Procedure – Charter – threshold issues | 593(R)–594(L) | 72.3 |
| Procedure – Charter – threshold issues – mootness | 593(R) | 72.3.2 |
| Procedure – Charter – threshold issues – standing | 593(R) | 72.3.1 |
| **Procedure – constitutional** | 593(L) | 72.1 |
| Procedure – constitutional – choice of – factors | 593(L) | 72.1 |
| Procedure – constitutional – constitutional question – notice of – consequence of failure to provide | 596(L) | 72.4.5 |
| Procedure – constitutional – constitutional question – notice of – failure to provide | 596(L) | 72.4.5 |
| Procedure – constitutional – constitutional question – notice of – Divisional Court | 596(R) | 72.5.3 |
| Procedure – constitutional – Divisional Court | 596(L-R) | 72.5 |
| Procedure – constitutional – Federal Court – parties | 597(R) | 72.6.3 |
| Procedure – constitutional – notice – constitutional question – consequence of failure to provide | 596(L) | 72.4.5 |
| Procedure – constitutional – notice – constitutional question – failure to provide | 596(L) | 72.4.5 |
| Procedure – constitutional – notice of claim | 595(L) | 72.4.3 |
| Procedure – constitutional – notice of claim – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| Procedure – constitutional – parties – Federal Court | 597(R) | 72.6.3 |
| Procedure – constitutional – role of the Crown – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| Procedure – constitutional – standing | 593(R) | 72.3.1 |
| Procedure – constitutional question – notice of – administrative tribunal | 599(R) | 72.7.3 |
| Procedure – constitutional question – notice of – tribunal | 599(R) | 72.7.3 |
| Procedure – damages against the Crown of Ontario – limitation period | 595(L) | 72.4.3 |
| Procedure – damages against the Crown of Ontario – notice of claim | 595(L) | 72.4.3 |
| Procedure – damages against the Crown of Ontario – notice of claim – *Proceedings Against the Crown Act* | 595(L) | 72.4.3 |
| **Procedure – Divisional Court** – Charter | 596(L-R) | 72.5 |
| Procedure – Divisional Court – judicial review | 565(R) – 566(L) | 67.5.4 |
| **Procedure – federal court** – judicial review | 564(L–R) | 67.4.4 |
| **Procedure – judicial review** – Divisional Court | 565(R) – 566(L) | 67.5.4 |
| Procedure – judicial review – federal – requisition for hearing | 564(R) | 67.4.4 |
| Procedure – judicial review – provincial | 565(R) – 566(L) | 67.5.4 |
| Procedure – judicial review – provincial Superior Court | 565(R) – 566(L) | 67.5.4 |
| Procedure – limitation period – Charter – Federal Court | 597(R) | 72.6.3 |
| Procedure – limitation period – constitutional challenge – Federal Court | 597(R) | 72.6.3 |
| Procedure – provincial Superior court – constitutional challenge | 594(L) – 595(L) | 72.4.2 |
| Procedure – Provincial Superior Court – judicial review | 565(R) – 566(L) | 67.5.4 |
| Procedure – reference – Charter – administrative tribunal | 599(R) | 72.8 |
| Proceeding – choice of – procedure – Charter | 594(L) – 595(L) | 72.4.2 |
| Proceeding – specific facts | 590(L) | 71.4.1 |
| *Proceedings Against the Crown Act* | 566(L) | 67.6.1 |
| *Proceedings Against the Crown Act* – the Crown’s special position – notice of claim – procedure | 595(L) | 72.4.3 |
| *Proceedings Against the Crown Act –* s. 7- Procedure – Charter – the Crown’s special position – | 590(R) – 591(L) | 72.4.3 |
| Prohibition – prerogative writs | 560(L) | 67.3.4.1(c) |
| **Proof** – burden of – Charter breach | 590(R) – 591(L) | 71.4.7 |
| Proof – Charter claim – proving a claim | 589(L) | 71.1 |
| Proof – Charter claim – s. 1 – proportionality | 591(R) | 71.4.8.4 |
| **Property and civil rights** – *Constitution Act, 1867* – s. 92(13) | 576(R)–577(L) | 69.4.1 |
| Property and civil rights – *Constitution Act, 1867* – s. 92(13) – limits on | 577(L) | 69.4.1 |
| Property and civil rights – division of powers | 576(R)–577(L) | 69.4.1 |
| Property and civil rights – division of powers – limits on | 577(L) | 69.4.1 |
| Property and civil rights – federalism | 576(R)–577(L) | 69.4.1 |
| Property and civil rights – federalism – limits on | 577(L) | 69.4.1 |
| Proportional to deleterious effects – whether benefits are – proving Charter claim | 591(R) | 71.4.8.4 |
| **Proportionality** – *Oakes* test – proving Charter claim | 591(L) | 71.4.8 |
| Proportionality – *Oakes* test – valid objectives | 585(L); 587(L) | 70.5.3;  70.6.1.4 |
| Proportionality – s. 1 – proving Charter claim | 591(R) | 71.4.8.4 |
| **Provincial** – appeal – judicial review | 566(L) | 67.5.5 |
| Provincial – procedure – judicial review | 565(R) – 566(L) | 67.5.4 |
| Provincial – procedure – judicial review – notice periods | 566(L) | 67.5.4 |
| Provincial administrative action – judicial review | 565(L) | 67.5 |
| Provincial Human Rights Legislation – administrative tribunal may consider | 598(L)-599(L) | 72.7.1.1 |
| **Provincial Superior Court** – damages against the government of Ontario - parties – limitations and notice of claim | 595(L) | 72.4.3 |
| Provincial Superior Court – Charter – procedure | 594(L) – 595(L) | 72.4.2 |
| Provincial Superior Court – Charter – *Rules of Civil Procedure* | 594(R) | 72.4.2 |
| Provincial superior court – judicial review – jurisdiction | 555(R)–556(L) | 67.2 |
| Provincial Superior Court – jurisdiction | 594(L) | 72.4.1 |
| Provincial Superior Court – jurisdiction – Charter | 594(L) | 72.4.1 |
| Provincial Superior Court – limitations – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Provincial Superior Court – notice of claim – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Provincial Superior Court – parties – damages against the Crown of Ontario | 595(L) | 72.4.3 |
| Provincial Superior Court – parties, limitations and notice of claim | 595(L) | 72.4.3 |
| Provincial Superior Court – procedural options | 594(L) – 595(L) | 72.4.2 |
| Provincial Superior Court – procedure – options | 594(L) – 595(L) | 72.4.2 |
| Provincial Superior Courts – Charter – jurisdiction | 594(L) | 72.4.1 |
| Provincial superior courts – judicial review – venue for | 555(R) | 67.2 |
| Provincial superior courts – procedure – Charter | 594(L)–596(L) | 72.4 |
| Provincial Superior Courts – procedure – Charter | 594(L) – 595(L) | 72.4.2 |
| **Proving a Charter claim** – government action – proof of | 590(R) | 71.4.5 |
| Proving a Charter claim – proving statutes | 590(R) | 71.4.5 |
| Proving Charter claim – jurisdiction – tribunal – *Weber v. Ontario Hydro* | 590(L) | 71.4.3 |
| Proving Charter claim – remedies – constitutional exemption – evidence | 592(L) | 71.4.9.3 |
| Proving Charter claim – remedies – injunctions – balancing | 592(R) | 71.4.9.4 |
| Proving Charter claim – remedies – severance – appropriateness | 592(L) | 71.4.9.1 |
| Proving Charter claim – remedies – suspended declaration of invalidity – evidence | 592(L) | 71.4.9.2 |
| Proving Charter claim – s.1 – defence – *Edwards Books* | 591(L) | 71.4.8 |
| Proving government action – Charter challenge | 590(R) | 71.4.5 |
| Proving governmental action – Charter – proving statutes | 590(R) | 71.4.5 |
| Proving statutes – s.7 *Interpretation Act* | 590(R) | 71.4.5 |
| Public decision–making – judicial review – availability | 556(R) | 67.3.1 |
| Public interest standing | 562(L–R) | 67.3.6 |
| Public interest standing – re. personal rights | 562(L–R) | 67.3.6 |
| Public Law – what is it | 543(L) | 65.1 |
| **Public sector** – federal – privacy – laws – personal information | 571(R) | 68.4.1 |
| Public sector – municipal – privacy – laws – personal information | 571(R) | 68.4.1 |
| Public sector – privacy – laws | 571(L) | 68.3 |
| Public sector – privacy – personal health information | 571(R) | 68.4.3 |
| Public sector – privacy – personal information – collection of | 572(L) | 68.4.5.1 |
| Public sector – privacy – personal information – definition | 571(R) | 68.4.3 |
| Public sector – privacy – rules – personal information – exclusions | 572(L) | 68.4.4 |
| Public sector – provincial – privacy – laws – personal information | 571(L–R) | 68.4.1 |
| Public Statements – of tribunal member during or after hearing – source of apprehension of bias | 548(L) | 65.5.1.2(b)(iii) |
| Purpose and effects – pith and substance doctrine – division of powers | 578(L) | 69.5.1(a) |
| Purpose and effects – pith and substance doctrine – federalism | 578(L) | 69.5.1(a) |
| Purpose of tribunal and enabling statute – standard of review – factors | 558(R) | 67.3.2.2(c)(iv) |
| *Pushpanathan v. Canada* (modern pragmatic and functional approach to judicial review) | 550(L) | 65.6 |
| **Q** | | |
| Quasi–judicial decision makers – factors in determining – *Minister of National Revenue v Coopers and Lybrand* | 546(L–R) | 65.5.1.1 |
| Quasi–judicial decision–makers – natural justice applies to | 546(L) | 65.5.1.1 |
| *Quebec (Attorney General) v. A* (whether statutory distinction perpetuates negative attitude towards group is irrelevant to infringement of s. 15(1), belongs in s. 1) | 584(L) | 70.4.6 |
| Questions of law – consideration by administrative tribunal – implied jurisdiction – test | 598(L) | 72.7.1.1 |
| *Quo warranto* – prerogative writs | 560(R) | 67.3.4.1(e) |
| **R** | | |
| *R v Crown Zellerbach Canada Ltd* (matter of national concern must have a singleness, distinctiveness and indivisibility distinguishing it from provincial concern) | 575(R) | 69.3.1(c) |
| *R v. Badger* (principles for interpreting treaties) | 602(L) | 73.2 |
| *R v. Edwards Books and Art Ltd* – s.1 – proving Charter claim | 591(L) | 71.4.8 |
| *R v. Edwards Books and Art Ltd* – s.1 defence | 591(L) | 71.4.8 |
| *R v. Grant* (test for exclusion of evidence under s. 24(2)) | 588(R) | 70.6.2.5 |
| *R v. Guignard* (example of suspended declaration of invalidity and exemption for accused) | 587(L) | 70.6.1.5 |
| *R v. Kapp* (clarification of four factors from *Law* under human dignity) | 584(L) | 70.4.6 |
| *R v. Malmo–Levine* (criteria for principles of fundamental justice under s. 7) | 582(R) | 70.4.4 |
| *R v. Marshall* (additional principles for interpreting treaties) | 602(L) | 73.2 |
| *R v. Oakes* (s.1) – limit on rights | 584(R) – 585(L) | 70.5.3 |
| *R v. Powley* (relevant time for Metis land claims) | 602(L) | 73.2 |
| *R v. Simon* (scope of treaty rights) | 602(L) | 73.2 |
| *R v. Sparrow* (test for whether Aboriginal rights are justifiably infringed; test for extinguishment of rights) | 602(R) – 603(L) | 73.3 |
| *R v. Sundown* (scope of treaty rights included right to erect a hunting cabin in a provincial park) | 602(L) | 73.2 |
| *R v. Van der Peet* (Aboriginal rights test) | 601(R) | 73.2 |
| *R v. Van der Peet* test – Aboriginal and treaty rights | 601(R) | 73.2 |
| *R. v. Cadeddu* (s. 7 required hearing before revocation of parole even where fairness did not) | 549(R) | 65.5.2(a)(6) |
| **Rational connection** – determination | 591(L–R) | 71.4.8.2 |
| Rational connection – how to determine | 591(L–R) | 71.4.8.2 |
| Rational connection – s.1 defence – proving Charter claim | 591(L–R) | 71.4.8.2 |
| *Re WD Latimer Co Ltd and Bray* (example of how focus of bias inquiry is on statutory scheme) | 547(R) | 65.5.1.2(b)(ii) |
| *Re Webb and Ontario Housing Corporation* (duty of fairness arises when a benefit ceases) | 549(L–R) | 65.5.2(a)(3) |
| Reading in – test – remedy – Charter | 586(L–R) | 70.6.1.2 |
| Reading in or reading down – appropriateness of severance – proving Charter claim | 592(L) | 71.4.9.1 |
| Reading in/reading down – Charter – remedy | 586(L–R) | 70.6.1.2 |
| **Reasonable apprehension of bias** – institutional – authorization by statute | 547(R) | 65.5.1.2(b)(ii) |
| Reasonable apprehension of bias – institutional – statutory scheme | 549(R) | 65.5.1.2(b)(ii) |
| Reasonable apprehension of bias – source of claim | 548(L) | 65.5.1.2(b)(iii) |
| Reasonable apprehension of bias – test – *Committee for Justice and Liberty v National Energy Board* | 547(L) | 65.5.1.2(b) |
| Reasonable apprehension of bias – when to raise claim | 548(L) | 65.5.1.2(b)(iii) |
| **Reasonableness** – adjudicated decision – *Doré v Barreau du Québec* | 544(L) | 65.3.2 |
| Reasonableness – definition | 557(L) | 67.3.2.1 |
| Reasonableness – standard of | 557(L) | 67.3.2.1 |
| Reasons – fairness – natural justice | 548(R) | 65.5.2 |
| **Records** – government – federal – access to – *ATIA* – s. 4(1) | 569(L) | 68.2.2 |
| Records – government – municipal – access to – *MFIPPA* – s. 4(1) | 569(L) | 68.2.1 |
| Records – government – provincial – access to – *FIPPA* – s. 10(1) | 569(L) | 68.2.1 |
| **Reference** – administrative tribunal – Charter | 599(R) | 72.8 |
| Reference – definition | 593(L) | 72.2 |
| Reference – referring constitutional question to Court of Appeal | 599(R) | 72.8 |
| *Reference re Same–Sex Marriage* – administrative tribunal – Charter | 599(R) | 72.8 |
| *Reference re Same–Sex Marriage* (example of reference where SCC declined to answer question because of lack of evidentiary foundation) | 599(R) | 72.8 |
| *Reference re Securities Act* (trade in securities under oversight of single national regulator *ultra vires* the federal gov’t under trade and commerce) | 576(L) | 69.3.2 |
| Regulations – affect tribunal power – material to examine before hearing | 551(R) | 66.2.2 |
| **Relief** – interim – judicial review – stay of proceedings | 561(L) | 67.3.4.3 |
| Relief – judicial review – interim relief | 561(L) | 67.3.4.3 |
| Relief – judicial review – prerogative writs | 559(R) | 67.3.4 |
| Relief – non–constitutional – Charter – jurisdiction – Federal Court | 596(R)–597(L) | 72.6.1 |
| Relief – on judicial review | 559(R) | 67.3.4 |
| **Remedy** – Aboriginal and treaty rights | 603(R)–604(R) | 73.5 |
| Remedy – Aboriginal and treaty rights – infringement – equitable remedies | 604(L) | 73.5.2 |
| Remedy – Charter – administrative tribunals | 599(L) | 72.7.1.2 |
| Remedy – Charter – burden of proof | 591(R) –592(L) | 71.4.9 |
| Remedy – Charter – *Constitution Act, 1982* – s. 52 | 585(R) | 70.6.1 |
| Remedy – Charter – constitutional exemption | 587(L) | 70.6.1.5 |
| Remedy – Charter – constitutional exemption – proving Charter claim | 592(L) | 71.4.9.3 |
| Remedy – Charter – declaration of invalidity | 585(R) – 586(L) | 70.6.1 |
| Remedy – Charter – discretionary executive power – Crown prerogative | 588(L) | 70.6.2.3 |
| Remedy – Charter – establishing – evidence | 591(R) –592(L) | 71.4.9 |
| Remedy – Charter – evidence needed | 591(R) –592(L) | 71.4.9 |
| Remedy – Charter – exclusion of evidence | 588(R) | 70.6.2.5 |
| Remedy – Charter – exclusion of evidence – *Grant* test | 588(R) | 70.6.2.5 |
| Remedy – Charter – factual record | 591(R) –592(L) | 71.4.9 |
| Remedy – Charter – general | 585(R) | 70.6 |
| Remedy – Charter – injunctions | 587(R) | 70.6.2.2 |
| Remedy – Charter – injunctions – mandatory | 587(R) | 70.6.2.2 |
| Remedy – Charter – injunctions – preventive | 587(R) | 70.6.2.2 |
| Remedy – Charter – injunctions – structural | 587(R) | 70.6.2.2 |
| Remedy – Charter – other remedies – s. 24(1) | 588(L–R) | 70.6.2.4 |
| Remedy – Charter – procedure – constitutional question – notice of | 595(R) – 596(L) | 72.4.4 |
| Remedy – Charter – procedure – notice – constitutional question | 595(R) – 596(L) | 72.4.4 |
| Remedy – Charter – reading in – test | 586(L–R) | 70.6.1.2 |
| Remedy – Charter – reading in and reading down | 586(L–R) | 70.6.1.2 |
| Remedy – Charter – s. 24 | 587(L) – 588(L–R) | 70.6.2 |
| Remedy – Charter – s. 24 – declaration of breach | 587(R) | 70.6.2.1 |
| Remedy – Charter – s. 24 – does not apply to Aboriginal rights | 601(L–R) | 73.1 |
| Remedy – Charter – s. 24 – requirements | 587(L) – 588(L–R) | 70.6.2 |
| Remedy – Charter – s. 24 – tribunal | 599(L) | 72.7.1.2 |
| Remedy – Charter – s. 24 – tribunal – test | 599(L) | 72.7.1.2 |
| Remedy – Charter – severance | 586(R) | 70.6.1.3 |
| Remedy – Charter – severance – test | 586(L–R) | 70.6.1.2 |
| Remedy – Charter – striking down | 586(L) | 70.6.1.1 |
| Remedy – Charter – striking down law | 586(L) | 70.6.1.1 |
| Remedy – Charter – suspended declaration of invalidity  SEE also: Constitutional Exemption | 586(R) – 587(L); 587(L) | 70.6.1.4; 70.6.1.5 |
| Remedy – Charter challenge if not saved by s.1 | 591(R) –592(L) | 71.4.9 |
| Remedy – civil – against public authorities | 566(L) | 67.6 |
| Remedy – *Constitution Act, 1982* – s. 52 – jurisdiction – tribunals | 598(L)-599(L) | 72.7.1.1 |
| Remedy – *Constitution Act, 1982* – s.52 – application by administrative tribunals | 599(L) | 72.7.1.2 |
| Remedy – constitutional – reading in – test | 586(L–R) | 70.6.1.2 |
| Remedy – constitutional – severance – test | 586(L–R) | 70.6.1.2 |
| Remedy – criminal prosecution – Aboriginal and treaty rights | 603(R) | 73.5.1 |
| Remedy – damages – proving Charter claim | 592(R) | 71.4.9.5 |
| Remedy – equitable – Aboriginal and treaty rights – infringement | 604(L) | 73.5.2 |
| Remedy – injunctions – proving Charter claim | 592(R) | 71.4.9.4 |
| Remedy – interim injunction – Aboriginal and treaty rights – development of Aboriginal land | 603(R)–604(L) | 73.5.2 |
| Remedy – invalidity – declaration of | 585(R) – 586(L) | 70.6.1 |
| Remedy – judicial review | 546(L) | 65.4.2 |
| Remedy – judicial review – remit to decision–making body | 550(R) | 65.6 |
| Remedy – judicial review – set aside tribunal’s decision – *British Columbia (Workers’ Compensation Board) v Figliola* | 550(R) | 65.6 |
| Remedy – other 24(1) remedies | 588(L–R) | 70.6.2.4 |
| Remedy – other s.24 – Charter | 588(L–R) | 70.6.2.4 |
| Remedy – s.24 – Charter – application by administrative tribunals | 599(L) | 72.7.1.2 |
| Remedy – *Schacter v. Canada* (difficulty where lack of factual record) | 591(R) –592(L) | 71.4.9 |
| Remedy – severance – Charter | 586(R) | 70.6.1.3 |
| Remedy – statutory interpretation – reading down | 586(L–R) | 70.6.1.2 |
| Remedy – statutory interpretation – reading in | 586(L–R) | 70.6.1.2 |
| **Request** – freedom of information – formal request | 569(R) | 68.2.3.1 |
| Request – freedom of information – government response – failure to respond | 570 (L) | 68.2.3.3 |
| Request – freedom of information – government response – timing | 570(L) | 68.2.3.3 |
| Request – freedom of information – refusal – grounds for refusal | 570(L) | 68.2.3.4 |
| Request – freedom of information – rules – fees | 569(R)–570(L) | 68.2.3.2 |
| *Residential Tenancies Act, 2006* – appeal scheme | 545(L) | 65.4.1 |
| *Residential Tenancies Act, 2006* – statutory reconsideration | 545(L) | 65.4.1 |
| Response to allegation of breach – burden of proof – Charter | 591(L) | 71.4.7 |
| Restraint – policy of judicial | 550(L) | 65.6 |
| *Reza v. Canada* (Federal Court preferred forum because of expertise) | 592(R)–593(L) | 72.6.1 |
| **Right** – Charter – acceptable governmental limits on rights | 584(R) – 585(L) | 70.5.3 |
| Right – Charter – interpretive limits on | 584(R) | 70.5.2 |
| Right – establishing nature and purpose of – Charter challenge | 590(R) | 71.4.6 |
| Right – limits on – *Oakes* test | 584(R) – 585(L) | 70.5.3 |
| Right – to be heard – natural justice | 546(R) | 65.5.1.2(a) |
| Right – to impartial decision maker – natural justice | 547(L) | 65.5.1.2(b) |
| Right – to know the case against you – fairness – natural justice | 548(R) | 65.5.2 |
| Right – to make submissions – fairness – natural justice | 548(R) | 65.5.2 |
| Right – to mobility – Charter – s. 6 | 582(L–R) | 70.4.3 |
| Right – to vote – Charter – s. 3 | 582(L) | 70.4.2 |
| Right to counsel – right to advice from counsel – witnesses – tribunal – hearing – *SPPA* | 553(L) | 66.3.3 |
| **Rights** – Charter – internal limits on | 584(R) | 70.5.1 |
| Rights – limits – Charter – notwithstanding clause – s. 33 | 585(R) | 70.5.4 |
| Rights – property and civil – *Constitution Act, 1867* – s. 92(13) | 576(R)–577(L) | 69.4.1 |
| Rights – property and civil – *Constitution Act, 1867* – s. 92(13) – limits on | 576(L) | 69.4.1 |
| Rights – property and civil – division of powers | 576(R)–577(L) | 69.4.1 |
| Rights – property and civil – division of powers – limits on | 577(L) | 69.4.1 |
| Rights – property and civil – federalism | 576(R)–577(L) | 69.4.1 |
| Rights – property and civil – federalism – limits on | 577(L) | 69.4.1 |
| Rights and obligations – determination of judicial or quasi–judicial decision | 546(L–R) | 65.5.1.1 |
| *Rio Tinto Alcan Inc v. Carrier Sekani Tribal Council* (three conditions for when duty to consult will arise) | 603(L–R) | 73.4 |
| Royal fiat – Aboriginal and treaty rights | 604(R) | 73.6 |
| Royal Fiat against Crown in Right of Ontario – *S.M. v. Ontario* | 604(R) | 73.6 |
| Rulemaking – by tribunals – *SPPA* s. 25.1 – material to examine before hearing | 551(R) | 66.2.3 |
| Rules – created by tribunals – material to examine before hearing | 551(R) | 66.2.3 |
| Rules – personal information – handling of | 572(L) | 68.4.5 |
| Rule 5.03 of the *Rules of Civil Procedure* – Parties – constitutional cases | 595(L) | 72.4.3 |
| Rule 13 of the *Rules of Civil Procedure* – Parties – friend of the court – intervene - constitutional cases | 595(L) | 72.4.3 |
| *Rules of Civil Procedure* – r. 14.05(3)(g.1) | 594(R) | 72.4.2 |
| *Rules of Civil Procedure* – r. 38.10 | 594(R) | 72.4.2 |
| Rules of natural justice – codification – *SPPA* | 544(R) | 65.3.3.1 |
| Rules of Professional Conduct – r.3.2–7 – does not preclude breaching impugned statute as constitutional test case | 600(L-R) | 72.9 |
| **S** | | |
| **S. 1** – Charter– does not apply to s. 35 Aboriginal and treaty rights | 601(L–R) | 73.1 |
| S. 1 – Charter – limit on rights | 584(R) – 585(L) | 70.5.3 |
| S. 1 – Charter – prescribed by law | 584(L) | 70.5.3 |
| S. 1 defence – Charter challenge – proving Charter claim | 591(L) | 71.4.8 |
| S. 1 defence – legislative objective – proving Charter claim | 591(L) | 71.4.8.1 |
| S. 1 defence – minimal impairment – proving Charter claim | 591(R) | 71.4.8.3 |
| S. 1 defence – proportionality – proving Charter claim | 591(R) | 71.4.8.4 |
| S. 1 defence – *R v. Edwards Books and Art* | 591(L) | 71.4.8 |
| S. 1 defence – rational connection – proving Charter claim | 591(L–R) | 71.4.8.2 |
| S. 7 of *Proceedings Against the Crown Act –*  Procedure – Charter – the Crown’s special position – | 590(R) – 591(L) | 72.4.3 |
| S. 18 of FCA - Band Council – Judicial review | 567(R) | 67.7.1 |
| S. 18.1(3)-(4) of FCA - Band council – Judicial review | 567(R) | 67.7.1 |
| **S. 24** – Charter | 587(L) – 588(L–R) | 70.6.2 |
| S. 24 – Charter – Aboriginal and treaty right not enforceable under | 601(L–R) | 73.1 |
| S. 24 – Charter – evidence  SEE: s.24(2) | 587(L) – 588(L–R); 588(R) | 70.6.2; 70.6.2.5 |
| S. 24(2)– Charter | 588(R) | 70.6.2.5 |
| S. 24(2) – Charter – criminal cases – exclusion of evidence | 588(R) | 70.6.2.5 |
| S. 24(2) – exclusion of evidence if it brings administration of justice into disrepute | 588(R) | 70.6.2.5 |
| S. 33 – Charter – Aboriginal rights | 601(L–R) | 73.1 |
| **S. 35** – Charter – what is protected | 601(R) – 602(L) | 73.2 |
| S. 35 – *Constitution Act, 1982* – Aboriginal rights | 601(L–R) | 73.1 |
| S. 52 – *Constitution Act, 1982* – remedy | 585(R) | 70.6.1 |
| *S.M. v. Ontario* (Royal Fiat against Crown in Right of Ontario) | 604(R) | 73.6 |
| *Schachter v. Canada* (leading case on s. 52 remedies, test for severance or reading in) | 586(L) | 70.6.1.2 |
| *Schacter v. Canada* (difficulty where lack of factual record) – proving Charter claim | 591(R) –592(L) | 71.4.9 |
| *Schacter v. Canada* (difficulty where lack of factual record) – remedies | 591(R) –592(L) | 71.4.9 |
| School board – Charter – application to | 581(L) | 70.2 |
| Scope of treaty rights – *R v. Simon* | 602(L) | 73.2 |
| Search and seizure – unreasonable – s.8 Charter | 583(L) | 70.4.5 |
| Secondary Picketing – re. Charter | 581(L) | 70.2 |
| Self–incrimination – protection from – admin hearing | 553(L) | 66.3.3 |
| Service – notice of constitutional question – failure | 590(L–R) | 71.4.4 |
| *Service Employees Int’l Union and Broadway Manor* (Divisional Court cannot hear direct challenges of legislation based on Charter) | 596(L-R) | 72.5.1 |
| Severance – appropriateness – reading in and down – proving Charter claim | 592(L) | 71.4.9.1 |
| Severance – appropriateness – reading in or reading down | 592(L) | 71.4.9.1 |
| **Severance** – Constitution Act s.52 – remedies | 586(R) | 70.6.1.3 |
| Severance – remedy – Charter | 586(R) | 70.6.1.3 |
| Severance – test – remedy – Charter | 586(R) | 70.6.1.3 |
| Social benefits tribunal – Charter – administrative tribunals | 598(L)-599(L) | 72.7.1.1 |
| Social science evidence – Charter | 589(R) – 590(L) | 71.3.3 |
| Social Science experts – re. legislative fact evidence – proving Charter claim | 589(R) – 590(L) | 71.3.3 |
| Source – apprehension of bias – claim | 548(L) | 65.5.1.2(b)(iii) |
| Source of Delegation Power | 543(R) – 544(L) | 65.3.1 |
| ***SPPA*** – admissibility of evidence – s.15 | 553(L) | 66.3.4 |
| *SPPA* – ADR – participation in permitted | 554(L–R) | 66.5 |
| *SPPA* – application – provincial judicial review | 546(L) | 65.5 |
| *SPPA* – application of | 544(R)  552(L) | 65.3.3.1  66.3 |
| *SPPA* – application of | 544(R) | 65.3.3.1 |
| *SPPA* – application of | 552(L) | 66.3 |
| *SPPA* – application of – judicial review – provincial | 565(L) | 67.5.3 |
| *SPPA* – automatic stay – interim relief – s.25 | 596(R) | 72.5.2 |
| *SPPA* – electronic hearings – s. 5.2 | 552(R) | 66.3.1 |
| *SPPA* – evidence – admissibility – threshold of admissibility – s. 15 | 553(L) | 66.3.4 |
| *SPPA* – facts – judicial notice of – s. 16 | 553(L) | 66.3.4 |
| *SPPA* – hearing – administrative tribunal – costs – ability to award – s. 17.1 | 551(R) | 66.2.3 |
| *SPPA* – hearing – administrative tribunal – costs – circumstances where costs may be ordered – s. 25.1 | 551(R) | 66.2.3 |
| *SPPA* – hearing – compelling witness to attend – s. 12 | 552(R) | 66.3.2 |
| *SPPA* – hearing – cross–examination – limits on – s. 23(2) | 552(R) | 66.3.2 |
| *SPPA* – hearing – cross–examination – right to – s. 10.1(b) | 552(R) | 66.3.2 |
| *SPPA* – hearing – oral hearing – open to public – s. 9 | 552(R) | 66.3.1 |
| *SPPA* – hearing – participatory rights | 552(R) | 66.3.2 |
| *SPPA* – hearing – party representation – party may be represented by counsel or agent – s.10 | 552(R) | 66.3.2 |
| *SPPA* – hearing – right to call witnesses and present evidence and submissions | 552(R) | 66.3.2 |
| *SPPA* – hearing – rights – of party – s. 10.1 | 552(R) | 66.3.2 |
| *SPPA* – hearing – witness testimony – self–incrimination | 553(L) | 66.3.3 |
| *SPPA* – hearing – witness testimony –incriminating testimony – protection from – s.14 | 553(L) | 66.3.3 |
| *SPPA* – hearing before tribunal – cost orders permitted – s. 17.1 | 551(R) | 66.2.3 |
| *SPPA* – hearings – types of hearings | 552(L–R) | 66.3.1 |
| *SPPA* – interim order by tribunal – s. 16.1 | 553(L) | 66.4 |
| *SPPA* – motions – s. 16.1 | 553(L) | 66.4 |
| *SPPA* – oral hearings – s. 9 | 552(R) | 66.3.1 |
| *SPPA* – party rights at hearing s. 10.1 | 552(R) | 66.3.2 |
| *SPPA* – procedural rights – source | 544(R) | 65.3.3.1 |
| *SPPA* – provincial – administrative action | 565(L) | 67.5.3 |
| *SPPA* – rule making by tribunals – s. 25.1 – material to examine before hearing | 551(R) | 66.2.3 |
| *SPPA* – source of procedural rights | 544(R) | 65.3.3.1 |
| *SPPA* – tribunal – order to participate in ADR – s. 4.8 | 554(L–R) | 66.5 |
| *SPPA* – tribunal – rule–making permitted – s. 25.1 | 551(R) | 66.2.3 |
| *SPPA* – whether applies to tribunals – s. 3 | 552(L) | 66.3 |
| *SPPA* – witness – right to advice from counsel – s.11 | 553(L) | 66.3.3 |
| *SPPA* – written hearings – s. 5.1 | 552(L) | 66.3.1 |
| **Standard of appeal** – deference – standard of judicial review | 555(L) | 67.1 |
| Standard of appeal – question of pure law – correctness – *Housen v Nikolaisen* | 555(L) | 67.1 |
| Standard of appeal v. standard of judicial review | 555(L) | 67.1 |
| **Standard of review** – common–law standards – *Dunsmuir v New Brunswick* | 550(L) | 65.6 |
| Standard of review – correctness | 557(L) | 67.3.2.1 |
| Standard of review – deference – level of | 556(R)–557(L) | 67.3.2 |
| Standard of review – existing jurisprudence | 557(L–R) | 67.3.2.2(b) |
| Standard of review – factors – expertise | 558(R) | 67.3.2.2(c)(iii) |
| Standard of review – factors – key factor – nature of the question | 557(R)–558(L) | 67.3.2.2(c)(i) |
| Standard of review – factors – nature of the question | 557(R)–558(L) | 67.3.2.2(c)(i) |
| Standard of review – factors – nature of the question – guidelines | 558(L) | 67.3.2.2(c)(i) |
| Standard of Review – factors – privative clause | 558(L–R) | 67.3.2.2(c)(ii) |
| Standard of review – factors – privative clauses | 558(L–R) | 67.3.2.2(c)(ii) |
| Standard of review – factors – purpose of tribunal and its enabling statute | 558(R) | 67.3.2.2(c)(iv) |
| Standard of review – identified in jurisprudence – judicial review | 557(L–R) | 67.3.2.2(b) |
| Standard of review – judicial review – threshold question | 556(R)–557(L) | 67.3.2 |
| Standard of review – patent unreasonableness – how to address – *Canada (Citizenship and Immigration) v Khosa* | 550(L) | 65.6 |
| Standard of review – reasonableness | 557(L) | 67.3.2.1 |
| Standard of review – reasonableness – deference warranted | 550(L) | 65.6 |
| Standard of review – test – *Dunsmuir* – summary | 558(R) | 67.3.2.2(d) |
| Standard of review – two standards defined | 557(L) | 67.3.2.1 |
| Standard of review – which standard... | 557(L) | 67.3.2.2 |
| Standing – administrative law | 561(R) – 562(R) | 67.3.6 |
| **Standing** – Charter | 593(R) | 72.3.1 |
| Standing – Charter – proving claim | 590(L) | 71.4.2 |
| Standing – Charter – test | 593(R) | 72.3.1 |
| Standing – definition | 561(R) | 67.3.6 |
| Standing – judicial review | 561(R) – 562(R) | 67.3.6 |
| Standing – judicial review – *FCA* – s. 18.1(1) | 562(L) | 67.3.6 |
| Standing – public interest – judicial review | 562(L) | 67.3.6 |
| Standing – public interest standing – judicial review | 562(L) | 67.3.6 |
| Standing – statutory right | 561(R) – 562(R) | 67.3.6 |
| Standing – threshold issue | 593(R) | 72.3.1 |
| *Stare decisis* – Charter – administrative tribunal – application to | 599(R) | 72.7.2 |
| Statement of Claim – initiating constitutional challenge – provincial Superior Court | 594(L) – 595(L) | 72.4.2 |
| Statutory appeal mechanism – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| Statutory appeal mechanism – delegated decision–making – original exercise of – examples | 545(L) | 65.4.1 |
| Statutory decision–makers – scope of power – consequence of acting outside scope | 549(R) | 65.6 |
| **Statutory interpretation** – administrative law | 543(R) | 65.2 |
| Statutory interpretation – reading down – remedy – Charter infringement | 586(L–R) | 70.6.1.2 |
| Statutory interpretation – reading in – remedy – Charter infringement | 586(L–R) | 70.6.1.2 |
| Statutory Power of Decision | 543(R) | 65.3.1 |
| Statutory reconsideration – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| Statutory reconsideration – delegated decision–making – original exercise of – examples | 545(L) | 65.4.1 |
| Statutory reconsideration – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| Statutory review – delegated decision–making – original exercise of | 545(L) | 65.4.1 |
| Statutory review – delegated decision–making – original exercise of – examples | 545(L) | 65.4.1 |
| **Stay of proceedings** – interim relief – judicial review | 561(L) | 67.3.4.3 |
| Stay of proceedings – judicial review – interim relief | 561(L) | 67.3.4.3 |
| Stay of proceedings – judicial review – limits | 561(L) | 67.3.4.3 |
| Stay of proceedings – judicial review – test | 561(L) | 67.3.4.3 |
| Stay of proceedings – limits – on judicial review | 561(L) | 67.3.4.3 |
| Stay of proceedings – test – judicial review | 561(L) | 67.3.4.3 |
| Striking down – remedy – *Constitution Act, 1982,* s. 52 | 586(L) | 70.6.1.1 |
| Striking down of laws – s. 52 *Constitution Act* – remedy | 586(L) | 70.6.1.1 |
| Structural injunction – Charter | 587(R) | 70.6.2.2 |
| Substantive review of decision – errors of law that permit judicial review | 550(R) | 65.6 |
| **Superior Court** – Charter – jurisdiction | 594(L) | 72.4.1 |
| Superior Court – Charter – procedure – options | 594(L) – 595(L) | 72.4.2 |
| Superior Court – Charter – *Rules of Civil Procedure* | 594(R) | 72.4.2 |
| Superior Court – competency to hear constitutional challenge | 594(L) | 72.4.1 |
| Superior Court – jurisdiction – Charter | 594(L) | 72.4.1 |
| Superior Court – jurisdiction – Charter – collateral challenge | 594(L) | 72.4.1 |
| Superior Court – jurisdiction – Charter – direct challenge | 594(L) | 72.4.1 |
| Suspended declaration of invalidity  SEE also: Constitutional Exemption | 586(R) – 587(L); 587(L) | 70.6.1.4; 70.6.1.5 |
| Suspended declaration of invalidity – Charter – remedy  SEE also: Constitutional Exemption | 586(R) – 587(L); 587(L) | 70.6.1.4; 70.6.1.5 |
| Suspended declaration of invalidity – exemption | 587(L) | 70.6.1.5 |
| Suspending declaration of invalidity – Charter remedy – proving Charter claim | 592(L) | 71.4.9.2 |
| Suspension – invalid legislation – exemption | 587(L) | 70.6.1.5 |
| **T** | | |
| *Taku River Tlingit First Nation v British Columbia* (test for appropriate consultation and compensation) | 603(L–R) | 73.4 |
| Tax – Federal Court has expertise | 596(R)–597(L) | 72.6.1 |
| **Test** – Aboriginal title – *Delgamuukw v British Columbia* – modified stage 2 | 601(R) – 602(L); 604(L) | 73.2; 73.5.2 |
| Test – ancillary powers – pith and substance – division of powers | 579(L) | 69.5.1(c) |
| Test – ancillary powers – pith and substance – federalism | 579(L) | 69.5.1(c) |
| Test – minimal impairment | 591(R) | 71.4.8.3 |
| Test – stay of proceedings – on judicial review | 561(L) | 67.3.4.3 |
| Test case – challenging constitutionality of statute | 600(L-R) | 72.9 |
| Test litigant – Charter – Rules of Professional Conduct r. 3.2–7 | 600(L-R) | 72.9 |
| The Crown’s special position - *Proceedings Against the Crown Act* –– notice of claim – procedure | 595(L) | 72.4.3 |
| *Thomson Newspapers v. Canada (Attorney General)* (rephrased third prong of proportionality test in *Oakes*) | 585(L) | 70.5.3 |
| Timing – government response – freedom of information – request | 570(L) | 68.2.3.3 |
| Title claims – Aboriginal and treaty rights – Metis – *R v. Powley* | 602(L) | 73.2 |
| Trade and commerce – *Constitution Act, 1867* – s. 91(2) | 575(R)–576(L) | 69.3.2 |
| Trade and commerce – division of powers | 575(R)–576(L) | 69.3.2 |
| Trade and commerce – division of powers – test – *General Motors of Canada Ltd v City National Leasing* | 576(L) | 69.3.2 |
| **Trade and commerce** – federalism | 575(R)–576(L) | 69.3.2 |
| Trade and commerce – federalism – test – *General Motors of Canada Ltd v City National Leasing* | 576(L) | 69.3.2 |
| Trade and commerce – test – *General Motors of Canada Ltd v City National Leasing* | 576(L) | 69.3.2 |
| *Tranchemontagne v. Ontario* (tribunal lacking jurisdiction to decide Charter compliance can look at compliance with human rights legislation) | 598(L)-599(L) | 72.7.1.1 |
| Transportation – interprovincial and international – *Constitution Act, 1867* – s. 91(29), 92(10) | 576(R) | 69.3.5 |
| Transportation – interprovincial and international – division of powers | 576(R) | 69.3.5 |
| Transportation – interprovincial and international – federalism | 576(R) | 69.3.5 |
| Treaties – interpretation – Aboriginal | 602(L) | 73.2 |
| Treaties – interpretation – *R v. Badger*  SEE: *R v. Marshall* | 602(L) | 73.2 |
| **Tribunal** – Charter – jurisdiction – implied – test for | 598(L)-599(L) | 72.7.1.1 |
| Tribunal – Charter – s. 24 – remedy | 599(L) | 72.7.1.2 |
| Tribunal – enabling statute – standard of review – factors | 558(R) | 67.3.2.2(c)(iv) |
| Tribunal – federal – notice of constitutional question – *FCA* – s. 57 | 599(R) | 72.7.3 |
| Tribunal – hearing – electronic hearing – *SPPA* | 552(L–R) | 66.3.1 |
| Tribunal – hearing – oral hearing – *SPPA* | 552(L–R) | 66.3.1 |
| Tribunal – hearing – right to call witnesses and present evidence and submissions | 552(R) | 66.3.2 |
| Tribunal – hearing – right to present submissions – content of right | 552(R) | 66.3.2 |
| Tribunal – hearing – *SPPA* – participatory rights | 552(R) | 66.3.2 |
| Tribunal – hearing – written hearing – *SPPA* | 552(L–R) | 66.3.1 |
| Tribunal – interim order – power to grant – *SPPA* – s. 16.1 | 553(R) | 66.4 |
| Tribunal – interpretive tools – Charter | 599(L) | 72.7.1.3 |
| Tribunal – jurisdiction – Charter – implied – test for | 598(L)-599(L) | 72.7.1.1 |
| Tribunal – jurisdiction – constitutional question – implied – test for | 598(L)-599(L) | 72.7.1.1 |
| Tribunal – jurisdiction – to grant Charter relief | 590(L) | 71.4.3 |
| Tribunal – jurisdiction – to hear Charter claim | 590(L) | 71.4.3 |
| Tribunal – motions – power to grant – *SPPA* – s. 16.1 | 553(R) | 66.4 |
| Tribunal – notice of constitutional question | 599(R) | 72.7.3 |
| Tribunal – provincial – notice of constitutional question – *CJA* – s. 109 | 599(R) | 72.7.3 |
| Tribunal – purpose of – standard of review – factors | 558(R) | 67.3.2.2(c)(iv) |
| Tribunal decisions - Band council – judicial review of | 567(L–R) | 67.7.1 |
| Tribunal jurisdiction – proving Charter claim (brief) | 590(L) | 71.4.3 |
| **U** | | |
| *UES Local 298 v Bibeault* (modern pragmatic and functional approach to judicial review) | 550(L) | 65.6 |
| **Unbiased decision maker** – right to – fairness | 544(R) | 65.3.3.1 |
| Unbiased decision maker – right to – natural justice | 544(R) | 65.3.3.1 |
| Unextinguished – Aboriginal and treaty rights | 602(R) – 603(L) | 73.3 |
| Unextinguished treaty rights – *R v Sparrow* | 602(R) – 603(L) | 73.3 |
| University – mandatory retirement – Charter – application to | 581(L) | 70.2 |
| Unreasonable search and seizure – Charter – s. 8 | 583(L) | 70.4.5 |
| **V** | | |
| *Voice Construction Ltd v Construction and General Workers’ Union, Local 92* (standard of review must be determined prior to judicial review) | 550(L) | 65.6 |
| Vote – right to – Charter – s. 3 | 582(L) | 70.4.2 |
| *Vriend v. Alberta* (example of reading in) | 586(L) | 70.6.1.2 |
| **W** | | |
| *Weber v. Ontario Hydro* (inability to bring civil action made it appropriate for tribunal to award damages for Charter breach) | 590(L) | 71.4.3 |
| *Withler v. Canada (Attorney General)* (don’t need to identify mirror comparator group for s. 15) | 584(L) | 70.4.6 |
| **Witness** – tribunal – hearing – compellability – *SPPA* | 552(R) | 66.3.2 |
| Witness – tribunal – hearing – issuing summons – *SPPA* | 552(R) | 66.3.2 |
| Witness – tribunal – hearing – protection from incriminating testimony | 553(L) | 66.3.3 |
| Witness – tribunal – hearing – right to advice from counsel or agent | 553(L) | 66.3.3 |
| Witness testimony – admin hearing | 553(L) | 66.3.3 |