

NCA LIBRARY · STUDY GUIDE

Administrative Law

A complete guide to the NCA Administrative Law syllabus, topic by topic, with case snapshots, exam tips and practice problems with model answers.

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- Part I** Setting the Stage
 - Part II** Procedural Fairness
 - Part III** Substantive Review
 - Part IV** Challenging Administrative Decisions

Follows: NCA Administrative Law syllabus, revised June 2026 (Topics 1–13)

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This guide is a study aid, not legal advice. Always check the current NCA syllabus and the primary sources.

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Setting the Stage

Syllabus Topic 1

ON THE SYLLABUS

What the syllabus assigns for Part I

Topic 1, Setting the Stage: CB Chapter 1, "The Administrative State and the Rule of Law." The syllabus warns that CB pp 20–21, which describe the grounds of judicial review at a high level, are a conceptual overview only and must **not** be applied to an exam question (see 1.8).

The casebook ("CB") is Van Harten, Heckman & Promislow, *Administrative Law: Cases, Text, and Materials*, 9th ed (Emond, 2026). The syllabus stresses that the 9th edition differs from the 8th edition, on which past NCA Administrative Law exams were based. If you are working from older notes, check them against the current syllabus.

Cases the syllabus names across the course: *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817; *Knight v Indian Head School Division No 19*, [1990] 1 SCR 653; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65; *Bell Canada v Canada (Attorney General)*, 2019 SCC 66; *Doré v Barreau du Québec*, 2012 SCC 12; *Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30; *Dunsmuir v New Brunswick*, 2008 SCC 9 (named as superseded); *Haghshenas v Canada (Citizenship and Immigration)*, 2023 FC 464; *Kebaowek First Nation v Canadian Nuclear Safety Commission*, 2025 FC 319; *Gitxaala v British Columbia (Commissioner of Gold)*, 2025 BCCA 430. Everything else comes from the assigned CB pages.

This Part introduces *Baker* (assigned under Topic 7, CB 30–39) and *Vavilov* (Topic 11) as the course's two anchor cases, together with *Roncarelli v Duplessis*, [1959] SCR 121, the classic statement of the rule of law in Canadian public law.

Learning objectives

By the end of Part I you should be able to:

- explain what administrative law is about in one sentence, and why almost every problem starts with a statute that gives someone power;
- identify the main kinds of administrative decision-makers and where their powers come from;
- read an enabling statute the way an examiner expects: who decides, what power, on what conditions, with what procedure, and what route of review;
- explain why no statutory discretion is unlimited, using *Roncarelli*;
- explain why legislatures cannot abolish judicial review, but can shape it;

- distinguish a statutory appeal from judicial review, and list the other ways a person can challenge an administrative decision;
- divide any problem into the course's three questions (procedure, substance, and how to challenge), and know which test governs each one;
- explain why the conceptual grounds of review in CB pp 20–21 are not the tests you apply on the exam.

How Part I is examined

Topic 1 is unlikely to be the subject of a question on its own. It is the frame for every question you will write.

The Administrative Law exam is built around problems. A typical question sets out a statute (often invented for the exam), describes how a decision-maker used a power under it, and asks you to advise a client or predict what a court would do. The syllabus says so directly: candidates must be able to read and understand the statutory provisions supplied on the exam that empower administrative actors, analyse complex facts, relate the law to the salient facts, and reason to a conclusion.

Three habits from Part I earn marks in every answer:

- **Starting with the statute.** Who has the power, what kind of power it is, and what the statute says about procedure and review. Many issues are visible only in the wording.
- **Separating the three questions.** Procedural fairness, substantive review and the route of challenge each have their own tests. Answers that blend them ("the decision was unfair and unreasonable because...") lose marks for both.
- **Applying the real tests, not the conceptual labels.** The syllabus expressly warns against analysing a problem with the broad grounds of review described in CB pp 20–21.

EXAM TIP

What markers are looking for

The NCA's published sample exam for this subject tells candidates that no marks are given for reciting the facts, or for essay-style discussion of administrative law detached from the facts. Marks come from identifying the legal issues, stating the rule, and applying it to the facts. The same instructions warn against working through a generic checklist of preliminary objections to judicial review unless the facts actually raise them. Part I teaches you to see the structure of a problem quickly, so that your time goes to the issues the examiner planted.

Topic 1: Setting the Stage

1.1 What administrative law is about

The syllabus puts the central idea in a single sentence, and it is worth absorbing before anything else. Administrative law governs how people who hold power **delegated to them by statute** (or occasionally by the royal prerogative) go about using it. Those people are usually part of the executive branch, often at some distance from elected ministers. Because we live under the rule of law, we insist that they use that power **properly**. Almost the whole course is an effort to say what "properly" means.

Why legislatures delegate. Parliament and the provincial legislatures cannot decide every licence, benefit claim, permit, refugee claim or professional discipline case themselves. They pass a statute that sets out a policy and then hand the work of applying it to someone else. They do so for several reasons:

- **Volume.** Immigration officers decide hundreds of thousands of applications a year. No legislature could.
- **Expertise.** A securities commission, an energy regulator or a labour board builds specialized knowledge that generalist judges and legislators lack.
- **Flexibility.** Delegated bodies can make rules, revise policies and respond to new circumstances faster than a legislature can amend a statute.
- **Distance from politics.** Some decisions, such as adjudicating disputes between citizens and the state, are better made by bodies that are independent of day-to-day political pressure.

The result is what the casebook calls the administrative state. The Supreme Court made the same point in *Vavilov*: so many public bodies now hold delegated decision-making power, over so many important matters, that administrative decision-making has become one of the main ways in which Canadians experience state power (*Vavilov*, para 4).

What "properly" means. The syllabus divides the discipline into three parts, and this guide follows that division:

The question	What it asks	Where it is covered
Procedure	Did the decision-maker follow a fair process? When is a duty of fairness owed, and what does it require (notice, a chance to be heard, disclosure, an unbiased decision-maker, reasons)?	Part II, Topics 2–9
Substance	Was the decision itself, on its merits, lawful? How closely may a court scrutinize it (the standard of review), and does it pass that scrutiny?	Part III, Topics 10–11
Challenge and remedy	How, where and by whom can the decision be challenged, and what can a court order?	Part IV, Topics 12–13

Keep that table in mind. Every problem in this subject breaks down into some or all of those three questions.

1.2 Who exercises administrative power

Administrative power is spread across a wide range of bodies. Their names (board, tribunal, commission, agency, registrar, officer) are not used consistently, so look at what a body does and where its power comes from, not at its title.

Decision-maker	Typical powers	Examples	Points to watch
Cabinet (the Governor in Council federally; the Lieutenant Governor in Council in a province)	Making regulations; hearing some statutory appeals; major policy approvals	Approving a pipeline after a regulator's report; making regulations under an Act	Decisions that are broad and policy-based may attract little or no procedural fairness (Topic 4)
Ministers and their officials	Discretionary decisions on individual applications; policy; enforcement	Humanitarian and compassionate exemptions in immigration (<i>Baker</i>); issuing permits	Officials often decide in the minister's name; who actually decided can matter (Topic 9)
Independent tribunals and agencies	Adjudication, licensing, rate-setting, regulation	Human rights tribunals, labour boards, energy regulators, immigration tribunals, broadcasting regulators	The most distinctive actors in administrative law; many look and act like courts, which affects the procedure owed
Municipalities	By-laws, zoning, licensing, local services	Business licences; zoning amendments	Their powers come entirely from provincial statute
Self-regulating professions	Admission, discipline and standards for a profession	Law societies; colleges of physicians	Disciplinary decisions that affect a person's livelihood attract strong procedural protection
Crown corporations and other public bodies	Commercial or service functions at arm's length from government	Public utilities; public broadcasters	Whether a particular decision is "public" enough to be reviewable can be contested
Indigenous governments	Governance and service delivery under their own authority or under statute	Band councils exercising powers under the <i>Indian Act</i> or self-government agreements	The federal duty to consult (Topic 6) is a separate issue, owed by the Crown

Private bodies are generally outside administrative law. A religious congregation, a private club or a private company acting under contract is not exercising public power, and its decisions are not subject to judicial review simply because they matter to the people affected. The Supreme Court has held that judicial review is available only for exercises of state authority that are sufficiently public in

character, and that even public bodies make some private decisions, such as renting premises or hiring staff, that fall outside it (*Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v Wall*, 2018 SCC 26, para 14). Topic 12 develops this.

Decisions made with the help of technology. Government increasingly uses software to sort, summarize or triage files before an official decides. Administrative law still asks the same questions about such decisions: who actually decided, on what information, by what process, and with what justification. The Federal Court considered a decision made with the help of a processing tool in *Haghshenas*, which the syllabus assigns under Topic 7.

1.3 Where administrative power comes from

The first thing to establish in any problem is the **source** of the power the decision-maker used. Administrative bodies are creatures of statute. They have only the powers the legislature gave them, expressly or by necessary implication, and they must use those powers for the purposes for which they were given. That is the principle of **legality**, and it underlies almost every argument you will make.

Source	What it is	Why it matters on the exam
The enabling statute	The Act that creates the decision-maker or gives it the power in question	The starting point for everything: the scope of the power, conditions, procedure, appeal routes and any privative clause
Delegated legislation	Regulations, rules and by-laws made under the statute	Binding law, valid only if within the power the statute delegates; may add procedural or substantive requirements
General procedural statutes	Statutes setting default procedural rules for many provincial tribunals (for example Ontario's <i>Statutory Powers Procedure Act</i>)	Supply procedural rights if, and only if, their own application provisions are met (Topic 2)
The royal prerogative	The residue of the Crown's historic powers not displaced by statute (for example foreign affairs, the issue of passports, the prerogative of mercy)	Rarely the source in an exam problem; reviewable in principle, depending on the subject matter
Soft law	Guidelines, policies, manuals, bulletins	Not law, but may shape procedural expectations (Topic 3) and the reasonableness of a decision; rigid adherence can be an unlawful fettering of discretion (Topics 9 and 11)
The Constitution	Charter s 7, the duty to consult (s 35), and the guarantee of judicial review under s 96	Can impose procedural duties and limits the legislature cannot remove (Topics 5, 6, 10)

BEYOND THE SYLLABUS

Reviewing prerogative decisions

Courts have reviewed prerogative decisions where the subject matter is suitable for judicial scrutiny. In *Canada (Prime Minister) v Khadr*, 2010 SCC 3, the Supreme Court held that courts may review the exercise of the prerogative over foreign affairs for compliance with the Charter, while showing considerable respect for the executive's choice of remedy. The decision is not on the syllabus; the point you need is simply that the prerogative is not a zone free of law.

Duties and discretion. Statutes confer two different kinds of power, and the wording tells you which.

- A **duty** ("the Registrar *shall* issue a licence to any applicant who meets the requirements of section 4") leaves the decision-maker no choice once the conditions are met. The issue is usually whether the decision-maker correctly understood the conditions.
- A **discretion** ("the Minister *may* grant an exemption if satisfied that it is justified by humanitarian and compassionate considerations") leaves a range of choices. The issue is usually whether the choice stayed within the limits the statute and the rule of law impose.

Most statutes mix the two, and much discretion is structured: the statute lists factors, sets thresholds or defines terms. *Baker* (below) shows that even a broadly worded discretion has legal limits.

Reading an enabling statute. The exam will usually give you the relevant provisions. Read them actively. The table below is a thinking tool, not an answer template: the marks come from what you find, not from listing the steps.

Step	Ask	Why it matters
1	Who has the power? Is it the minister, an officer, a board, a panel? Can it be delegated?	Decisions made by the wrong person may be invalid (Topic 9); the identity of the decision-maker shapes the procedure owed
2	What power is it: a duty or a discretion; adjudicative, regulatory or investigative; final or preliminary?	Affects whether fairness is triggered (Topics 3–4), how much is owed (Topic 7), and how closely a court will review the merits (Topic 11)
3	On what conditions or criteria? Are there defined terms, listed factors or a purpose clause?	These are the legal constraints a reasonable decision must respect (Topic 11)
4	What procedure does the statute (or a general procedural statute) prescribe? Is it a complete code?	Statutory procedure may displace or supplement the common law (Topics 2 and 7)
5	What does it say about review : an internal appeal, a statutory appeal to court (and on what questions), a privative clause, a time limit?	Determines the route of challenge (Topic 12) and, under <i>Vavilov</i> , the standard of review (Topic 11)
6	What is the statute's purpose , from its title, preamble, purpose clause and scheme?	Every exercise of power must serve the statute's purposes (<i>Roncarelli</i> ; <i>Vavilov</i>)

EXAM TIP

Quote the words that matter

When a problem gives you a statute, quote or closely paraphrase the precise words that drive your analysis: "may," "shall," "in the Board's opinion," "after giving the applicant an opportunity to be heard," "the decision of the Tribunal is final," "an appeal lies on a question of law." Markers reward answers built on the text; they cannot reward an argument about a provision the answer never identifies.

1.4 The rule of law and the limits of discretion

The rule of law means, at a minimum, that public officials are subject to the law like everyone else, that they may act only under legal authority, and that their actions can be tested in the ordinary courts. In administrative law, it has a sharper meaning: **no grant of discretion is unlimited**. Every power is given for a purpose, and a decision made for a purpose foreign to the statute is unlawful however broad the wording.

CASE SNAPSHOT

Roncarelli v Duplessis, [1959] SCR 121

Context. Frank Roncarelli ran a successful restaurant in Montréal with a liquor permit. He was a Jehovah's Witness and posted bail, hundreds of times, for fellow Witnesses arrested for distributing religious pamphlets under municipal by-laws. Maurice Duplessis, the Premier and Attorney General of Quebec, told the manager of the Quebec Liquor Commission to cancel Roncarelli's permit, and to do so permanently. The Commission did. The statute allowed the Commission to cancel a permit "at its discretion." Roncarelli's business collapsed, and he sued Duplessis personally for damages.

Issue. Could a statutory discretion to cancel liquor permits be used to punish a permit-holder for an activity, posting bail, that had nothing to do with the sale of liquor? And was Duplessis personally liable?

Holding. No, and yes. A majority of the Supreme Court held Duplessis personally liable and awarded damages (about \$33,000 in total). In the best-known reasons, Rand J held that a statutory discretion, however broadly worded, is never absolute: it must be exercised for the purposes of the statute and on considerations relevant to those purposes. Cancelling a liquor permit to punish someone for lawfully posting bail for co-religionists was a use of the power for a purpose entirely alien to the liquor legislation. It was also a decision dictated by someone (the Premier) who had no authority under the statute to make it. A public official who acts outside the law this way is answerable in the ordinary courts, like any other person.

Why it matters. It is the classic Canadian statement that there is no such thing as unfettered discretion, and that the rule of law binds even the most senior officials. The Supreme Court relied on it again in *Vavilov* (para 108) when it explained that every exercise of discretion must fit the purposes for which the discretion was given. It also illustrates three specific errors you will meet again: acting for an **improper purpose**, acting on **irrelevant considerations**, and acting **under dictation** of someone without authority. And it shows that a court can award damages against an official who abuses power in bad faith (Topic 13).

Three lessons from *Roncarelli* recur throughout the course:

- **Purpose limits discretion.** Look for the statute's purpose and ask whether the decision served it.
- **The right person must decide.** A decision-maker who simply follows instructions from someone outside the statutory scheme has not exercised the discretion given to it (Topic 9 develops the related rules on sub-delegation and "he who hears must decide").
- **Officials are accountable in the ordinary courts.** There is no special immunity for public officials who act outside their authority.

1.5 The constitutional place of judicial review

Two constitutional principles pull in different directions in administrative law, and much of the doctrine is an attempt to reconcile them.

Legislative supremacy. Within the limits of the Constitution, Parliament and the provincial legislatures may create administrative bodies, give them broad powers, and decide how much (or how little) the courts should interfere with their decisions. A legislature that sends a matter to a specialized tribunal rather than a court has made an institutional choice that courts must respect.

The rule of law. Someone must be able to ensure that administrative bodies stay within the law. In Canada, that role belongs to the **superior courts**, through their inherent supervisory jurisdiction.

The two meet in **s 96 of the Constitution Act, 1867**. Because s 96 protects the core jurisdiction of the superior courts, legislatures cannot shield administrative decisions from judicial review entirely. A provincial legislature may not, for example, set up a tribunal whose decisions on the limits of its own authority are immune from review (*Crevier v Quebec (Attorney General)*, [1981] 2 SCR 220). The Supreme Court restated the point in *Vavilov*: legislatures may create administrative bodies and give them broad powers, and where they have not provided for court review it can be assumed they wanted minimal judicial interference, but because judicial review is protected by s 96, they cannot shield administrative decision-making from curial scrutiny entirely (para 24).

NOTE

After the syllabus: *Democracy Watch v Canada (Attorney General)*, 2026 SCC 28

In July 2026, a unanimous Supreme Court held that the Constitution guarantees the availability of legality review of **all aspects** of an administrative decision, including questions of fact and law, and struck down a federal privative clause to the extent it barred review on those grounds. Topic 10 explains the decision.

Privative clauses. A privative clause is a statutory provision that tries to limit judicial review: "decisions of the Board are final and conclusive and shall not be questioned or reviewed in any court." Courts have never treated such clauses as removing review altogether. Under *Vavilov*, a privative clause no longer plays any independent role in choosing the standard of review: reasonableness is presumed whether or not there is one (para 49). It still confirms that the legislature wants the

decision-maker's view to be respected. Topic 10 explains the history: much of the older standard-of-review case law grew out of the courts' efforts to give privative clauses some effect without abandoning the rule of law.

Shaping review. Within the s 96 limit, legislatures can and do shape review. They can create a **statutory right of appeal** to a court, prescribe a **standard of review**, set **time limits**, require **leave** to bring a challenge, and require people to use **internal appeals** first. *Vavilov* gives effect to these choices (1.7 and Topic 11).

COMMON MISTAKE

***Dunsmuir* is history**

Dunsmuir v New Brunswick, 2008 SCC 9, was the leading standard-of-review case for a decade, and you will see it cited in older materials and in many decisions. Its contextual, multi-factor method of choosing the standard of review has been replaced by *Vavilov*. The syllabus is blunt: an answer that relies on the superseded approach earns no marks. Use *Dunsmuir* only for history, or for propositions that *Vavilov* itself reaffirms.

1.6 How people challenge administrative action

Before going to court, a person affected by an administrative decision usually has other options, and the law often expects them to use those first. Courts are generally the last resort.

Route	What it involves	Notes
Reconsideration	Asking the decision-maker to look again	Many statutes give tribunals an express power to reconsider; without one, a final decision generally cannot be reopened except in limited circumstances
Internal or administrative appeal	An appeal to a more senior official or a separate appeal tribunal created by statute	Usually must be used before going to court (exhaustion, Topic 12)
Ombudsperson	An independent officer of the legislature who investigates complaints of maladministration	Recommends rather than orders; does not replace legal remedies
Political accountability	Raising the matter with a minister, a legislator or the media	Ministers are responsible to the legislature for their departments
Statutory appeal to a court	An appeal created by the statute, often limited to questions of law or jurisdiction, sometimes requiring leave	Exists only if a statute creates it; under <i>Vavilov</i> , attracts appellate standards of review (Topic 11)
Judicial review	An application to a superior court (or the Federal Court for federal decision-makers) to review the decision's legality	Rests on the courts' inherent supervisory jurisdiction, now largely codified in statutes and rules of court; remedies are discretionary (Topics 12–13)

Route	What it involves	Notes
Ordinary actions	A claim for damages in tort or contract, or for Charter remedies	Governed by their own rules; may overlap with the grounds for judicial review (Topic 13)

Appeal and judicial review are different things. The syllabus warns candidates not to confuse them.

	Statutory appeal	Judicial review
Source	A statute that expressly creates it	The superior courts' inherent supervisory jurisdiction (protected by s 96), codified federally in the <i>Federal Courts Act</i> (ss 18 and 18.1) and provincially in judicial review statutes and rules of court
Availability	Only if, and to the extent that, the statute provides	Available for exercises of public power, subject to the court's discretion and any statutory limits
Scope	Whatever the statute allows (questions of law only, or law and fact, and so on)	Legality: procedural fairness and the substantive lawfulness of the decision
Standard of review on the merits (<i>Vavilov</i>)	Appellate standards: correctness for questions of law; palpable and overriding error for fact and mixed fact and law (unless there is an extricable legal question)	Presumptively reasonableness, unless a rule-of-law category requires correctness
Usual outcome if successful	Whatever the statute empowers the appeal court to do, sometimes including substituting its own decision	The decision is set aside and usually sent back to be decided again (remitted)

Federal and provincial courts. Judicial review of federal decision-makers ("federal boards, commissions or other tribunals") belongs to the **Federal Court**, and for some listed tribunals to the **Federal Court of Appeal**, under the *Federal Courts Act*. Provincial decision-makers are reviewed in the provincial superior courts, sometimes in a specialized division (in Ontario, the Divisional Court). Topic 12 covers venue, standing and timing in detail.

The judicial review remedies. Historically, the superior courts supervised public bodies through the **prerogative writs: certiorari** (quashing a decision), **prohibition** (stopping a decision-maker from proceeding unlawfully), **mandamus** (compelling performance of a public duty) and **habeas corpus** (testing the legality of a detention). **Declarations** and **injunctions** were added later. Modern statutes have simplified the procedure, but the substance of these remedies remains. They are **discretionary**: a court may refuse relief even when it finds an error, for example because of delay, an adequate alternative remedy, or the applicant's own conduct. Topic 13 explains when.

1.7 The course in two cases: *Baker* and *Vavilov*

Two Supreme Court decisions frame almost everything that follows. *Baker* is the leading case on procedural fairness and an early, influential statement of how courts review discretion. *Vavilov* now governs substantive review. Both are introduced here and studied in detail later: *Baker* in Topic 7 (content of fairness), Topic 8 (bias) and Topic 11 (review of discretion); *Vavilov* in Topic 11 and Topic 13.

CASE SNAPSHOT

***Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817**

Context. Mavis Baker, a citizen of Jamaica, came to Canada as a visitor in 1981 and stayed, working without status as a live-in domestic worker. She had four children born in Canada, and was later diagnosed with a serious mental illness. After she was ordered deported, she applied, with a lawyer's help, for an exemption on humanitarian and compassionate ("H&C") grounds so that she could apply for permanent residence from inside Canada. She filed letters from her psychiatrist and a children's aid social worker. The application was refused by letter, with no reasons. On request, her lawyer received the notes of a junior officer, which the deciding officer had relied on. The notes emphasized that she had "a total of eight children" (in capital letters), was on welfare and had a psychiatric history, and concluded that she would be a strain on the welfare system.

Issues. Was Ms Baker owed procedural fairness, and was it denied (no interview, no reasons, bias)? Was the exercise of the H&C discretion lawful, given how the officer treated her children's interests?

Holding on procedure. A duty of fairness applied, because the decision affected her rights, privileges and interests. L'Heureux-Dubé J, for the Court on these points, explained that the content of the duty varies with the context and set out a non-exhaustive list of factors for deciding what it requires (Topic 7). Applying them, she held that an oral interview was not required, because written submissions gave Ms Baker a meaningful opportunity to present her case. Some form of reasons was required, given the importance of the decision; the junior officer's notes could serve as the reasons. But the notes gave rise to a **reasonable apprehension of bias**: a well-informed observer would think they reflected stereotypes and a closed mind, not an impartial weighing of the evidence.

Holding on substance. The decision was also an unreasonable exercise of discretion. Even a broad discretion must be exercised within the limits of the statute, the rule of law and fundamental Canadian values. Because the officer was completely dismissive of the children's interests, the decision did not reflect the humanitarian and compassionate values the statute required the officer to consider. The decision was set aside. Iacobucci J (with Cory J) agreed in the result but disagreed with relying on the values of an unimplemented international treaty, the *Convention on the Rights of the Child*, to interpret the statute.

CB 30–39. The syllabus assigns *Baker* under Topic 7, "up to section (2)" of the casebook's extract, which is the procedural fairness part of the judgment.

Why it matters. It is the leading authority on how to determine the content of the duty of procedural fairness (the *Baker* factors), it recognized a common law duty to give reasons in some circumstances, and it applied the reasonable apprehension of bias test to an individual official. It is also the classic illustration that discretion is reviewable on its merits: a decision that ignores the values the statute requires the decision-maker to consider is unreasonable.

CASE SNAPSHOT

***Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65: an overview**

Context. Alexander Vavilov was born in Toronto in 1994 to parents living under assumed Canadian identities. They were in fact Russian intelligence agents. After their arrest in the United States in 2010, the Canadian Registrar of Citizenship cancelled his citizenship certificate in 2014. She relied on s 3(2)(a) of the *Citizenship Act*, which denies citizenship by birth in Canada to children of a "diplomatic or consular officer or other representative or employee in Canada of a foreign government," and read it as covering his parents.

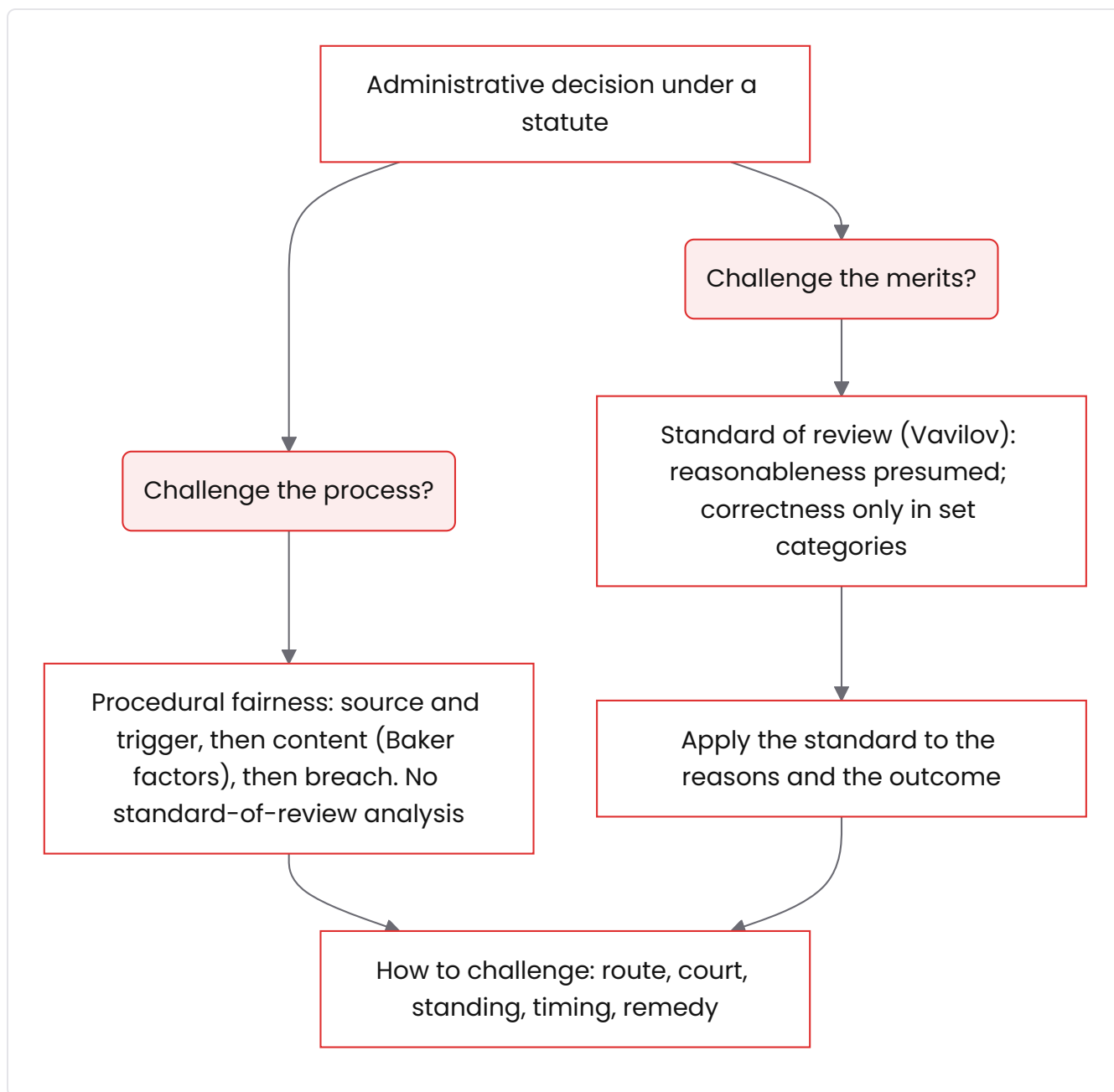
The framework. The Court used the case to reset the law of substantive review. The majority (Wagner CJ and six other judges) held that, when a court reviews the merits of an administrative decision, it starts from a **presumption that the standard is reasonableness** (paras 16–17, 23–25). The presumption is rebutted in two kinds of situations. First, where the **legislature has indicated** a different standard, either by prescribing it or by providing a **statutory appeal** to a court, in which case appellate standards apply (paras 33–37). Second, where the **rule of law requires correctness**: constitutional questions, general questions of law of central importance to the legal system as a whole, and questions about the jurisdictional boundaries between administrative bodies (para 17). The old contextual inquiry is no longer used (para 17), and "true questions of jurisdiction" are no longer a separate category (paras 65–68). Procedural fairness questions are outside this framework (para 23).

Reasonableness review. The Court also explained how to conduct reasonableness review. A reasonable decision is based on an internally coherent and rational chain of analysis, and is justified in relation to the facts and law that constrain the decision-maker (para 85). The court asks whether the decision bears the hallmarks of justification, transparency and intelligibility (para 99). The party challenging the decision must show that its flaws are sufficiently serious, not merely superficial or peripheral (para 100). Administrative decision-makers must embrace a **culture of justification**: they must show that their use of delegated power can be justified to the people affected (paras 2 and 14).

Result. Both the majority and the two concurring judges (Abella and Karakatsanis JJ) held the Registrar's decision unreasonable. The provision was aimed at people who enjoy diplomatic privileges and immunities, which his parents never had; the Registrar's interpretation failed to grapple with the statutory context, the international law the provision implemented, and the submissions before her. The Court quashed the decision and, unusually, **did not send it back**: the outcome was inevitable, so remitting would serve no purpose, and Mr Vavilov was a Canadian citizen (paras 142 and 196).

Why it matters. It is the governing framework for choosing and applying the standard of review on any question about the merits of an administrative decision. On the exam, an answer that chooses the standard of review on any other basis earns no marks.

The two cases together show the course's basic method:



EXAM TIP

Keep procedure and substance apart

Vavilov says expressly that its standard-of-review framework applies to the review of the **merits**, not to questions of procedural fairness (para 23). Courts decide whether the process was fair by asking what fairness required in the context, using the *Baker* factors, and whether that was provided. Do not ask "what is the standard of review?" before a procedural fairness analysis, and do not analyse reasons twice without saying why: a complete absence of reasons where reasons were required is a **procedural** defect, while the quality of the reasons given goes to **reasonableness**.

1.8 The conceptual grounds of review, and why not to use them

The casebook's first chapter (CB pp 20–21) describes the grounds on which courts review administrative action at a high level of generality. Broadly, a decision may be challenged because the decision-maker acted beyond its legal authority, because it used an unfair procedure, because the decision was unreasonable, or because it breached the Constitution. As a description, that is accurate. As a method for answering an exam question, the syllabus says it is wrong: the courts do not apply those categories directly, and you must use the specific tests developed in the rest of the course.

The table shows how each broad idea is actually analysed.

Conceptual label	What you actually do on the exam
Acting beyond legal authority (illegality, "jurisdiction")	Treat it as substantive review. Under <i>Vavilov</i> , a decision-maker's interpretation of its own powers is reviewed for reasonableness (no separate category of jurisdictional questions), unless it is a statutory appeal or a correctness category applies (Topic 11). Exceptions: a question about the jurisdictional boundary between two administrative bodies attracts correctness.
Procedural impropriety	Procedural fairness: identify the source and trigger, then the content, then whether it was breached (Topics 2–9). No standard-of-review analysis.
Unreasonableness	Reasonableness review under <i>Vavilov</i> , applied to the reasons and outcome (Topic 11).
Abuse of discretion (bad faith, improper purpose, irrelevant considerations, fettering)	Also substantive review under <i>Vavilov</i> : these are ways a discretionary decision fails to respect the legal constraints on it (Topic 11). Fettering by guidelines comes up in institutional decision-making (Topic 9).
Unconstitutionality	For constitutional questions, correctness (Topic 11). For discretionary decisions that engage Charter protections, the <i>Doré</i> approach (Topic 11). On this exam, the Charter issue is almost always s 7 procedural protection (Topic 5).

COMMON MISTAKE

Common mistakes in Topic 1

- Writing "the decision is reviewable for illegality, procedural impropriety and unreasonableness" and moving on. That is the conceptual summary the syllabus tells you not to use. Name the specific test and apply it.
- Starting an answer without identifying the decision-maker and the statutory power it used. Everything else depends on that.
- Treating a broad discretion ("may," "in its opinion") as immune from review. *Roncarelli* and *Baker* both show that it is not.
- Confusing a statutory appeal with judicial review, or assuming an appeal exists when the statute does not create one.
- Running a standard-of-review analysis on a procedural fairness issue.
- Using *Dunsmuir*'s contextual approach to choose the standard of review.
- Importing the administrative law of the jurisdiction where you trained. The syllabus warns candidates that they rely on foreign principles and case law at their peril.

Part I review

Part I is the frame for the course, so its review checks that you can see the structure of a problem: who decided, under what power, what kind of complaint is being made, and where it would go. Administrative Law exams are problem-based, so instead of essay angles this review includes issue-spotting drills.

Quick checks: true, false or partly true?

Answer each in two or three sentences, then compare with the suggested answer.

1. Administrative law is concerned mainly with the division of powers between Parliament and the provinces. *False.* The syllabus says expressly that administrative law is not about policing the federal-provincial divide. It concerns how people who exercise power delegated by statute (or occasionally the prerogative) must use it: the procedures they must follow, the substantive limits on their decisions, and the remedies available when they go wrong.

2. A statute that says a minister "may, in the minister's absolute discretion," grant a licence leaves the minister free to refuse for any reason. *False.* *Roncarelli* holds that no statutory discretion is absolute: it must be exercised for the purposes of the statute and on relevant considerations. *Vavilov* (para 108) confirms that every exercise of discretion must accord with the purposes for which it was given, and *Baker* shows that a discretionary decision can be set aside as unreasonable.

3. A legislature can completely exclude judicial review of a tribunal's decisions by a clear enough privative clause. *False.* Because s 96 of the *Constitution Act, 1867* protects the superior courts' supervisory jurisdiction, legislatures cannot shield administrative decisions from review entirely (Crevier; Vavilov, para 24). A privative clause signals that the legislature wants the decision-maker's view respected, but under *Vavilov* it plays no independent role in choosing the standard of review (para 49).

4. A person dissatisfied with an administrative decision always has a right of appeal to a court. *False.* Appeals exist only where a statute creates them, and many statutes create none, or limit appeals to questions of law. Where there is no appeal, the route to court is judicial review, which rests on the superior courts' inherent supervisory jurisdiction.

5. Under Vavilov, the standard of review of an administrative decision is chosen by weighing the presence of a privative clause, the decision-maker's expertise, the purpose of the statute and the nature of the question. *False.* That is the superseded contextual analysis from *Dunsmuir* and earlier cases. *Vavilov* starts from a presumption of reasonableness, rebutted only by legislative intent (a prescribed standard or a statutory appeal) or by the rule-of-law categories that require correctness (paras 16–17).

6. In Baker, the Supreme Court held that Ms Baker was entitled to an oral interview before her H&C application was decided. *False.* The Court held that an oral hearing was not required, because written submissions gave her a meaningful opportunity to present her case. It did hold that some form of reasons was required, that the junior officer's notes could serve as reasons, and that those notes gave rise to a reasonable apprehension of bias.

7. Procedural fairness complaints are reviewed on the reasonableness standard, like other aspects of a decision. *False.* *Vavilov*'s framework applies to review of the merits; it does not govern procedural fairness (para 23). Courts ask what fairness required in the context, using the *Baker* factors, and whether the process met that standard.

8. Judicial review is available against any organization whose decisions seriously affect a person's livelihood. *Partly true.* Effect on the individual matters to how much procedural fairness is owed, but it does not make a decision reviewable. Judicial review is available only for exercises of public authority; a private body acting under its own rules or a contract is generally outside it (*Highwood Congregation*, Topic 12).

9. If an administrative decision is found unreasonable on judicial review, the court will usually decide the matter itself. *False.* The usual remedy is to set the decision aside and send it back to the decision-maker, because the legislature entrusted the matter to that decision-maker (*Vavilov*, paras 140–141). A court may decline to remit where a particular outcome is inevitable, as it was in *Vavilov* itself (paras 142 and 196).

10. The grounds of review described in CB pp 20–21 provide a useful structure for exam answers. *False.* The syllabus warns specifically that those pages are a conceptual overview and must not be applied to an exam question. Use the specific tests: the procedural fairness framework, *Vavilov*'s

standard-of-review framework, and the rules on challenges and remedies.

Issue-spotting drills

Read each snippet and list the issues before reading the suggested list. The skill being practised is seeing the structure of the problem, not resolving every issue; the tests themselves come in Parts II to IV.

Drill 1. A provincial *Farmers' Markets Act* lets the Director of Markets "suspend a vendor's stall permit for up to 90 days where the Director has reasonable grounds to believe the vendor has sold produce misrepresented as locally grown." After a competitor's complaint, the Director suspends Lina's permit for 90 days by email, without asking for her side. Section 22 provides that a vendor "may appeal a suspension to the Markets Appeal Board within 15 days," and s 24 says the Board's decisions "are final and not subject to review by any court." Issues: the decision-maker (the Director) and the power (a discretionary suspension, triggered by "reasonable grounds to believe"); a procedural fairness issue (no notice or chance to respond before a suspension affecting her livelihood); a substantive issue (whether the Director had reasonable grounds, and whether a full 90-day suspension was justified); the route (the s 22 appeal to the Board must normally be used first, within 15 days); the effect of the s 24 privative clause (it cannot oust judicial review of the Board's decision entirely; under *Vavilov*, review of the Board's decision would be for reasonableness).

Drill 2. A city's licensing officer refuses to renew a food-truck licence. The officer's email says: "The councillor for this ward has asked me not to renew trucks that park near her constituency office." The by-law lets the officer refuse renewal if the truck "fails to meet health and safety standards." Issues: the source of the power (a municipal by-law, itself authorized by provincial statute) and the criteria it sets (health and safety); action under dictation by someone with no authority under the by-law (*Roncarelli*); a purpose and considerations foreign to the by-law (*Roncarelli*; *Vavilov*, para 108); the route (judicial review in the provincial superior court, unless the by-law or statute provides an appeal); remedy (setting aside, and possibly an order to decide according to law); a possible damages claim if bad faith can be shown (Topic 13).

Drill 3. A federal regulator, under a statute giving an appeal "to the Federal Court of Appeal, with leave, on a question of law or jurisdiction," interprets a defined term in its statute so as to bring a company's activities within its licensing regime. The company thinks the interpretation is wrong. Issues: the decision-maker is federal, so federal courts are the venue; the statute creates a **statutory appeal**, so under *Vavilov* appellate standards apply and the regulator's interpretation of its statute is a question of law reviewed for **correctness** (*Bell Canada* applies the same approach, Topic 11); leave is required, so a leave application comes first; judicial review is not the route while the appeal is available; the conceptual label "jurisdiction" does not create a separate category; the question is simply whether the interpretation is correct.

Practice problems

NOTE

How to use these problems

The fact patterns are original. Where a problem sets out a statute, treat it as law for the purposes of the problem, as the exam does. Part I problems focus on the structure of an answer: identifying the power and its source, separating procedure from substance, choosing the route and, where the facts allow, reaching a view on the merits with the tools introduced so far. Later Parts revisit these issues with the full tests. Write in full sentences and paragraphs, then compare. The model answers show the depth and style an examiner rewards; do not memorize them as scripts.

Problem 1: The heritage designation (about 20 minutes)

The (fictional) *Heritage Properties Act* of a province provides:

3 The purpose of this Act is to identify and conserve buildings of architectural or historical significance in the province. **7** (1) The Heritage Registrar may designate a building as a heritage property if, in the Registrar's opinion, the building is of architectural or historical significance. (2) No owner of a designated heritage property shall demolish or substantially alter it without a permit issued under section 9. **11** An owner of a designated property may, within 30 days of designation, appeal the designation to the Heritage Review Board, which may confirm or revoke it. **12** A decision of the Heritage Review Board is final.

Marisol owns a small 1920s commercial building and has signed an agreement to sell it to a developer who plans to demolish it. The day after the sale agreement is reported in the local newspaper, the Registrar designates the building as a heritage property. Marisol received no notice. The designation letter contains a single sentence stating that the building "has been found to be of historical significance." Twenty days have passed. A friend tells Marisol that she should "sue the Registrar for abuse of power in the Superior Court."

Advise Marisol on how administrative law frames her situation and what she should do now. You are not yet expected to resolve the procedural fairness and standard-of-review questions in full.

Model answer

Issue. Marisol's problem raises three distinct questions: whether the designation process was fair, whether the designation itself was lawful on its merits, and how and where she should challenge it. The most urgent point is the route, because her time to use it is running out.

Rule. The Registrar has only the powers the Act gives her, and must use them for the Act's purposes (*Roncarelli*; *Vavilov*, para 108). Section 7(1) confers a discretion ("may," "in the Registrar's opinion"), structured by a criterion (architectural or historical significance) and a purpose (conservation, s 3). Where a statute provides an internal appeal, a person is normally expected to use it before going to court (Topic 12). Judicial review cannot be ousted entirely by a privative clause such as s 12, because s

96 protects the superior courts' supervisory jurisdiction (*Crevier*; *Vavilov*, para 24). Procedural complaints are assessed under the procedural fairness framework, using the *Baker* factors, not a standard of review; complaints about the merits are reviewed under *Vavilov*, presumptively for reasonableness.

Application. *The route.* Section 11 gives Marisol an appeal to the Heritage Review Board within 30 days of the designation. Twenty days have passed, so she has about ten days left, and that should be her first step. Going straight to the Superior Court, as her friend suggests, risks having the application refused because she failed to use an adequate statutory remedy. Nor is "suing" the Registrar the right description: unless there is evidence of bad faith, the relevant proceeding is not an action for damages but a challenge to the legality of the designation. If the Board confirms the designation, its decision would be subject to judicial review despite s 12, which signals only that the legislature wants the Board's decision respected.

The procedural issue. Marisol received no notice and had no chance to make submissions before the designation. The designation directly affects her property rights: it prevents demolition without a permit and has collapsed her sale. That suggests a duty of fairness was owed, and that some notice and chance to respond was required, either before the Registrar acted or through a meaningful appeal (Topics 3 and 7). Whether the availability of a full appeal to the Board cures any unfairness at the first stage is something she should raise before the Board itself.

The substantive issue. The power in s 7(1) is discretionary, but not unlimited. The designation must rest on a genuine assessment of the building's architectural or historical significance and serve the Act's conservation purpose. The timing (the day after the sale was reported) and the one-sentence letter raise questions she can press: what evidence of significance the Registrar relied on, and whether the designation was made to stop a particular sale rather than because the building met the statutory criterion. Preventing demolition of a significant building is within the Act's purpose, so the timing alone does not prove an improper purpose. But if the building has no real historical significance, a designation made simply to block the development would be the kind of use of power for an alien purpose that *Roncarelli* condemns. On judicial review, the merits would presumptively be reviewed for reasonableness (*Vavilov*), and a single unexplained sentence may make it hard to show the justification that standard requires.

Conclusion. Marisol should file her appeal to the Heritage Review Board immediately, within the 30-day limit. In it, she should argue both that she was denied a fair process and that the designation is not justified on the evidence or was made for a purpose other than conservation. She should ask for the evidence and reasons behind the designation. If the Board confirms it, she can seek judicial review of the Board's decision; the privative clause in s 12 does not prevent that. An action for damages is not the appropriate route unless evidence emerges that the Registrar acted in bad faith.

Problem 2: The tour operator's licence (about 25 minutes)

The (fictional) *Wilderness Tourism Act* of a province provides:

2 The purposes of this Act are to protect public safety in provincial wilderness areas and to promote responsible tourism. 5 (1) The Director of Wilderness Tourism may refuse to renew a guiding licence if the Director is satisfied that the licensee has failed to comply with the safety standards in the regulations. (2) Before refusing to renew a licence, the Director shall give the licensee written notice of the proposed refusal and the reasons for it, and an opportunity to respond in writing within 14 days.

Teodor has held a guiding licence for 12 years, with a clean safety record. Last month he wrote a newspaper opinion piece criticizing the provincial Minister of Tourism's decision to approve a resort inside a wilderness park. A week later, the Director wrote to him: "The Minister's office has asked that licences held by operators who publicly undermine government tourism policy not be renewed. I propose to refuse renewal of your licence. You may respond within 14 days." Teodor responded, pointing to his safety record. The Director refused renewal, stating only that "the Department has decided to proceed as proposed." The Act contains no appeal.

Teodor asks whether the refusal can be challenged and what a court is likely to do.

Model answer

Issue. The issues are whether the Director's refusal is lawful on its merits, given the reason disclosed for it; whether the statutory procedure was followed; and how Teodor can challenge the decision and what remedy he can expect.

Rule. An administrative decision-maker must exercise a statutory power within the limits of the statute, for the purposes for which the power was given and on relevant considerations. No discretion is untrammelled, and a decision dictated by someone without statutory authority is not a lawful exercise of the decision-maker's own discretion (*Roncarelli*). Where, as here, the statute provides no appeal, the route is judicial review in the provincial superior court. Under *Vavilov*, the merits are presumptively reviewed for reasonableness; a reasonable decision must be justified in light of the legal and factual constraints on the decision-maker, and the governing statutory scheme is the most important of those constraints (paras 85, 99, 108).

Application. *The merits.* Section 5(1) allows the Director to refuse renewal on one ground only: that the Director is satisfied the licensee has failed to comply with the regulatory safety standards. The power is limited by that condition and by the Act's purposes of public safety and responsible tourism (s 2). The Director's own letter discloses a different reason: a request from the Minister's office not to renew licences of operators who criticize government policy. That reason has nothing to do with safety. Teodor's 12-year clean safety record, which he put before the Director, suggests there was no basis on which the Director could have been satisfied that he failed to meet the safety standards, and the final decision does not claim otherwise.

This is close to *Roncarelli* on its facts. As there, a licensing power was used to punish the licence-holder for lawful conduct unrelated to the licensing scheme, at the direction of a political official with no role under the statute. Two distinct errors follow. The decision was made for a purpose and on considerations foreign to the Act, and the Director did not exercise her own judgment under s 5(1)

but acted under the dictation of the Minister's office. Under *Vavilov*, a decision that disregards the governing statutory scheme in this way cannot be reasonable: the statute permits refusal only for non-compliance with safety standards, and the decision rests on no such finding. The final letter, which says only that the Department "has decided to proceed as proposed," provides no justification at all for treating Teodor as non-compliant.

The procedure. Section 5(2) required written notice of the proposed refusal and the reasons for it, and an opportunity to respond. Formally, the Director complied: Teodor received notice, the (improper) reason and 14 days to reply. The difficulty is not missing steps but a decision-maker who appears to have made up her mind on instructions before hearing from him. That could also be framed as a procedural fairness concern (Topic 8 considers prejudgment and bias). But the clearest and strongest ground is substantive: the decision was taken for a reason the statute does not permit.

The route and remedy. Because the Act provides no appeal, Teodor should apply for judicial review in the provincial superior court, promptly and within any applicable time limit. The usual remedy is to set the decision aside and send it back to be decided again according to law (*Vavilov*, paras 140–141). Here there is a strong argument that the court should go further: the only lawful ground for refusal is safety non-compliance, and nothing in the record suggests any. If the court is satisfied that the only possible lawful outcome is renewal, it may decline to remit, as the Court did in *Vavilov* itself (para 142), or direct that the licence be renewed (Topic 13). Teodor may also have a damages claim against the officials responsible if he can show they deliberately acted outside their authority to harm him, as Duplessis did, but that would be a separate action governed by its own rules (Topic 13).

Conclusion. The refusal is very likely unlawful. It was made for a purpose and on considerations foreign to the *Wilderness Tourism Act*, at the dictation of an official with no authority under it, and is unreasonable under *Vavilov* because it disregards the only ground s 5(1) allows. Teodor should seek judicial review. He can expect the decision to be quashed; given his unblemished safety record, there is a real prospect that the court will order or effectively direct renewal rather than simply remitting the matter.

Problem 3: Two ways to court (about 20 minutes)

The (fictional) federal *Commercial Drone Operations Act* creates the Drone Licensing Board. Section 14 allows the Board to suspend an operator's certificate if the operator has engaged in "commercial aerial surveillance" without a surveillance endorsement. Section 30 provides: "An appeal lies from a decision of the Board to the Federal Court of Appeal on a question of law, with leave of that Court." Section 31 provides: "Subject to section 30, every decision of the Board is final."

The Board suspended the certificate of SkyFrame Inc., a company that films construction sites from the air for building owners, holding that this is "commercial aerial surveillance." SkyFrame says "surveillance" in the statute means monitoring people, not photographing buildings. It also says the Board found, wrongly, that its drones recorded people on neighbouring properties; the footage shows they did not.

SkyFrame wants to know which route to take, and how closely a court will examine each of its complaints.

Model answer

Issue. The issues are whether SkyFrame should bring a statutory appeal or an application for judicial review, and what standard of review would apply to each of its two complaints: the Board's interpretation of "commercial aerial surveillance," and its factual finding about what the drones recorded.

Rule. Where a legislature provides a statutory appeal from an administrative decision to a court, it signals that appellate standards apply: correctness for questions of law, including the interpretation of the decision-maker's statute, and palpable and overriding error for questions of fact and mixed fact and law (*Vavilov*, paras 17 and 33–37). A leave requirement affects whether the appeal is heard, not the standard applied once it is (para 50). A limited right of appeal does not prevent judicial review of aspects of a decision the appeal does not cover, and on such a judicial review the presumption of reasonableness applies (para 52). A privative clause cannot oust judicial review entirely (para 24) and plays no independent role in choosing the standard (para 49).

Application. *The interpretation.* The meaning of "commercial aerial surveillance" in s 14 is a question of statutory interpretation, and so a question of law. Section 30 gives an appeal on questions of law, with leave. SkyFrame should therefore seek leave to appeal to the Federal Court of Appeal. If leave is granted, the court will decide for itself what the phrase means, applying the correctness standard, and will not defer to the Board's reading. SkyFrame's argument has real force: "surveillance" ordinarily suggests monitoring people or activities, and filming building sites for their owners, with the owners' consent, sits uneasily within it. The court would read the term in its full statutory context and in light of the Act's purpose before deciding.

The factual finding. Section 30 does not extend to questions of fact. SkyFrame cannot use the appeal to argue that the Board misread the footage. That complaint falls outside the appeal, and s 31 makes the decision otherwise "final." But a circumscribed appeal does not prevent judicial review of aspects of a decision that it does not cover (*Vavilov*, para 52), and the privative clause cannot oust review. Because the Board is a federal body, SkyFrame would apply to the Federal Court for judicial review of that aspect of the decision, within the time limits of the *Federal Courts Act* (Topic 12). On judicial review, the factual finding would be reviewed for reasonableness. A decision is unreasonable if it fundamentally misapprehends or ignores the evidence; if the footage plainly shows no people on neighbouring properties, a finding to the contrary would be hard to justify (Topic 11).

Strategy. If SkyFrame wins on the interpretation, the factual finding may not matter: if building-site filming is not "surveillance" at all, the suspension falls regardless of who appeared in the footage. SkyFrame should lead with the appeal on the question of law, and bring the judicial review application in time to protect its position on the facts. The court may ultimately need to decide how the two proceedings fit together (Topic 12 considers the relationship between appeals and judicial review).

Conclusion. SkyFrame should seek leave to appeal to the Federal Court of Appeal on the meaning of "commercial aerial surveillance," which will be reviewed for correctness. Its complaint about the Board's factual finding falls outside the appeal and must be pursued, if at all, by judicial review in the Federal Court, where the standard will be reasonableness. The interpretive argument is the stronger and more efficient route.

Part I summary

- **Administrative law is about delegated power used properly.** Almost every problem starts with a statute that gives someone power, and asks whether it was used properly in three senses: fair procedure, lawful substance, and the availability of a remedy.
- **Identify the decision-maker and the source of its power first.** Read the enabling statute for who decides, what power (duty or discretion), the conditions and purpose, the procedure, and the route of review.
- **No discretion is unlimited** (*Roncarelli*). Powers must be exercised for the statute's purposes, on relevant considerations, by the person the statute designates. *Vavilov* (para 108) reaffirms this.
- **Judicial review cannot be abolished**, because s 96 protects the superior courts' supervisory jurisdiction (*Crevier*; *Vavilov*, para 24), but legislatures can shape it through appeals, standards, time limits and internal remedies.
- **Appeal and judicial review differ:** appeals exist only by statute and attract appellate standards; judicial review rests on inherent jurisdiction and presumptively attracts reasonableness.
- **Baker** anchors procedural fairness (and the review of discretion); **Vavilov** governs substantive review. Keep procedure and substance apart: procedural fairness takes no standard-of-review analysis.
- **Don't apply the conceptual grounds of review** (CB pp 20–21), *Dunsmuir*'s superseded approach, or the law of the jurisdiction where you trained.

Coming up: Part II, Procedural Fairness

Part II covers the first of the course's three questions: when administrative decision-makers must follow fair procedures, and what those procedures are. It begins with the sources of procedural obligations (statutes, general procedural codes, the common law, the Charter and the *Bill of Rights*), then turns to the triggers: the *Knight* three-part test and legitimate expectations (Topic 3), the exceptions for legislative decisions and emergencies (Topic 4), s 7 of the Charter and the *Bill of Rights* (Topic 5), and the duty to consult Indigenous peoples (Topic 6). It then moves to the content of fairness: the right to be heard (Topic 7), the right to an unbiased and independent decision-maker (Topic 8), and the special issues raised by institutional decision-making (Topic 9).

END OF THE FREE SAMPLE

That was Part I. Three Parts to go.

Part I is the frame for every answer. Parts II to IV hold the tests you apply on the exam: procedural fairness, *Vavilov* review and the route to court, across the remaining 12 syllabus topics.

PART II • TOPICS 2–9

Procedural Fairness

Where procedural duties come from, the *Knight* trigger and legitimate expectations, legislative and emergency decisions, Charter and Bill of Rights triggers, the duty to consult, the right to be heard under *Baker*, bias and independence, and institutional decision-making.

PART III • TOPICS 10–11

Substantive Review

The road from *Dunsmuir* to *Vavilov*, how to select the standard of review, and how to apply reasonableness and correctness to a decision, step by step.

PART IV • TOPICS 12–13

Challenging Administrative Decisions

Venue and basic procedure for judicial review, preliminary objections and remedies, plus a final pre-exam checklist.

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