

COMPETITION TRIBUNAL ACT

(R.S., 1985, c. 19 (2ND SUPP.))

[C-36.4]

An Act to establish the Competition Tribunal and to amend the Combines Investigation Act and the Bank Act and other Acts in consequence thereof

[1986, c. 26, assented to 17th June, 1986]

PART I

COMPETITION TRIBUNAL ACT

Short Title

Short title

1. This Part may be cited as the Competition Tribunal Act.

Interpretation

Definitions

2. In this Part,

"judicial member" «juge»

"judicial member" means a member of the Tribunal appointed under paragraph 3(2)(a);

"lay member" «autre membre»

"lay member" means a member of the Tribunal appointed under paragraph 3(2)(b);

"Minister" «ministre»

"Minister" means the Minister of Industry;

"Tribunal" «Tribunal»

"Tribunal" means the Competition Tribunal established by subsection 3(1). R.S., 1985, c. 19 (2nd Supp.), s. 2; 1992, c. 1, s. 145(F); 1995, c. 1, s. 62.

Tribunal Established

Tribunal

3. (1) There is hereby established a tribunal to be known as the Competition Tribunal.

Constitution of Tribunal

(2) The Tribunal shall consist of

(a) not more than four members to be appointed from among the judges of the Federal Court-Trial Division by the Governor in Council on the recommendation of the Minister of Justice; and

(b) not more than eight other members to be appointed by the Governor in Council on the recommendation of the Minister.

Advisory council

(3) The Governor in Council may establish an advisory council to advise the Minister with respect to appointments of lay members, which council is to be composed of not more than ten members who are knowledgeable in economics, industry, commerce or public affairs and may include, without restricting the generality of the foregoing, individuals chosen from business communities, the legal community, consumer groups and labour.

Consultation

(4) The Minister shall consult with any advisory council established under subsection (3) before making a recommendation with respect to the appointment of a lay member.

Chairman

4. (1) The Governor in Council shall designate one of the judicial members to be Chairman of the Tribunal.

Role of Chairman

(2) The Chairman has supervision over and direction of the work of the Tribunal including, without restricting the generality of the foregoing, the allocation of the work of the members thereof.

Absence or incapacity

(3) Where the office of Chairman is vacant, or the Chairman is absent from Canada or is for any reason unable to act, the powers of the Chairman shall be exercised and the duties performed by the senior judicial member who is in Canada and is able and willing to act.

Tenure of judicial members

5. (1) Each judicial member shall be appointed for a term not exceeding seven years and holds office so long as he remains a judge of the Federal Court.

Tenure of lay member

(2) Each lay member shall be appointed for a term not exceeding seven years and holds office during good behavior but may be removed by the Governor in Council for cause.

Re-appointment

(3) A member of the Tribunal, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term.

Acting after expiration of appointment

(4) A person may continue to act as a member of the Tribunal after the expiration of his term of appointment in respect of any matter in which he became engaged during the term of his appointment.

Temporary substitute members

(5) In the event of the absence or incapacity of a member of the Tribunal, the Governor in Council may appoint a temporary substitute member for such period of time as the Governor in Council prescribes.

Remuneration of lay members

6. (1) Each lay member shall be paid such remuneration as may be fixed by the Governor in Council.

Expenses of members

(2) Each member of the Tribunal is entitled to be paid the travel allowances that a judge is entitled to be paid under the Judges Act.

Other benefits

(3) Each lay member is deemed to be employed in the public service of Canada for the purposes of the Government Employees Compensation Act and any regulations made under section 9 of the Aeronautics Act.

Oath of office

7. (1) Every member of the Tribunal shall, before entering on the duties of his office, take an oath that he will duly and faithfully, and to the best of his skill and knowledge, execute the powers and trusts reposed in him as a member of the Tribunal.

How administered

(2) The oath referred to in subsection (1) shall be administered to the Chairman of the Tribunal before the Chief Justice of the Federal Court, and to the other members by the Chairman, or in his absence or incapacity, by any other member.

Jurisdiction and Powers of the Tribunal

Jurisdiction

8. (1) The Tribunal has jurisdiction to hear and dispose of all applications made under Part VII. 1 or VIII of the Competition Act and any related matters.

Powers

(2) The Tribunal has, with respect to the attendance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court of record.

Power to penalize

(3) No person shall be punished for contempt of the Tribunal unless a judicial member is of the opinion that the finding of contempt and the punishment are appropriate in the circumstances.

R.S., 1985, c. 19 (2nd Supp.), s. 8; 1999, c. 2, s. 41.

Court of record

9. (1) The Tribunal is a court of record and shall have an official seal which shall be judicially noticed.

Proceedings

(2) All proceedings before the Tribunal shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit.

Interventions by persons affected

(3) Any person may, with leave of the Tribunal, intervene in any proceedings before the Tribunal, other than proceedings under Part VII. 1 of the Competition Act, to make representations relevant to those proceedings in respect of any matter that affects that person.

R.S., 1985, c. 19 (2nd Supp.), s. 9; 1999, c. 2, s. 42.

Organization of Work

Sittings of Tribunal

10. (1) Subject to section 11, every application to the Tribunal shall be heard before not less than three or more than five members sitting together, at least one of whom is a judicial member and at least one of whom is a lay member.

Judicial member to preside at hearings

(2) The Chairman shall designate a judicial member to preside at any hearing or, if the Chairman is present at a hearing, may preside himself.

Prohibition where financial interest

(3) No member shall take part in any matter before the Tribunal in which the member has a direct or indirect financial interest.

Interim orders

11. (1) The Chairman of the Tribunal, sitting alone, or a judicial member designated by the Chairman, sitting alone, may hear and dispose of applications for interim orders under subsection 100(1) or 104(1) of the Competition Act and any related matters.

Administrative remedies

(2) Applications for orders under Part VII. 1 of the Competition Act and any related matters shall be heard and disposed of by the Chairman of the Tribunal, sitting alone, or by a judicial member designated by the Chairman, sitting alone.

R.S., 1985, c. 19 (2nd Supp.), s. 11; 1999, c. 2, s. 43.

Proceedings

Questions of law, fact, mixed law and fact

12. (1) In any proceedings before the Tribunal,

(a) questions of law shall be determined only by the judicial members sitting in those proceedings; and

(b) questions of fact or mixed law and fact shall be determined by all the members sitting in those proceedings.

Where there are differing opinions

(2) In any proceedings before the Tribunal,

(a) in the event of a difference of opinion among the members determining any question, the opinion of the majority shall prevail; and

(b) in the event of an equally divided opinion among the members determining any question, the presiding member may determine the question.

Where member unable to take part in judgment

(3) Where a member of the Tribunal is unable to take part in the giving of judgment in any proceedings or has died, the other members sitting in those proceedings may, whether or not they include a judicial member or a lay member, give judgment and, for that purpose, shall be deemed to constitute the Tribunal.

Appeal

Appeal

13. (1) Subject to subsection (2), an appeal lies to the Federal Court of Appeal from any decision or order, whether final, interlocutory or interim, of the Tribunal as if it were a judgment of the Federal Court-Trial Division.

Questions of fact

(2) An appeal on a question of fact lies under subsection (1) only with the leave of the Federal Court of Appeal.

Administration of Tribunal

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14. (1) There shall be a Registry of the Tribunal consisting of an office in the National Capital Region described in the schedule to the National Capital Act.

Staff

(2) Such officers, clerks and employees as are required for the proper conduct of the work of the Tribunal shall be appointed in accordance with the Public Service Employment Act.

Organization

(3) The employees of the Tribunal shall be organized and the offices shall be operated in such manner as may be provided by the rules.

Sittings

15. The Tribunal may sit at such times and at such places throughout Canada as it considers necessary or desirable for the proper conduct of its business.

Rules

Rules

16. (1) Subject to the approval of the Governor in Council, the Tribunal may make general rules that are not inconsistent with this Part or the Competition Act

(a) for regulating the practice and procedure of the Tribunal; and

(b) for carrying out the work of the Tribunal, the management of its internal affairs and the duties of its officers and employees.

When effective

(2) No rule made under this section has effect until it has been published in the Canada Gazette.

Tabling of rules

(3) A copy of every rule made under this section shall be laid before Parliament on any of the first fifteen days after the making thereof that either House of Parliament is sitting.

Quorum

(4) Five members of the Tribunal, at least three of whom are judicial members, constitute a quorum of the Tribunal for the purpose of making rules under this section.

Advance publication of rules and amendments

17. Where the Tribunal proposes to make any rule under section 16, it

(a) shall give notice of the proposal by publishing it in the Canada Gazette and shall, in the notice, invite any interested person to make representations to it in writing with respect thereto within sixty days after the day of the publication; and

(b) may, after the expiration of the sixty days referred to in paragraph (a) and subject to the approval of the Governor in Council, implement the proposal either as originally published or as revised in such manner as the Tribunal deems advisable having regard to any representations so made to it.