

Public Service Employment Act

R.S.C. 1985, c. P-33 as amended by the *Public Service Reform Act*, S.C. 1992, c. 54, the *Budget Implementation Act*, S.C. 1995, c. 17, the *Employment Equity Act*, S.C. 1995, c. 44, the *Budget Implementation Act*, S.C. 1996, c. 18, the *Miscellaneous Statute Law Amendment Act*, S.C. 1999, c. 31, the *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12, and the *Public Service Modernization Act*, S.C. 2003, c. 22, ss. 14 and 19.

OFFICE CONSOLIDATION

WARNING NOTE:

This office consolidation was prepared for convenience of reference only and, as such, it has no official sanction.

PUBLIC SERVICE EMPLOYMENT ACT

An Act respecting employment in the Public Service of Canada

SHORT TITLE

Short title

1. This Act may be cited as the *Public Service Employment Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"closed competition"
«*concours interne*»

"closed competition" means a competition that is open only to persons employed in the Public Service.

"Commission"
«*Commission*»

"Commission" means the Public Service Commission established by subsection 3(1);

"Commissioner"
«*Commissaire*»

"commissioner" means a member of the Commission, and includes the President;

"common-law partner"
«*conjoint de fait*»

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year; Added 2000, c.12, s. 272.

"department"
«*ministère*»

"department" means a department named in Schedule I to the *Financial Administration Act* and any division or branch of the Public Service designated by the Governor in Council as a department for the purposes of this Act;

"deployment"
«*mutation*»

"deployment" means the transfer of an employee from one position to another;

"deputy head"
«*administrateur général*»

"deputy head" means

(a) in relation to a department named in Schedule I to the *Financial Administration Act*, the deputy minister thereof,

(b) in relation to any division or branch of the Public Service designated under the definition "department", such person as the Governor in Council may designate as the deputy head for the purposes of this Act; and

(c) in relation to any other portion of the Public Service to which the Commission has the exclusive right and authority to appoint persons, the

chief executive officer thereof or, if there is no chief executive officer, such person as the Governor in Council may designate as the deputy head for the purposes of this Act;

"employee"
«fonctionnaire»

"employee" means a person employed in that part of the Public Service to which the Commission has the exclusive right and authority to appoint persons;

"local office"
«bureau...»

"local office" means an office established to serve an area comprising a part but not the whole of Canada;

"Minister"
«ministre»

"Minister", except in section 9, means any member of the Queen's Privy Council for Canada holding the office of a minister of the Crown;

"open
competition"
«concours public»

"open competition" means a competition that is open to persons who are employed in the Public Service as well as to persons who are not employed in the Public Service;

"promotion"
«promotion»

"promotion" has the meaning assigned by the regulations of the Commission;

"Public Service"
«fonction...»

"Public Service" has the same meaning as in the *Public Service Staff Relations Act*.

Presumption

(2) For the purpose of being eligible to enter competitions and for the purposes of section 11, persons not otherwise employed in the Public Service who are employees in or under any portion of the public service of Canada designated pursuant to subsection 37(2) are deemed to be persons employed in the Public Service.

References

(3) Unless the context otherwise requires,

(a) a reference in this Act to a deputy head in relation to an employee shall be construed as a reference to the deputy head of the department or the deputy head in relation to the portion of the Public Service, as the case may be, in which the employee is employed; and

(b) a reference in this Act to a deputy head in relation to a department or other portion of the Public Service shall be construed as a reference to the deputy head of that department or the deputy head in relation to that portion of the Public Service, as the case may be, to which the context extends.

Idem

(4) A reference in this Act to an occupational group shall be construed as a reference to a group or sub-group of employees specified and defined by the Treasury Board, and a reference to the executive group shall be construed as a reference to such of those groups or sub-groups specified and defined for senior management personnel as the Treasury Board may

designate.

Idem

(5) A reference in subsection (4), section 5.1, subsections 12(5), 17(1.1), 34.2(1), and 34.3(1) and (3), and section 37.1 to the Treasury Board or the Public Service shall, in the case of any portion of the public service of Canada specified in Part II of Schedule I to the *Public Service Staff Relations Act* for which appointments are made in accordance with this Act, be construed, respectively, as a reference to the separate employer concerned within the meaning of that Act and as a reference to that portion of the public service of Canada. Amended 1992, c.54, s.2.

PART I

PUBLIC SERVICE COMMISSION

Commission Established

Commission established

3. (1) A commission is established, to be called the Public Service Commission, consisting of a President and two or more other Commissioners. Amended 2003, c. 22. s. 14

Eligibility

(2) In order to be eligible to hold office as a Commissioner, a person must be a Canadian citizen within the meaning of the *Citizenship Act* or a permanent resident within the meaning of the *Immigration and Refugee Protection Act*. Amended 2003, c. 22. s. 14

Full-time or part-time

(3) The President shall serve on a full-time basis and the other Commissioners on a part-time basis. Amended 2003, c. 22. s. 14

Other employment or activities

(4) Commissioners shall not accept or hold any office or employment, or carry on any activity, that is inconsistent with their function, and the President shall devote the whole of his or her time to the performance of the President's functions. Amended 2003, c. 22. s. 14

Appointment of Commissioners

(5) The President and other Commissioners shall be appointed by the Governor in Council. The appointment of the President shall be made by commission under the Great Seal after approval by resolution of the Senate and House of Commons. Amended 2003, c. 22. s. 14

Tenure and term of office

(6) A Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons. Amended 2003, c. 22. s. 14

Re-appointment

(7) A Commissioner, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years. Amended 2003, c. 22. s. 14

Oath or affirmation office	(8) Before commencing his or her functions, each Commissioner shall take an oath or make a solemn affirmation in the form set out in Schedule I before the Clerk of the Privy Council or the person designated by the Clerk. Amended 2003, c. 22, s. 14
Salaries	3.1 (1) The Commissioners shall be paid the remuneration determined by the Governor in Council. Added 2003, c. 22, s. 14
Expenses	(2) The Commissioners are entitled to be paid reasonable travel and other expenses incurred by them in the course of their duties while absent from their ordinary place of residence or, in the case of the President, while absent from his or her ordinary place of work. Added 2003, c. 22, s. 14
Application of <i>Public Service Superannuation Act</i>	(3) The President is deemed to be employed in the public service for the purposes of the <i>Public Service Superannuation Act</i> . Added 2003, c. 22, s. 14
Application of other Acts	(4) The Commissioners are deemed to be employed in the federal public administration for the purposes of the <i>Government Employees Compensation Act</i> and regulations made under section 9 of the <i>Aeronautics Act</i> . Added 2003, c. 22, s. 14
President	4. (1) The President is the chief executive officer of the Commission.
Residence	(2) The President shall reside in the National Capital Region as described in the schedule to the <i>National Capital Act</i> or within the distance of it specified by the Governor in Council. Amended 2003, c. 22, s. 14
Acting President	(3) If the President is absent or unable to act or if the office of President is vacant, the minister designated under subsection 47(1) may authorize a Commissioner or other qualified person to act as President for a period not exceeding sixty days, and the Governor in Council may authorize a Commissioner or other qualified person to act as President for any longer period. Amended 2003, c. 22, s. 14 (4) Repealed 2003, c. 22, s. 14 (5) Repealed 2003, c. 22, s. 14
Quorum	4.1 (1) A majority of the Commissioners constitutes a quorum of the Commission. Added 2003, c. 22, s. 14
Vacancy	(2) A vacancy in the membership of the Commission does not impair the right of the remaining Commissioners to act. Added 2003, c. 22, s. 14
Head Office	4.2 The head office of the Commission shall be in the National Capital Region described in the schedule to the <i>National Capital Act</i> . Added 2003, c. 22, s. 14

Human resources

4.3 The Commission may appoint the persons necessary for the proper conduct of its work in the manner authorized by this Act. Added 2003, c. 22, s. 14

Experts and advisors

4.4 (1) The Commission may retain on a temporary basis the services of experts or other persons having technical or special knowledge to assist it in an advisory capacity and, subject to the approval of the Treasury Board, fix their remuneration. Added 2003, c. 22, s. 14

Application of *Public Service Superannuation Act*

(2) Persons whose services are retained under subsection (1) are not employed in the public service for the purposes of the *Public Service Superannuation Act*. Added 2003, c. 22, s. 14

General Powers and Duties of Commission

Powers and duties

5. The Commission shall

(a) appoint or provide for the appointment of qualified persons to or from within the Public Service in accordance with the provisions and principles of this Act;

(b) operate and assist deputy heads in the operation of staff training and development programs in the Public Service;

(c) engage competent persons to assist the Commission in the performance of its duties;

(d) repealed 1992, c. 54, s. 4.

(e) report to the Governor in Council on such matters arising out of or relating to the administration or operation of this Act and the regulations as the Commission considers desirable; and

(f) perform such other duties and functions with reference to the Public Service as are assigned to it by the Governor in Council.

Employment Equity Programs

Request for implementation of employment equity programs

5.1 (1) The Treasury Board may request the Commission to implement an employment equity program in the Public Service or any part thereof.

Idem

(2) A deputy head may request the Commission to implement an employment equity program in that part of the Public Service over which the deputy head has jurisdiction.

Action on request

(3) The Commission may, in its discretion, act on any request under subsection (1) or (2).

Action on own initiative

(4) Where and to the extent that the Commission considers it appropriate, the Commission shall carry out its activities under this Act, including the implementation of programs, in a manner that will further employment equity programs in the Public Service.

Definition of "employment equity program"

(5) In this section, "employment equity program" means a policy or program established by the Treasury Board with respect to the implementation of employment equity in the Public Service. Amended 1995, c. 44, s. 52.

Delegation of Authority

Delegation to deputy head

6. (1) The Commission may authorize a deputy head to exercise and perform, in such manner and subject to such terms and conditions as the Commission directs, any of the powers, functions and duties of the Commission under this Act, other than the powers, functions and duties of the Commission under sections 7.1, 21, 34, 34.4 and 34.5.

Idem

(2) Where the Commission is of the opinion

(a) that a person who has been or is about to be appointed to or from within the Public Service pursuant to the authority granted by it under this section does not have the qualifications that are necessary to perform the duties of the position the person occupies or would occupy, or

(b) that the appointment of a person to or from within the Public Service pursuant to the authority granted by it under this section has been or would be in contravention of the terms and conditions under which the authority was granted, the Commission, notwithstanding anything in this Act but subject to subsection (3), shall revoke the appointment or direct that the appointment not be made, as the case may be, and may thereupon appoint that person at a level that in the opinion of the Commission is commensurate with the qualifications of that person.

Idem

(3) An appointment to or from within the Public Service may be revoked by the Commission pursuant to subsection (2) only on the recommendation of a board established by the Commission to conduct an inquiry at which the employee and the deputy head concerned, or their representatives, shall be given an opportunity to be heard.

Idem

(4) The Commission may, as it sees fit, revise or rescind and reinstate the authority granted by it pursuant to this section.

Delegation by deputy head

(5) Subject to subsection (6) a deputy head may authorize one or more persons under the jurisdiction of the deputy head or any other person to exercise and perform any of the powers, functions or duties of the deputy head under this Act including, subject to the approval of the Commission

and in accordance with the authority granted by it under this section, any of the powers, functions and duties that the Commission has authorized the deputy head to exercise and perform. Amended 1996, c. 18, s. 14.

Acting deputy head

(6) In the absence of the deputy head, the person designated by the deputy head to act in his absence or, if no person has been so designated or there is no deputy head, the person designated by the person who under the *Financial Administration Act* is the appropriate Minister with respect to the department or other portion of the Public Service, or such other person as may be designated by the Governor in Council, has the powers, functions and duties of the deputy head. Amended 1992, c. 54, s. 6.

Powers, duties and functions of the Commission

6.1 Subject to section 7.3, any power, duty or function of the Commission under this Act, other than section 35, may be exercised or performed by any commissioner or employee of the Commission authorized by the Commission to do so and, if so exercised or performed, shall be deemed to have been exercised or performed by the Commission. Added 1992, c. 54, s. 7.

Records and Inquiries

Access to records, assistance, etc.

7. Deputy heads and employees shall provide the Commission with such facilities, assistance and information and with such access to their respective offices as the Commission may require for the performance of its duties. Amended 1992, c. 54, s. 8.

Investigations and audits

7.1 The Commission may conduct investigations and audits on any matter within its jurisdiction. Added 1992, c. 54, s. 8.

Powers of Commission

7.2 In connection with and for the purposes of any investigation or report, other than an audit, by the Commission under this Act, the Commission has all the powers of a commissioner under Part II of the *Inquiries Act*. Added 1992, c. 54, s. 8.

Persons acting for Commission

7.3 (1) The Commission may direct that any investigation, report or audit by the Commission under this Act be conducted or made, in whole or in part, by a commissioner or any other person.

Powers of commissioner

(2) Where the Commission, pursuant to subsection (1), directs that an investigation or report be conducted or made by a commissioner, the commissioner has, in relation to the matter before the commissioner, the powers referred to in section 7.2.

Powers of other person

(3) Where the Commission, pursuant to subsection (1), directs that an investigation or report be conducted or made by a person, other than a commissioner, that person, subject to such restrictions or limitations as the Commission may specify, has, in relation to the matter before the person,

the powers referred to in section 7.2. Added 1992, c. 54, s. 8.

Powers of boards

7.4 Subject to such restrictions or limitations as the Commission may specify, a board established under subsection 6(3), 21(1), 21(1.1) or 34(1) has, in relation to the matter before it, the powers referred to in section 7.2. Added 1992, c. 54, s. 8.

Corrective action

7.5 Subject to section 34.5, the Commission may, on the basis of any investigation, report or audit under this Act, take, or order a deputy head to take, such corrective action as the Commission considers appropriate. Added 1992, c. 54, s. 8.

PART II

APPOINTMENT

Authority to Appoint

Exclusive right to appoint

8. Except as provided in this Act, the Commission has the exclusive right and authority to make appointments to or from within the Public Service of persons for whose appointment there is no authority in or under any other Act of Parliament.

Diplomatic appointments

9. Nothing in this Act shall be construed to limit or affect the right or authority of Her Majesty to appoint ambassadors, ministers, high commissioners or consuls-general of Canada to any other country, or to appoint other persons to represent Canada in another country.

Appointments

Appointments to be based on merit

10. (1) Appointments to or from within the Public Service shall be based on selection according to merit, as determined by the Commission, and shall be made by the Commission, at the request of the deputy head concerned, by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service.

Idem

(2) For the purposes of subsection (1), selection according to merit may, in the circumstances prescribed by the regulations of the Commission, be based on the competence of a person being considered for appointment as measured by such standard of competence as the Commission may establish, rather than as measured against the competence of other persons. Amended 1992, c. 54, s. 10.

Appointments to be from within the Public Service

11. Appointments shall be made from within the Public Service except where, in the opinion of the Commission, it is not in the best interests of the Public Service to do so.

Standards and Criteria

Standards	<p>12. (1) For the purpose of determining the basis for selection according to merit under section 10, the Commission may establish standards for selection and assessment as to education, knowledge, experience, language, residence or any other matters that, in the opinion of the Commission, are necessary or desirable having regard to the nature of the duties to be performed and the present and future needs of the Public Service.</p>
Inconsistency	<p>(2) No standard established under subsection (1) shall be inconsistent with any classification standard established under the <i>Financial Administration Act</i>.</p>
No discrimination	<p>(3) The Commission, in establishing or applying standards under subsection (1), shall not discriminate against any person by reason of race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction for an offence for which a pardon has been granted.</p>
Limitation	<p>(4) Subsection (3) does not apply in respect of the establishment or application of standards that constitute <i>bona fide</i> occupational requirements having regard to the nature of the duties of any position.</p>
Consultation	<p>(5) The Commission shall, on request or where, in the opinion of the Commission, consultation is necessary or desirable, consult with representatives of the Treasury Board or any employee organization certified as a bargaining agent under the <i>Public Service Staff Relations Act</i> with respect to the standards that may be established by the Commission under subsection (1) or the principles governing promotion, lay-off or priorities of entitlement to appointment. Amended 1992, c. 54, s. 11; 1999, c. 31, s. 182</p>
Review of qualifications	<p>12.1 The Commission may review any qualifications established by a deputy head for appointment to any position or class of positions to ensure that the qualifications afford a basis for selection according to merit. Added 1992, c. 54, s. 11.</p>
Establishment of criteria	<p>13. (1) The Commission may establish, for competitions and other processes of personnel selection, geographic, organizational and occupational criteria that prospective candidates must meet in order to be eligible for appointment.</p>
Different criteria for disadvantaged persons	<p>(2) In establishing criteria under subsection (1), the Commission may establish different criteria for groups of persons that are disadvantaged, including women, aboriginal peoples, persons with disabilities and persons who are, because of their race or colour, in a visible minority in Canada. Amended 1992, c. 54, s. 12.</p>

Competitions

- Notice **14.** (1) The Commission shall give such notice of a proposed competition as in its opinion will give all eligible persons a reasonable opportunity of making an application.
- Idem (2) A notice under subsection (1) shall be given in both the English and French languages together, unless the Commission otherwise directs in any case or class of cases.
- Applications **15.** Applications shall be in such form and shall be made and verified in such manner as the Commission determines.
- Consideration of application **16.** (1) The Commission shall examine and consider all applications received within the time prescribed by it for the receipt of applications and, after considering such further material and conducting such examinations, tests, interviews and investigations as it considers necessary or desirable, shall select the candidates who are qualified for the position or positions in relation to which the competition is conducted.
- Languages in which examination to be conducted (2) An examination, test or interview under this section, when conducted for the purpose of determining the education, knowledge and experience of the candidate or any other matter referred to in section 12, except language, shall be conducted in the English or French language or both, at the option of the candidate.
- Idem (3) An examination, test or interview under this section, when conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of the English or French language or both, or of a third language, shall be conducted in the language or languages in the knowledge and use of which the qualifications of the candidate are to be determined.
- Veterans, etc. (4) Where, in the case of an open competition, the Commission is of the opinion that there are sufficient qualified applicants who are
- (a) persons in receipt of a pension by reason of war service as defined in Schedule II,
 - (b) persons who do not come within paragraph (a) and who are veterans as defined in Schedule II or survivors of veterans as defined in Schedule II, or
 - (c) persons who are Canadian citizens who do not come within paragraph (a) or (b),
- to enable the Commission to establish an eligibility list in accordance with this Act, the Commission may confine its selection of qualified candidates

under subsection (1) to the applicants who come within paragraph (a), paragraphs (a) and (b) or paragraphs (a), (b) and (c). Amended 2000, c. 12, s. 273.

Establishment of eligibility lists

17. (1) From among the qualified candidates in a competition the Commission shall select and place the highest ranking candidates on one or more lists, to be known as eligibility lists, as the Commission considers necessary to provide for the filling of a vacancy or anticipated vacancies.

Inclusion of certain candidates

(1.1) A candidate may be placed on an eligibility list while it is being determined if the candidate meets the security, reliability and medical conditions of employment established by the Treasury Board.

Duration

(2) An eligibility list is valid for such period of time as may be determined by the Commission in any case or class of cases.

Closed competition

(3) When establishing an eligibility list in the case of a closed competition, the Commission shall place the qualified candidates thereon in order of merit.

Open competition

(4) When establishing an eligibility list in the case of an open competition, the Commission shall, after complying with section 16 and after conducting such further investigations as it considers necessary, proceed in accordance with the following principles:

(a) persons who come within paragraph 16(4)(a) and who are qualified shall be placed, in order of merit, ahead of other successful candidates;

(b) persons who come within paragraph 16(4)(b) and who are qualified shall be placed, in order of merit, on the list immediately following any candidates mentioned in paragraph (a) of this subsection;

(c) persons who come within paragraph 16(4)(c) and who are qualified shall be placed, in order of merit, after any candidates mentioned in either paragraph (a) or (b) of this subsection; and

(d) persons who do not come within paragraph 16(4)(a), (b) or (c) and who are qualified shall be placed, in order of merit, after any candidates who come within those paragraphs.

Application of age limits, etc., to veterans, etc.

(5) Nothing prescribed by or under this Act or any other Act as to the age limit and physical requirements with respect to any appointment to the Public Service applies to a person who comes within paragraph 16(4)(a) or (b) if the Commission certifies that the person is of such an age and in such a satisfactory physical condition that the person is able to perform the duties of the position and will probably be able to do so for a reasonable period after the appointment. Amended 1992, c. 54, s. 14.

Appointment from
eligibility list

18. (1) An appointment under this Act made to a position by competition shall be made from an eligibility list in accordance with the regulations of the Commission.

Order of
appointment

(2) A candidate on an eligibility list who ranks lower on the list than a candidate placed on the list pursuant to subsection 17(1.1) may be appointed before the higher-ranking candidate, if a position is left vacant for the appointment of the higher-ranking candidate until it is determined if the higher-ranking candidate meets the conditions of employment referred to in that subsection. Amended 1992, c. 54, s. 15.

Appointment to
local office

19. Where an appointment is to be made to a local office, the Commission in making the appointment from outside the Public Service shall, whenever it is in the best interests of the Public Service to do so, give preference in appointment to qualified candidates who reside in the area served by the local office over qualified candidates who do not so reside.

Language

20. Employees appointed to serve in any department or other portion of the Public Service, or part thereof, shall be qualified in the knowledge and use of the English or French language or both, to the extent that the Commission deems necessary in order that the functions of the department, portion or part can be performed adequately and effective service can be provided to the public.

Appeals

Appeals

21. (1) Where a person is appointed or is about to be appointed under this Act and the selection of the person for appointment was made by closed competition, every unsuccessful candidate may, within the period provided for by the regulations of the Commission, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, shall be given an opportunity to be heard.

Idem

(1.1) Where a person is appointed or about to be appointed under this Act and the selection of the person for appointment was made from within the Public Service by a process of personnel selection, other than a competition, any person who, at the time of the selection, meets the criteria established pursuant to subsection 13(1) for the process may, within the period provided for by the regulations of the Commission, appeal against the appointment to a board established by the Commission to conduct an inquiry at which the person appealing and the deputy head concerned, or their representatives, shall be given an opportunity to be heard.

Duty of
Commission
when notified of
decision

(2) Subject to subsection (3), the Commission, on being notified of the decision of a board established under subsection (1) or (1.1), shall, in accordance with the decision,

(a) if the appointment has been made, confirm or revoke the appointment; or

(b) if the appointment has not been made, make or not make the appointment.

Appointment to other position

(2.1) Where the appointment of a person is revoked pursuant to subsection (2), the Commission may appoint that person to a position within the Public Service that in the opinion of the Commission is commensurate with the qualifications of that person.

Other measures

(3) Where a board established under subsection (1) or (1.1) determines that there was a defect in the process for the selection of a person for appointment under this Act, the Commission may take such measures as it considers necessary to remedy the defect.

Appeal

(4) Where a person is appointed or is about to be appointed under this Act as a result of measures taken under subsection (3), an appeal may be taken under subsection (1) or (1.1) against that appointment only on the ground that the measures so taken did not result in a selection for appointment according to merit. Amended 1992, c. 54, s. 16.

(5) Rights of appeal provided by this section and section 10 do not apply to appointments made under subsection 29(1.1) or (3), 30(1) or (2) or 39(3) or any regulations made under paragraph 35(2)(a) or subsection 11(2.0.1) of the *Financial Administration Act*. Amended 1996, c. 18, s. 15.

Appeal to Federal Court of Appeal

21.1 Notwithstanding the *Federal Court Act*, an application to the Federal Court — Trial Division for relief under section 18 or 18.1 of that Act against a decision of a board established under subsection 21(1) or (1.1) shall be transferred to the Federal Court of Appeal if the parties to that application so agree or if the Federal Court of Appeal, on application by any of those parties, so orders on the basis that the sound administration of that part of the Public Service over which the deputy head concerned has jurisdiction would be unduly prejudiced by delay if the matter were heard and determined by the Federal Court — Trial Division and subject to an appeal to the Federal Court of Appeal. Added 1992, c. 54, s. 16.

Casual Employment

Casual employment

21.2 (1) Notwithstanding any other provision of this Act, the Commission may appoint any person to the Public Service for a period not exceeding ninety days.

Restriction

(2) No person appointed under subsection (1) may work in any particular department, or in any other particular portion of the Public Service, on more than one hundred and twenty-five days in any year.

Application of Act (3) The provisions of this Act, other than this section, do not apply to a person who is appointed under subsection (1).

Term appointments unaffected (4) Nothing in this section derogates from any other authority of the Commission to appoint persons to or from within the Public Service for specified periods not exceeding ninety days. Added 1992, c. 54, s. 16.

PART III

EMPLOYMENT

Tenure

Effective date of appointment **22.** An appointment under this Act takes effect on the date specified in the instrument of appointment, which date may be any date before, on or after the date of the instrument. Amended 1992, c. 54, s. 17.

Oath of office and allegiance **23.** Every deputy head and employee shall, on appointment from outside the Public Service, take and subscribe the oath or solemn affirmation of allegiance and the oath or solemn affirmation set out in Schedule III.

Tenure of office **24.** The tenure of office of an employee is during pleasure, subject to this Act and any other Act and the regulations thereunder and, unless some other period of employment is specified, for an indeterminate period.

Term appointments **25.** An employee who is appointed for a specified period ceases to be an employee at the expiration of that period.

Resignation **26.** An employee may resign from the Public Service by giving to the deputy head notice in writing of the intention to resign and the employee ceases to be an employee on the day as of which the deputy head accepts in writing the resignation.

27. Repealed 1992, c. 54, s. 18.

Probation

Probationary period **28.** (1) An employee who was appointed from outside the Public Service shall be considered to be on probation from the date of the appointment until the end of such period as the Commission shall establish by regulation for that employee or any class of employees of which that employee is a member.

Idem (1.1) A probationary period established pursuant to subsection (1) is not terminated by any appointment or deployment of the employee made during the period.

Rejection (2) The deputy head may, at any time during the probationary period of an employee, give notice to the employee that the deputy head intends to reject the employee for cause at the end of such notice period as the Commission may establish for that employee or any class of employees of which that employee is a member and the employee ceases to be an employee at the end of that period. Amended 1992, c. 54, s. 18.

Lay-Offs

Laying off employees **29.** (1) Where the services of an employee are no longer required by reason of lack of work, the discontinuance of a function or the transfer of work or a function outside the Public Service, otherwise than in the circumstances referred to in paragraph 11(2)(g.1) of the *Financial Administration Act*, the deputy head, in accordance with the regulations of the Commission, may lay off the employee. Amended 1996, c. 18, s. 16.

(1.1) Notwithstanding subsection (3) and subsections 30(1) and (2), section 39 and any regulations made pursuant to paragraph 35(2)(a), where the deputy head has informed an employee that the employee will be laid off pursuant to subsection (1) or section 7.2 of the *Public Sector Compensation Act*, the Commission may, before the lay off becomes effective and if it is of the opinion that it is in the best interests of the Public Service to do so, appoint the employee, without competition and in priority to all other persons, to another position under the jurisdiction of the deputy head for which, in the opinion of the Commission, the employee is qualified. Added 1995, c. 17, s. 8.

Effect of being laid off (2) An employee ceases to be an employee when the employee is laid off pursuant to subsection (1).

Reappointment (3) A person laid off pursuant to subsection (1) is entitled, during such period and in such order as the Commission may determine, to be appointed, without competition and, subject to sections 30 and 39, in priority to all other persons, to a position in the Public Service for which, in the opinion of the Commission, the person is qualified.

Competitions (4) Notwithstanding subsection (2), a person laid off pursuant to subsection (1) is entitled, during such period as the Commission may determine for any case or class of cases, to enter any competition for which the person would have been eligible had the person not been laid off.

Exception (5) Subsections (1.1), (3) and (4) do not apply to a person whose tenure in the Public Service, at the time the person was informed that the person would be laid off, was for a specified period.. Amended 1992, c. 54, s. 19; 1995, c. 17, s. 8; 1996, c. 18, s. 16.

Leave of Absence

Appointment or deployment to another position

30. (1) Where an employee is on leave of absence and another person has been appointed or deployed for an indeterminate period to the position that was occupied by the employee, the employee is entitled, during the leave of absence and for a period of one year thereafter, to be appointed, without competition and in priority to all other persons, to another position in the Public Service for which, in the opinion of the Commission, the employee is qualified.

Idem

(2) Where, during the time that an employee was on leave of absence, another person was appointed or deployed for an indeterminate period to the position previously occupied by the employee, if the employee returns to that position, the other person is entitled, for a period of one year after the employee returns, to be appointed, without competition and in priority to all other persons, to a position in the Public Service for which, in the opinion of the Commission, the other person is qualified.

Order of priorities

(3) The Commission shall determine the order in which those persons to whom subsections (1) and (2) apply are to be appointed to positions in the Public Service.

Failure to appoint

(4) A person who is entitled under subsection (1) or (2) to be appointed to a position in the Public Service and who is not so appointed in the period provided for in that subsection ceases to be an employee at the end of that period. Amended 1992, c. 54, s. 20.

31. Notwithstanding subsection (3) and subsections 30(1) and (2), section 39 and any regulations made pursuant to paragraph 35(2)(a), where the Commission is of the opinion that the appointment of a person having a right to appointment in priority to other persons pursuant to any of those provisions will result in another person having such a right, the Commission may decide not to apply that provision to that case. Added 1995, c. 17, s. 9.

Political Partisanship

Definition of "candidate"

32. For the purposes of sections 33 and 34, "candidate" means a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories or a member of the Legislative Assembly of Nunavut. Amended 1993, c. 28, s. 78.

Political partisanship

33. (1) No deputy head and, except as authorized under this section, no employee, shall

(a) engage in work for or against a candidate;

(b) engage in work for or against a political party; or

(c) be a candidate.

Excepted activities

(2) A person does not contravene subsection (1) by reason only of attending a political meeting or contributing money for the funds of a candidate or of a political party.

Leave of absence

(3) Notwithstanding any other Act, on application made to the Commission by an employee, the Commission may, if it is of the opinion that the usefulness to the Public Service of the employee in the position the employee then occupies would not be impaired by reason of that employee having been a candidate, grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election, for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if the employee has ceased to be a candidate.

Notice

(4) Forthwith on granting any leave of absence under subsection (3), the Commission shall cause notice of its action to be published in the Canada Gazette.

Effect of election

(5) An employee who is declared elected as a member of the House of Commons, of the legislature of a province, of the Council of the Yukon Territory or the Northwest Territories or of the Legislative Assembly of Nunavut thereupon ceases to be an employee. Amended 1993, c. 28, s. 78.

Inquiry

34. (1) Where any allegation is made to the Commission by a person who is or has been a candidate that a deputy head or employee has contravened subsection 33(1), the allegation shall be referred to a board established by the Commission to conduct an inquiry at which the person making the allegation and the deputy head or employee, or their representatives, shall be given an opportunity to be heard.

Duty of Commission when notified of decision

(2) The Commission, on being notified of the decision of the board on an inquiry into an allegation conducted pursuant to subsection (1),

(a) in the case of a deputy head, shall report the decision to the Governor in Council who may, if the board has decided that the deputy head has contravened subsection 33(1), dismiss the deputy head; and

(b) in the case of an employee, may, if the board has decided that the employee has contravened subsection 33(1), dismiss the employee.

Application of the section

(3) In the application of this section to any person, the expression "deputy head" does not include a person for whose removal from office, otherwise than by the termination of his appointment at pleasure, express provision is made by this Act or any other Act.

PART III.1

DEPLOYMENT

Right to Deploy

Exclusive right to deploy **34.1** (1) Except as provided in this Act or in any other Act, a deputy head has the exclusive right and authority to make deployments to or within that part of the Public Service over which the deputy head has jurisdiction.

Deployments within or between groups (2) Deployments may be made within occupational groups and, when authorized by the regulations of the Commission, between occupational groups.

Term (3) Unless some other period is specified, a deployment is for an indeterminate period. Added 1992, c. 54, s. 22.

Conditions

Manner **34.2** (1) Deployments shall be made in such manner as the Treasury Board may direct.

No promotion or change in tenure (2) No employee shall be deployed in a manner that results in a promotion or a change in the tenure of office of that employee.

Consent to deployment (3) No employee shall be deployed without the consent of the employee, unless an agreement to being deployed is a term or condition of employment of the employee's current position. Added 1992, c. 54, s. 22.

Recourse on Deployment

Complaint to deputy head **34.3** (1) An employee who is deployed and any other employee in the work unit to which the deployment is made may, within such period and in such manner as the Treasury Board may provide for, complain to the deputy head concerned that the deployment was not authorized by, or made in accordance with, this Act or constituted an abuse of authority.

Exceptions (2) Subsection (1) does not apply in respect of the deployment of an employee who is in the executive group or who occupies a position in an occupational group or part thereof in respect of which regulations have been made under subsection 37.1(2).

Action by deputy head (3) On receiving a complaint under subsection (1), the deputy head shall review the deployment in such manner as the Treasury Board may direct and, after considering the results of the review, shall take such corrective action, including revocation of the deployment, as the deputy head considers appropriate.

Work units (4) A deputy head may specify work units for the purposes of subsection (1). Added 1992, c. 54, s. 22.

Referral to Commission **34.4** (1) An employee who lodged a complaint under subsection 34.3(1), or whose deployment is the subject of such a complaint, and who is not satisfied with the disposition of the complaint or any corrective action taken in respect thereof, may, within the period provided for by the regulations of the Commission, refer the complaint to the Commission.

Designation of investigator (2) On the referral of a complaint under subsection (1), the Commission shall designate a person to investigate the deployment.

Conduct of investigation (3) An investigator designated under subsection (2) shall conduct the investigation in such manner as the Commission may prescribe and give the employee who referred the complaint to the Commission, the employee who was deployed and the deputy head an opportunity to be heard.

Report (4) On completion of the investigation, the investigator shall prepare and send to the employee who referred the complaint to the Commission, the employee who was deployed and the deputy head a report in writing setting out such findings and recommendations with respect to the deployment as the investigator sees fit. Added 1992, c. 54, s. 22.

Report to Commission **34.5** (1) If the investigator is not satisfied with the response of the deputy head to a report prepared under subsection 34.4(4), the investigator shall report the matter to the Commission.

Corrective action (2) On receiving a report under subsection (1), the Commission may order the deputy head to take such corrective action, including revocation of the deployment, as the Commission considers appropriate.

Restriction (3) The Commission may not, pursuant to subsection (2), direct a deputy head to deploy any employee. Added 1992, c. 54, s. 22.

Provisions Not Applicable

Provisions not applicable **34.6** (1) For greater certainty, sections 8, 10 to 22, 38, 42 and 43 do not apply in respect of a deployment.

Idem (2) A deputy head may make a deployment without regard to the rights to appointment or to enter competitions established by subsections 29(3) and (4), 30(1) and (2), and 39(3) and (4) and any regulations made under paragraph 35(2)(a). Added 1992, c. 54, s. 22.

PART IV

GENERAL

Regulations

Regulations by
Commission

35. (1) The Commission may make such regulations as it considers necessary to carry out and give effect to this Act.

Additional
regulations by
Commission

(2) Without limiting the generality of subsection (1), the Commission may make regulations

(a) establishing for any person or class of persons a right to be appointed, without competition and, subject to sections 29, 30 and 39, in priority to all other persons, to any position in the Public Service for which, in the opinion of the Commission, the person is qualified, and specifying the period during which the right subsists;

(b) establishing the order of priority of the rights to appointment established by any regulations made pursuant to paragraph (a);

(c) respecting appointments to positions in the Public Service on an acting basis and the maximum period for which any such appointments or any class thereof may be made, and excluding any such appointments or any class thereof from the operation of any or all of the provisions of this Act;

(d) respecting the appointment to and within the Public Service of persons from disadvantaged groups, including women, aboriginal peoples, persons with disabilities and persons who are, because of their race or colour, in a visible minority in Canada and excluding any such person or group of persons from the operation of any or all of the provisions of this Act;

(e) respecting the appointment of persons within the executive group, or to the executive group from inside or outside the Public Service, and excluding any such persons or class of such persons from the operation of any or all of the provisions of this Act; Amended 1999, c. 31, s. 185.

(f) respecting the disclosure of personal information obtained in the course of an investigation, inquiry or procedure for appointment under this Act; and

(g) dealing with any other matter that any provision of this Act contemplates being the subject of a regulation of the Commission. Amended 1992, c. 54, s. 23.

Regulations by
Governor in
Council

36. (1) The Governor in Council may make regulations

(a) applying all or any of the provisions of this Act to all or any of the positions of persons mentioned in subsection 39(1);

(b) notwithstanding any other Act, applying all or any of the provisions of this Act that do not otherwise apply, including the provisions relating to appointments, to any portion or part of any portion of the Public Service; and

(c) prescribing the manner in which inquiries shall be instituted and conducted for the purposes of section 34.

Idem

(2) Where a regulation made pursuant to paragraph (1)(b) provides for a matter for which provision is made in or under any other Act, the other Act, during the time that the regulation is in force, is deemed to make no provision for that matter either therein or thereunder.

Regulations by Governor in Council

37. (1) The Governor in Council, on the recommendation of the Commission, may make regulations prescribing how positions or persons, wholly or partly excluded under section 41, shall be dealt with.

Designation

(2) The Governor in Council, on the recommendation of the Commission, may designate any portion of the public service of Canada for the purposes of subsection 2(2).

Revocation

(3) The Governor in Council, on the recommendation of the Commission, may revoke any designation under subsection (2). Amended 1992, c. 54, s. 24.

Treasury Board regulations respecting deployment

37.1 (1) The Treasury Board may make regulations respecting deployments.

Treasury Board regulations respecting levels

(2) The Treasury Board may, in respect of any occupational group or part thereof, make regulations extending or changing to levels the provisions of this Act that apply to positions.

Consultation

(3) The Treasury Board shall, on request or where, in its opinion, consultation is necessary or desirable, consult with representatives of the Commission or any employee organization certified as a bargaining agent under the *Public Service Staff Relations Act* with respect to any regulations that may be made under this section. Added 1992, c. 54, s. 25.

Application

37.2 A regulation made under this Act may be of general application or may apply to a specified person, occupational group, part of the Public Service or process, or any class thereof. Added 1992, c. 54, s. 25.

Block Transfers

Block Transfers

37.3 (1) Nothing in an order made under the *Public Service Rearrangement and Transfer of Duties Act* shall be construed as affecting the status of an employee who, immediately before the coming into force of

the order, occupied a position in a portion of the Public Service the control or supervision of which has been transferred from one department or portion of the Public Service to another, or in a department that has been amalgamated and combined, except that the employee shall, on the coming into force of the order, occupy that position in the department or portion of the Public Service to which the control or supervision has been transferred or in the department as amalgamated and combined.

Transfer of other staff

(2) Where an order is made under the *Public Service Rearrangement and Transfer of Duties Act*, the Governor in Council may, by order made on the recommendation of the Treasury Board and where the Governor in Council is of the opinion that an employee or class of employees is carrying out powers, duties or functions that are in whole or in part in support of or related to the powers, duties and functions of employees referred to in subsection (1) and that it is in the best interests of the Public Service to do so, declare that the employee or class of employees shall, on the coming into force of the order, occupy their positions in the department or portion of the Public Service where the employees referred to in subsection (1) are currently occupying their positions.

Definition of Public Service

(3) In this section, "Public Service" means the departments and other portions of the public service of Canada specified in Part I of Schedule I to the *Public Service Staff Relations Act*.

Retroactive application

(4) This section applies to any order made under the *Public Service Rearrangement and Transfer of Duties Act* on or after March 20, 1995 and before or after the coming into force of this section. Added 1995, c. 17, s. 10.

Rate of Pay on Appointment

Rate of pay on appointment

38. Subject to any direction of a special or general character that may be made pursuant to the *Financial Administration Act*, the Commission may make an appointment to a position at any rate in the scale of rates of pay that may be established for that position or for positions of the same occupational nature and level as that position.

Ministers' Staffs

Ministerial staffs

39. (1) A Minister may appoint his Executive Assistant and other persons required in his office.

Termination of employment

(2) A person who is employed in the office of a Minister ceases to be so employed thirty days after the person holding the position of such Minister ceases to hold that position.

Rights on termination of employment

(3) A person who

(a) was an employee immediately before becoming employed in the office of a Minister, or

(b) while employed in the office of a Minister, qualified for appointment under this Act to the Public Service

is entitled, for a period of one year from the day on which the person ceases to be so employed, to be appointed without competition and, subject to section 30, in priority to all other persons, to a position in the Public Service for which, in the opinion of the Commission, the person is qualified.

Idem

(4) A person who, for at least three years, has been employed as Executive Assistant, Special Assistant or Private Secretary to a Minister, or in any of those capacities successively, is entitled, for a period of one year from the day on which the person ceases to be so employed, to be appointed without competition and, subject to subsection (3) and section 30, in priority to all other persons to a position in the Public Service, at a level at least equivalent to the level of private secretary to a deputy head, for which, in the opinion of the Commission, the person is qualified.

Order of appointments

(5) The Commission shall determine the order in which those persons to whom subsection (3) or (4) applies are to be appointed to positions in the Public Service.

Leader of the Opposition

(6) This section applies to a person employed in the office of the person holding the recognized position of Leader of the Opposition in the House of Commons, Leader of the Government in the Senate or Leader of the Opposition in the Senate, as it applies to a person employed in the office of a Minister.

Other Public Officials

Appointments by Governor in Council

40. The Governor in Council may appoint and fix the remuneration of

(a) the Clerk of the Privy Council and Secretary to the Cabinet;

(b) the Secretary to the Cabinet for Federal-Provincial Relations;

(c) the Clerk of the Senate;

(d) the Clerk of the House of Commons; and

(e) the Secretary to the Governor General.

Head of the Public Service

40.1 The Clerk of the Privy Council and Secretary to the Cabinet is the Head of the Public Service. Added 1992, c. 54, s. 26.

Exclusions

Exclusion of persons and positions

41. (1) In any case where the Commission decides that it is neither practicable nor in the best interests of the Public Service to apply this Act or any of its provisions to any position or person or class of positions or persons, the Commission may, with the approval of the Governor in Council, exclude that position, person or class in whole or in part from the operation of this Act. Amended 1999, c.31, s. 186.

Re-application of provisions to persons or positions

(2) The Commission may, with the approval of the Governor in Council, re-apply any of the provisions of this Act to any position or person excluded pursuant to subsection (1).

Irregularities and Fraudulent Practices

Fraudulent practices

42. Where the Commission is satisfied that any irregularity or fraudulent practice has occurred in a selection process for appointment held by it or by any person deputed by it, the Commission may summon before it by a summons, in the form set out in Schedule IV, signed by the President or by any other commissioner, and may examine under oath or solemn affirmation any person who, in its opinion, is in a position to give evidence in relation to that irregularity or fraudulent practice. Amended 1992, c. 54, s. 27.

Refusal to appoint or revocation of appointment

43. Where a person who is being considered for appointment, or who has been appointed, under this Act to or from within the Public Service is proved on an inquiry to have been concerned in any fraudulent practice, or to have been guilty of any breach of the regulations with respect to any selection process for appointment held under this Act, the Commission may refuse to consider the person for the appointment or, if the person has been appointed, may revoke the appointment of the person retroactively to the date of the appointment. Amended 1992, c. 54, s. 27.

Personation

44. Every person who, in any selection process held under this Act, personates any candidate or employs, induces or allows any other person to personate the person or connives or assists at any personation is guilty of an offence punishable on summary conviction. Amended 1992, c. 54, s. 27.

Illegally obtaining papers

45. Every person who, without authority, procures from any printer or other person, and every person who, without authority, furnishes to any other person, any examination paper or any other paper relating to a selection process held under this Act is guilty of an offence punishable on summary conviction. Amended 1992, c. 54, s. 27.

Oaths

Authority to administer oaths,

46. The Governor in Council may authorize any person to administer

etc. oaths and take and receive affidavits, declarations and solemn affirmations for any of the purposes of this Act or the regulations.

Report to Parliament

Annual report

47. (1) The Commission shall, within five months after the end of each fiscal year, transmit to the Minister designated by the Governor in Council for the purposes of this section a report and statement of

(a) the transactions and affairs of the Commission during that year;

(b) the nature of any action taken by it under subsection 6(1) or (4);

(c) the positions and persons, if any, excluded under section 41 in whole or in part from the operation of this Act and the reasons therefor; and

(d) the activities of the Commission during that year in relation to the implementation of employment equity programs, including its activities during that year in discharging its obligations under the *Employment Equity Act*. Amended 1995, c. 44, s. 53.

Report to Parliament

(2) The Minister designated by the Governor in Council under subsection (1) shall cause the report and statement referred to in that subsection to be laid before Parliament within fifteen days after the receipt by the Minister thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting. Amended 1992, c. 54, s. 28.

Report of Head of the Public Service

47.1 The Head of the Public Service shall submit a report on the state of the Public Service in each fiscal year to the Prime Minister, and the Prime Minister shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Prime Minister receives it. Added 1992, c. 54, s. 29.

Application of Act

Application

48. (1) This Act applies to all employees whether appointed before, on or after March 13, 1967.

Reference to periods of employment

(2) A reference in any of the provisions of this Act to a period of employment shall be construed as including employment before as well as on or after March 13, 1967.

PART V

PUBLIC SERVICE STAFFING TRIBUNAL

Establishment

Tribunal established	<p>49. (1) A tribunal is established, to be called the Public Service Staffing Tribunal, consisting of between five and seven permanent members appointed by the Governor in Council and any temporary members that are appointed under section 51. Added 2003, c. 22, s. 19</p>
Eligibility	<p>(2) In order to be eligible to hold office as a member, a person must</p> <p>(a) be a Canadian citizen within the meaning of the <i>Citizenship Act</i> or a permanent resident within the meaning of the <i>Immigration and Refugee Protection Act</i>; and</p> <p>(b) have knowledge of or experience in employment matters in the public service. Added 2003, c. 22, s. 19</p>
Full-time or part-time	<p>(3) Members shall be appointed on a full-time or part-time basis. Added 2003, c. 22, s. 19</p>
Chairperson and Vice-Chairperson	<p>(4) The Governor in Council shall designate a full-time permanent member to be Chairperson of the Tribunal and a full-time or part-time permanent member to be its Vice-Chairperson. Added 2003, c. 22, s. 19</p>
Residence of Chairperson	<p>(5) The Chairperson shall reside in the National Capital Region as described in the schedule to the <i>National Capital Act</i> or within the distance of it specified by the Governor in Council. Added 2003, c. 22, s. 19</p>
Oath or affirmation	<p>(6) Before commencing his or her functions, a person appointed as a member of the Tribunal shall take an oath or make a solemn affirmation in the following form before a commissioner of oaths or other person having authority to administer oaths or solemn affirmations:</p> <p>I,, do swear (<i>or solemnly affirm</i>) that I will faithfully, truly and impartially, to the best of my judgement, skill and ability, execute and perform the office of member (<i>or Chairperson or Vice-Chairperson</i>) of the Public Service Staffing Tribunal.</p> <p>Added 2003, c. 22, s. 19</p>
Tenure	<p>50. (1) A permanent member of the Tribunal holds office during good behaviour for a term not exceeding five years, but may be removed for cause by the Governor in Council. Added 2003, c. 22, s. 19</p>
Reappointment	<p>(2) A permanent member is eligible to be reappointed. Added 2003, c. 22, s. 19</p>
Temporary members	<p>51. (1) The Governor in Council may appoint temporary members of the Tribunal whenever, in the Governor in Council's opinion, the workload of</p>

the Tribunal so requires. Added 2003, c. 22, s. 19

Tenure	(2) A temporary member of the Tribunal holds office during good behaviour for a term not exceeding two years, but may be removed for cause by the Governor in Council. Added 2003, c. 22, s. 19
Reappointment	(3) A temporary member is eligible to be reappointed. Added 2003, c. 22, s. 19
Carrying out functions	52. Members shall not accept or hold any office or employment or carry on any activity inconsistent with their functions, and full-time members shall devote the whole of their time to the performance of their functions. Added 2003, c. 22, s. 19
Remuneration	53. (1) A member shall be paid the remuneration fixed by the Governor in Council. Added 2003, c. 22, s. 19
Expenses	(2) Members are entitled to be paid reasonable travel and other expenses incurred by them in the course of their duties while absent from, in the case of full-time members, their ordinary place of work and, in the case of part-time members, their ordinary place of residence. Added 2003, c. 22, s. 19
Application of the <i>Public Service Superannuation Act</i>	(3) Full-time members are deemed to be employed in the Public Service for the purposes of the <i>Public Service Superannuation Act</i> . Added 2003, c. 22, s. 19
Application of other Acts	(4) All members are deemed to be employed in the public service of Canada for the purposes of the <i>Government Employees Compensation Act</i> and the regulations made under section 9 of the <i>Aeronautics Act</i> . Added 2003, c. 22, s. 19
Offices	54. (1) The head office of the Tribunal shall be in the National Capital Region described in the schedule to the <i>National Capital Act</i> and the Tribunal may, with the approval of the Governor in Council, establish any regional offices that it considers necessary to carry out its mandate. Added 2003, c. 22, s. 19
Services and facilities	(2) In executing its mandate, the Tribunal may use any services and facilities of departments, boards and agencies of the Government of Canada that are appropriate for the operation of the Tribunal. Added 2003, c. 22, s. 19
Chief executive officer	55. (1) The Chairperson of the Tribunal is its chief executive officer and has supervision over and direction of the work of the Tribunal. Added 2003, c. 22, s. 19
Delegation by Chairperson	(2) The Chairperson may authorize the Vice-Chairperson to exercise

any of the Chairperson's powers or perform any of the Chairperson's functions. Added 2003, c. 22, s. 19

Absence of
Chairperson

(3) If the Chairperson is absent or unable to act or the office of Chairperson is vacant, the Vice-Chairperson shall act as the Chairperson and, while so acting, has all the powers and shall perform all the duties of the Chairperson. Added 2003, c. 22, s. 19

Acting
Chairperson

(4) If both the Chairperson and the Vice-Chairperson are absent or unable to act or if both of their offices are vacant, the minister designated by the Governor in Council for the purposes of this section may authorize a permanent member or other qualified person to act as Chairperson for a period not exceeding 60 days and the Governor in Council may authorize a permanent member or other qualified person to act as Chairperson for any longer period. Added 2003, c. 22, s. 19

Human resources

56. (1) The Chairperson of the Tribunal may employ persons for the proper conduct of the Tribunal's work, fix their period of employment, establish their probationary periods, reject them on probation and lay them off. Added 2003, c. 22, s. 19

Experts and
advisors

(2) The Chairperson may retain on a temporary basis the services of mediators and other experts or persons having technical or special knowledge to assist the Tribunal in an advisory capacity and, subject to the approval of the Treasury Board, fix their remuneration. Added 2003, c. 22, s. 19

Application of the
*Public Service
Superannuation
Act*

(3) Persons retained under subsection (2) are not employed in the Public Service for the purposes of the *Public Service Superannuation Act*. Added 2003, c. 22, s. 19

SCHEDULE I

(Section 3)

OATH OR SOLEMN AFFIRMATION OF OFFICE OF COMMISSIONER

I,, do solemnly and sincerely swear (or affirm) that I will truly and faithfully, and to the best of my skill and knowledge, execute and perform the office of (Commissioner or President, as *the case may be*) of the Public Service Commission. (In the case where an oath is taken, add "So help me God").

SCHEDULE II

(Section 16)

DEFINITIONS

1. For the purposes of section 16 and this Schedule,

"member of the Women's Royal Naval Services"
«personnel...»

"member of the Women's Royal Naval Services" means a person who

(a) enrolled in the Women's Royal Naval Service,

(b) enrolled in Queen Alexandra's Royal Naval Nursing Service or the reserve thereof, or

(c) enrolled as a medical or dental practitioner employed with the Medical Branch or Dental Branch of the Royal Navy with naval status for general service;

"person in receipt of a pension by reason of war service"
«pensionné...»

"person in receipt of a pension by reason of war service" means a person who

(a) is in receipt of a pension

(i) by reason of service in World War I, or

(ii) by reason of service only in World War II, and who at the commencement of such service was domiciled in Canada or Newfoundland,

(b) has, from causes attributable to that service lost capacity for physical exertion to an extent that makes the person unfit to pursue efficiently the

vocation that the person was pursuing before the war, and

(c) has not been successfully re-established in any other vocation;

“survivor of a
veteran”
«*survivant d'un
ancien
combattant*»

“survivor of a veteran” means the surviving spouse or surviving common-law partner of a person who, being a veteran, died from causes arising during the service by virtue of which the person became a veteran;
Amended 2000, c. 12, s. 274

“veteran”
«*ancien
combattant*»

"veteran" means, subject to subsection 2(1) of this Schedule, a person who

(a) during World War I was on active service overseas in the naval, army or air forces or who served on the high seas in a seagoing ship of war in the naval forces of His Majesty or of any of the Allies of His Majesty, and who has left that service with an honourable record or has been honourably discharged,

(b) during World War II was on active service

(i) in the naval, army or air forces of His Majesty or of any of His Majesty's Allies and at the commencement of that active service was domiciled in Canada or Newfoundland, or

(ii) in the naval, army or air forces of Canada, and, not being domiciled in Canada at the commencement of that active service, is a Canadian citizen,

and who, in the course of that service, performed duties outside of the Western Hemisphere, or on the high seas in a ship or other vessel service that was, at the time the person performed those duties, classed as "sea time" for the purpose of the advancement of naval ratings, or that would have been so classed had the ship or other vessel been in the service of the naval forces of Canada,

(c) during World War II served as a member of the Women's Royal Naval Services or as a member of the South African Military Nursing Service outside of the Western Hemisphere and who, at the commencement of her service during World War II, was domiciled in Canada or Newfoundland,

(d) has been certified by the Deputy Minister of Foreign Affairs as having been enrolled in Canada or Newfoundland by United Kingdom authorities for special duty during World War II in war areas outside of the Western Hemisphere, and who served outside of the Western Hemisphere, and at the time of enrolment was domiciled in Canada or Newfoundland, or

(e) during World War II served outside of the Western Hemisphere with the naval, army or air forces of His Majesty raised in Canada or Newfoundland as a representative of *Canadian Legion War Services, Inc.*, the National Council of the *Young Men's Christian Associations of Canada*, *Knights of Columbus Canadian Army Huts*, or *Salvation Army Canadian War Services*, was authorized so to serve by the appropriate naval, army or air force authority and who, at the commencement of that service with those forces during World War II, was domiciled in Canada or Newfoundland;

"Western Hemisphere"
«*hémishphère*»

"Western Hemisphere" means the continents of North and South America, the islands adjacent thereto and the territorial waters thereof, including Newfoundland, Bermuda and the West Indies, but excluding Greenland, Iceland and the Aleutian Islands;

"widow of a veteran"
«*veuve...*»
"Widow or widower of a veteran" «*veuve*»

"widow of a veteran" [Repealed, 1992, c. 54, s. 30]

"widow or widower of a veteran" [Repealed, 2000, c. 12, s. 274]

"World War I"
«*Première*»

"World War I" means the war declared by His Majesty on August 4, 1914 against the Empire of Germany and subsequently against other powers;

"World War II"
«*Seconde*»

"World War II" means the war declared by His Majesty on the September 10, 1939 against the German Reich and subsequently against Italy, Finland, Hungary, Rumania and Japan.

2. (1) The definition "veteran" in section 1 of this Schedule does not include a person who

(a) served outside of the Western Hemisphere or on the high seas only in that the person was a passenger in an aircraft, ship or other vessel, or only in that the person underwent a limited period of training in an aircraft, ship or other vessel incidental to a program of instruction, or

(b) by reason of the misconduct of the person, since September 10, 1939, ceased to serve in the naval, army or air forces of His Majesty or of any of His Majesty's Allies, to be a member of the Women's Royal Naval Services or the *South African Military Nursing Service*, to be enrolled for the special duty mentioned in the definition "veteran" in section 1 of this Schedule or to serve with the forces as a representative of *Canadian Legion War Services Inc.*, the National Council of the *Young Men's Christian Associations of Canada*, *Knights of Columbus Canadian Army Huts* or *Salvation Army Canadian War Services*.

(2) For the purpose of determining whether a person is a veteran, World War II is deemed to have terminated

(a) in respect of service in connection with operations in the European

and Mediterranean Theatres of War, on May 8, 1945; and

(b) in respect of service in connection with operations in the Pacific Theatre of War, on August 15, 1945. Amended 1992, c. 54, s. 30; 1995, c. 5, s. 27.

SCHEDULE III

(Section 23)

OATH OR SOLEMN AFFIRMATION OF OFFICE AND SECRECY

I,, solemnly and sincerely swear (or affirm) that I will faithfully and honestly fulfil the duties that devolve on me by reason of my employment in the Public Service and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. (In the case where an oath is taken, add "So help me God".)

SCHEDULE IV

(Section 42)

SUMMONS TO AN INQUIRY

To

You are hereby required to appear before the Public Service Commission at on the day of o'clock in the noon to testify the truth according to your knowledge in a certain inquiry pending before the Public Service Commission respecting

(The following words may be added if the production of any paper or document is required.) and that you bring with you and then and there produce the following documents:

Dated at this day of A.D.

.....
Public Service Commissioner