

Competition Act, 2002

Chapter 3 - Competition Commission of India

¹7. Establishment of Commission.--

(1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Commission to be called the "Competition Commission of India".

(2) The Commission shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at such place as the Central Government may decide from time to time.

(4) The Commission may establish offices at other places in India.

1. Effective from 19.06.2003 by Notification No. SO 715 (E) Dated 19.06.2003.

Section 8 - Composition of Commission

²[8. Composition of Commission.--

1) The Commission shall consist of a Chairperson and not less than two and not more than six other Members to be appointed by the Central Government.

(2) The Chairperson and every other Member shall be a person of ability, integrity and standing and who has special knowledge of, and such professional experience of not less than fifteen years in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy, which in the opinion of the Central Government, may be useful to the Commission.

(3) The Chairperson and other Members shall be whole-time Members.]

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] w.e.f. 12.10.2007. Prior to substitution it read as:

"¹8. Composition of Commission.--

(1) The Commission shall consist of a Chairperson and not less than two and not more than ten other Members to be appointed by the Central Government:

Provided that the Central Government shall appoint the Chairperson and a Member during the first year of the establishment of the Commission.

(2) The Chairperson and every other Member shall be a person of ability, integrity and standing and who, has been, or is qualified to be, a judge of a High Court, or, has special knowledge of, and professional experience of not less than fifteen years in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs, administration or in any other matter which, in the opinion of the Central Government, may be useful to the Commission.

(3) The Chairperson and other Members shall be whole-time Members."

Section 9 - Selection Committee for Chairperson and Members of Commission

²[9. Selection Committee for Chairperson and Members of Commission--

(1) The Chairperson and other Members of the Commission shall be appointed by the Central Government from a panel of

names recommended by a Selection Committee consisting of--

(a) the Chief Justice of India or his nominee.....Chairperson;

(b) the Secretary in the Ministry of Corporate Affairs.....Member;

(c) the Secretary in the Ministry of Law and Justice.....Member;

(d) two experts of repute who have special knowledge of, and professional experience in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters including competition law and policy.....Members.

(2) The term of the Selection Committee and the manner of selection of panel of names shall be such as may be prescribed.]

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Substituted by the (Competition (Amendment) Act, 2007 [Act No. 39 Of 2007] w.e.f. 12.10.2007. Prior to substitution it read as:

"¹ 9. Selection of Chairperson and other Members.--

"The Chairperson and other Members shall be selected in the manner as may be prescribed."

Section 10 - Term of office of Chairperson and other Members

¹ 10. Term of office of Chairperson and other Members.--

(1) The Chairperson and every other Member shall hold office as such for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

²[Provided that the Chairperson or other Members shall not hold office as such after he has attained the age of sixty-five years.]

(2) A vacancy caused by the resignation or removal of the Chairperson or any other Member under section 11 or by death or otherwise shall be filled by fresh appointment in accordance with the provisions of sections 8 and 9.

(3) The Chairperson and every other Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form, manner and before such authority, as may be prescribed.

(4) In the event of the occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson, until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(5) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes the charge of his functions.

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Proviso substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] w.e.f. 12.10.2007. Prior to substitution the text was as follows;

"Provided that no Chairperson or other Member shall hold office as such after he has attained,--

(a) in the case of the Chairperson, the age of sixty-seven years;

(b) in the case of any other Member, the age of sixty-five years."

Section 11 - Resignation, removal and suspension of Chairperson and other Members

¹ 11. Resignation, removal and suspension of Chairperson and other Members.--

(1) The Chairperson or any other Member may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or a Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, by order, remove the Chairperson or any other Member from his office if such Chairperson or Member, as the case may be,--

- (a) is, or at any time has been, adjudged as an insolvent; or
- (b) has engaged at any time, during his term of office, in any paid employment; or
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has become physically or mentally incapable of acting as a Member.

(3) Notwithstanding anything contained in sub-section (2), no Member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

1. Effective from 19.06.2003 by Notification No. SO 715(E) Dated 19.06.2003.

Section 12 - Restriction on employment of Chairperson and other Members in certain cases

¹12. Restriction on employment of Chairperson and other Members in certain cases.--

The Chairperson and other Members shall not, for a period of ²[two years] from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Commission under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

1. Effective from 19.06.2003 by Notification No. SO 715(E) Dated 19.06.2003.

2. Substituted by the Competition (Amendment) Act 2007 [Act No. 39 of 2007] for the words "one year", w.e.f. 12.10.2007.

Section 13 - Administrative powers of Chairpersons

²[13. Administrative powers of Chairpersons.--

The Chairperson shall have the powers of general superintendence, direction and control in respect of all administrative matters of the Commission:

Provided that the Chairperson may delegate such of his powers relating to administrative matters of the Commission, as he may think fit, to any other Member or officer of the Commission.]

1. Effective from 19.06.2003 by Notification No. SO 715(E) Dated 19.06.2003.

2. Substituted by the Competition (Amendment) Act 2007 [Act No. 39 of 2007]. Prior to substitution it read as:

¹13. Financial and administrative powers of Member Administration.--

The Central Government shall designate any Member as Member Administration who shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:

Provided that the Member Administration shall have authority to delegate such of his financial and administrative powers as he may think fit to any other officer of the Commission subject to the condition that such officer shall, while exercising such delegated powers continue to act under the direction, superintendence and control of the Member Administration."

Section 14 - Salary and allowances and other terms and conditions of service of Chairperson and other Members

¹ 14. Salary and allowances and other terms and conditions of service of Chairperson and other Members.--

(1) The salary, and the other terms and conditions of service, of the Chairperson and other Members, including travelling expenses, house rent allowance and conveyance facilities, sumptuary allowance and medical facilities shall be such as may be prescribed.

(2) The salary, allowances and other terms and conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after appointment.

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

Section 15 - Vacancy, etc., not to invalidate proceedings of Commission

¹ 15. Vacancy, etc., not to invalidate proceedings of Commission.--

No act or proceeding of the Commission shall be invalid merely by reason of--

- (a) any vacancy in, or any defect in the constitution of, the Commission; or
- (b) any defect in the appointment of a person acting as a Chairperson or as a Member; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

1. Effective from 19.06.2003 by Notification No. SO 715(E) Dated 19.06.2003.

Section 16 - Appointment of Director-General, etc.

¹ 16. Appointment of Director-General, etc.--

²(1) The Central Government may, by notification, appoint a Director General for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and for performing such other functions as are, or may be, provided by or under this Act.

(1A) The number of other Additional, Joint, Deputy or Assistant Directors General or such officers or other employees in the office of Director General and the manner of appointment of such Additional, Joint, Deputy or Assistant Directors General or such officers or other employees shall be such as may be prescribed.]

(2) Every Additional, Joint, Deputy and Assistant Directors General or ³[such officers or other employees,] shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director General.

(3) The salary, allowances and other terms and conditions of service of the Director General and Additional, Joint, Deputy and Assistant Directors General or ³[such officers or other employees,] shall be such as may be prescribed.

(4) The Director General and Additional, Joint, Deputy and Assistant Directors General or [such officers or other employees,] shall be appointed from amongst persons of integrity and outstanding ability and who have experience in investigation, and knowledge of accountancy, management, business, public administration, international trade, law or economics and such other qualifications as may be prescribed.

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Substituted for the following by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] w.e.f. 12.10.2007.

"(1) The Central Government may, by notification, appoint a Director General and as many Additional, Joint, Deputy or Assistant Directors General or such other advisers, consultants or officers, as it may think fit for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and for the conduct of cases

before the Commission and for performing such other functions as are, or maybe, provided by or under this Act."

3. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] for the words "such other advisers, consultants and officers," w.e.f. 12.10.2007.

Section 17 - Appointment of Secretary, experts professionals and officers and other employees and other employees of Commission

²[17. Appointment of Secretary, experts professionals and officers and other employees and other employees of Commission.--

(1) The Commission may appoint a Secretary and such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary and officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed.

(3) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as it deems necessary to assist the Commission in the discharge of its functions under this Act.]

1. Effective from 31.03.2003 by Notification No. 340 (E) Dated 31.03.2003

2. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] w.e.f. 12.10.2007. Prior to substitution it read as:

¹ 17. Registrar and officers and other employees of Commission.--

(1) The Commission may appoint a Registrar and such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(2) The salaries and allowances payable to and other terms and conditions of service of the Registrar and officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed."
