



Protection from reprisal.
Your Right. Our Mission.

Procedural Guide

Public Servants Disclosure Protection Tribunal



Public Servants
Disclosure Protection
Tribunal Canada

Tribunal de la protection
des fonctionnaires
divulgateurs Canada

Canada

This guide will help you understand the procedures of the Public Servants Disclosure Protection Tribunal (the Tribunal). It is based on the *Public Servants Disclosure Protection Act* (the Act) and on the *Rules of Procedure* that the Tribunal has adopted. Since the Act and the *Rules of Procedure* do not answer all the questions that may arise in a Tribunal proceeding, this guide has been made available.

The guide contains general information only. It has no legal status and does not provide legal advice on how a party should proceed. If you need legal advice, please contact a lawyer or other representative. You may direct questions about procedure to the Registry of the Tribunal by telephone at 613-943-8310, by facsimile at 613-943-8325 or by e-mail at the address below.

E-mail: tribunal@psdpt-tpfd.gc.ca.

Mailing address:

Public Servants Disclosure Protection Tribunal Canada
90 Sparks Street, Suite 512
Ottawa, Ontario K1P 5B4

The guide is in constant development. We invite you to send us your comments so that we can adapt it to better meet your needs.

You will find the full text of the Act and the *Rules of Procedure* on the [Tribunal's website](#). You will also find the Tribunal's decisions, notices of hearing and the Procedural Guide on the site.

TABLE OF CONTENTS

GENERAL INFORMATION	1
Introduction	1
Application to the Tribunal	1
Remedies.....	2
Disciplinary action	2
Parties.....	2
Interested persons	3
Representation.....	3
PROCEEDINGS	4
Introduction	4
Service and filing of documents	4
Motions	5
Affidavits	6
Calculation of time limits	6
Official languages	6
Hours of operation	7
CONDUCT OF THE PROCEEDING.....	8
Introduction	8
Receipt of the application and service	8
Notice of commencement of time limits and preliminary hearing date	8
A. Proceedings dealing with remedies.....	9
B. Proceedings dealing with disciplinary action	11
Pre-hearing conference	13
Book of authorities	14
Summoning of witnesses	14
Tribunal hearing.....	14
Conduct of the hearing.....	15
A. Evidence	15
B. Exclusion of witnesses	16
C. Arguments.....	16
D. Adjournment.....	17
Decision	17
AFTER THE DECISION	18
Enforcement of decisions.....	18

Judicial review.....	18
APPENDIX I: GLOSSARY	19
APPENDIX II: DIAGRAM OF REPRISAL PROCESS.....	21
APPENDIX III: LIST OF HOLIDAYS	22
APPENDIX IV: TIME LIMITS IN THE RULES OF PROCEDURE (PSDPT).....	23

GENERAL INFORMATION

Introduction

As a public servant, you are encouraged to disclose [wrongdoings](#) that occur in the public sector.

If, after you disclose a wrongdoing, you believe that a [reprisal](#) was taken against you, you may file a complaint with the Office of the Public Sector Integrity Commissioner (the Office). Your complaint could be forwarded later to the Public Servants Disclosure Protection Tribunal (the Tribunal). For an overview of the Reprisal Complaint Process, please refer to [Appendix II](#).

The Tribunal was created in 2007 under the *Public Servants Disclosure Protection Act* (the Act). The Tribunal is an independent body that operates almost like a court. It deals with reprisal complaints referred to it by the Public Sector Integrity Commissioner (the Commissioner). If the Tribunal decides that a reprisal was taken, it can order a [remedy](#) in favour of the [complainant](#). The Tribunal can also order [disciplinary action](#) against the person who took the reprisal.

Under the Act, the Tribunal consists of a Chairperson and between two and six other members who are appointed by the Governor in Council (subs. 20.7(1) of the Act). The members are judges of the Federal Court of Canada or of a superior court of a province. When the Tribunal receives a complaint, the Chairperson assigns one or three members to deal with the complaint (subs. 21.1(1) of the Act).

Application to the Tribunal

Only the Commissioner can refer a reprisal complaint to the Tribunal. The Commissioner may ask the Tribunal to decide whether a reprisal was taken against the complainant and to order:

- a remedy in favour of the complainant (para. 20.4(1)(a) of the Act) or
- a remedy in favour of the complainant and disciplinary action against the person who took the reprisal (para. 20.4(1)(b) of the Act)

Remedies

Where a reprisal has been taken against a complainant, the Tribunal may order the employer or the appropriate chief executive to take the following remedial measures (subs. 21.7(1) of the Act):

- allow the complainant to return to his or her duties
- reinstate the complainant to his or her position or pay compensation to the complainant if the relationship of trust cannot be restored
- pay the complainant for lost salary or wages
- cancel any disciplinary action taken against the complainant and pay compensation to the complainant equivalent to the financial or other penalty that was imposed
- pay the complainant the expenses and financial losses incurred as a direct result of the reprisal
- compensate the complainant for any pain and suffering experienced as a result of the reprisal to a maximum of \$10,000

Disciplinary action

The Tribunal may order that disciplinary action, including dismissal, be taken against any person who took a reprisal (subs. 21.8(1) of the Act).

Parties

A [party](#) is a person who takes part in a case and has the right to present [evidence](#) and [arguments](#) to the Tribunal.

Where a proceeding deals with deciding whether a reprisal was taken and granting a remedy to the complainant, the parties before the Tribunal are (subs. 21.4(1) and (2) and subs. 21.5(1) and (2) of the Act):

- the Commissioner
- the complainant
- the complainant's employer or former employer

- the person identified as the person who took the reprisal (depending on the type of order the Commissioner requests, this person may be a full party or may be granted party status by the Tribunal)

Where a proceeding deals with disciplinary action against the person who took the reprisal, the parties before the Tribunal are (subs. 21.5(5) of the Act):

- the Commissioner
- the person who took the reprisal
- the person designated by the Tribunal to make submissions on behalf of the person or entity that would be required to implement the order

Interested persons

If a person believes having a substantial interest in a proceeding and wants to be recognized as an [interested person](#), he or she may bring a motion to the Tribunal to request this. In its decision, the Tribunal will consider whether the position is already represented at the proceeding, whether the public interest or the interests of justice would be served by allowing the person to intervene and whether the input would assist the Tribunal in deciding any matter. If the Tribunal grants an interested person status, it will explain the role and procedure to need to follow (rule 12).

Representation

A party or an interested person may be represented by a lawyer or by any person (subs. 21.6(1) of the Act). If you are a party or an interested person and you want to be represented, you must inform the [Registry](#) of the Tribunal in writing and provide the name and contact information of the person who will represent you in the proceeding. After receiving this information, the Registry will deal directly with your representative for all matters related to the proceeding (rule 7).

PROCEEDINGS

Introduction

The *Rules of Procedure* of the Tribunal are aimed at making sure that every party is given a full and ample opportunity to participate in any proceeding, that evidence and representations are disclosed and presented in a timely and efficient manner and that all proceedings before the Tribunal are conducted as informally and quickly as possible (subs. 21(1) of the Act and rule 2). Despite the *Rules of Procedure*, the Tribunal maintains its discretion to decide any procedural or evidentiary question (para. 21.2(1)(e) of the Act and rule 3).

Service and filing of documents

Generally, all written communication made under the *Rules of Procedure* must be served on all parties and interested persons (in fact, to their representatives) and filed in the Registry with proof of service (rule 7). This is how the Registry of the Tribunal makes certain that all parties and interested persons receive the information they are entitled to.

Service means that a document has been delivered by one of the following methods (rule 9):

- facsimile
- e-mail
- bailiff or process server
- registered mail
- ordinary mail
- courier
- delivery in person
- any other manner ordered by the Tribunal

Service may be proven by (rule 11):

- a written statement signed by the person who served the document
- an affidavit of service
- admission by the party who was served
- confirmation of receipt by the person who received a delivery by facsimile or e-mail.

A document is filed by delivering, mailing or faxing it to the Registry of the Tribunal at the following address:

Public Servants Disclosure Protection Tribunal Canada
90 Sparks Street, Suite 512
Ottawa, Ontario K1P 5B4

Motions

A motion is a request submitted to the Tribunal for a decision or an order concerning an issue that arises before or during the hearing (rule 13). A motion may be brought by a party, an interested person or a person wishing to obtain the status of a party or interested person.

A motion may be brought at any time before the Tribunal issues its final decision. A motion should be filed as soon as practicable after it is determined to do so (rule 13). A motion must be in writing and be served and filed unless the Tribunal permits otherwise (rules 16). The motion states the type of order requested and the reasons that are the basis for the motion (rule 17).

If a party makes a motion requesting a confidentiality order for a document or information set out in a document that he intends to file, the motion must be made in writing at the same time that the document is filed. In the motion, the party must identify the information or document for which the order is requested and the harm that would result from its disclosure. If the Tribunal grants the order, the motion party must provide the registrar a version of the document hiding elements covered by the order and mark with the word « NON-CONFIDENTIAL » (rule 15).

For written motions, the other parties and interested persons may serve their response no later than 10 days after being served with the motion (rule 18). If a party or interested person does not provide a response within that time period, the Tribunal will make its decision based on the information it has received.

For oral motions, the Tribunal will give directions to other parties and interested persons on how to respond (rule 16).

Once the deadline for a response has passed, the Tribunal will decide how to proceed and will review the submissions, make a decision on the motion and inform the parties and interested persons.

Affidavits

An affidavit is a written statement of facts, confirmed by an oath or solemn affirmation before a person who is authorized to administer oaths and solemn affirmations such as a lawyer, a notary or a commissioner for taking oaths.

It is a written document that contains the following information:

- a concise statement of each fact relating to the case (each fact must be described very explicitly in separate numbered paragraphs)
- the name, address, title/position of the person who is taking the oath or making the solemn affirmation
- a statement by the person taking the oath or making the solemn affirmation that the contents of the affidavit are true to the best of that person's knowledge and belief
- the signature of the person making the affidavit, and the date, place and signature of the person taking the oath or making the affirmation

Calculation of time limits

A time period under the *Rules of Procedure* that ends on a Saturday or holiday is extended to end on the next day that is not a Saturday or holiday (rule 4). For a list of holidays, please refer to [Appendix III](#).

Official languages

In the Commissioner's application to the Tribunal, the Commissioner indicates the anticipated official language or languages (English and/or French) of the proceeding (rule 5).

The Tribunal can serve you in both official languages. You may file your documents in the official language of your choice, regardless of the language that will be used at the hearing. If you would like simultaneous interpretation during the hearing, you must ask the Registry in writing at least ten days before the scheduled hearing date (rule 38).

Documents in any other language must include an English or French translation and an affidavit, i.e. a solemn declaration in writing stating that the translation is accurate (rule 8).

Decisions and orders of the Tribunal are issued in both official languages and are posted in English and French on the Tribunal's Web site.

Hours of operation

The Registry's hours of operation are Monday to Friday, 9:00 a.m. to 5:00 p.m. Eastern Time. Although the Tribunal's hearing times should be similar, they may differ based on the circumstances. In that case, the parties will be notified.

CONDUCT OF THE PROCEEDING

Introduction

Proceedings are conducted as informally and quickly as the [requirements of natural justice](#) and the *Rules of Procedure* allow (subs. 21(1) of the Act and rule 2). The time limits in the *Rules of Procedure* are peremptory, i.e. final.

Based on all the time limits set out in the *Rules of Procedure*, the period between receiving the Commissioner's application and beginning the complaint hearing should be approximately eight months. For the time limits under the *Rules of Procedure*, please refer to [Appendix IV](#).

Receipt of the application and service

When the Commissioner applies to have the Tribunal proceed with a reprisal complaint, he [serves](#) a copy of the application on the parties and files the application with the [Registrar](#) with proof of service (rule 7).

The application of the Commissioner includes (rule 5):

- the type of order requested
- the reasons supporting the application
- a copy of the complaint and a summary of its contents
- the contact information of the parties and their representatives
- the anticipated location of the hearing
- the anticipated language or languages of the proceeding
- the anticipated special arrangement of the proceeding

Notice of commencement of time limits and preliminary hearing date

After the filing of the Commissioner's application, the Registrar sends the parties a notice which corresponds to the date when the timelines under the *Rules of Procedure* commence (rule 6).

At roughly the same time, the Registrar asks about the availability of the parties and their representatives in order to set a date for the hearing on a preliminary basis. Based on the timelines in the *Rules of Procedure*, the hearing should normally take place eight months after the Commissioner's application for a hearing was received.

Disclosure of evidence

The purpose of disclosure is to allow the parties to share with the other parties the evidence and the position they intend to present to the Tribunal. A proceeding is not a game of hide-and-seek: a party is entitled to know the evidence and the position of the other parties in order to adequately prepare. Disclosure at the beginning of the proceeding means that the parties will not be taken by surprise, which will reduce potential requests for adjournments. This will have the effect of expediting Tribunal proceedings.

Under the Act, there are two types of Tribunal proceedings: those that involve granting a remedy to the complainant (subs. 21.4(1) of the Act) and those that involve disciplinary action against the person who took the reprisal (subs. 21.5(1) of the Act). Although the timelines are the same, the two hearings are separate because the parties are not all the same. For example, the complainant is a party to proceedings dealing with a remedy but not to proceedings dealing with disciplinary action. Therefore, when the proceeding relating to remedy is over, the proceeding relating to disciplinary action begins. It is a two-step process.

A. Proceedings dealing with remedies

After the Registrar serves the notice of commencement of time limits, the parties must serve and file a Statement of Particulars (rule 19).

A party's Statement of Particulars includes (rule 20):

- the material facts the party seeks to prove to support the party's case
- the party's position on legal issues raised in the case
- the remedy requested
- the documents (papers, videos, pictures, etc.) the party intends to file for which no privilege is claimed
- a list of documents the party has or had in his or her possession that are relevant to the case
- a list of all the witnesses the party intends to call (not including expert witnesses)
- the areas and issues that the party's expert witnesses will deal with

These are the time limits for filing the statements of particulars (rule 21):

If you are . . .	you must serve and file your after the notice of the registrar
the Commissioner	Statement of Particulars	no later than 20 days
the complainant	Statement of Particulars	no later than 35 days
the employer	Statement of Particulars	no later than 50 days
added party	Statement of Particulars	no later than 50 days

Within 65 days after the notice of the registrar, the Commissioner and the complainant may file a [reply](#) once the employer and the other parties, if any, have filed a Statement of Particulars (rules 23 and 24).

If new facts or issues are raised in the statements of particulars that are filed subsequently, the parties who file previously their Statement of Particulars may file a Supplementary Statement of Particulars to deal with these new elements. The Supplementary Statement of Particulars must be served and filed no later than 20 days after the service of the Statement of Particulars containing the new elements was served (rule 25).

After the pre-hearing conference (which is described at page 12 of this Guide), the Registrar sends a [notice of hearing](#) to the parties and interested persons to inform them of the date, time and place of the hearing. This notice must be sent at least 65 days before the hearing (rule 37).

After receiving the notice of hearing, the parties and interested persons (if any) file their expert witness reports. These reports must (rule 26):

- be dated and signed by the expert
- state the expert's name, address and qualifications
- state the summary of the expert's proposed testimony

These are the time limits for filing the expert reports (rule 27):

If you are . . .	you must serve and file before the hearing
the Commissioner	each expert's report	no later than 60 days
the complainant	each expert's report	no later than 40 days
the employer	each expert's report	no later than 20 days
added party	each expert's report	no later than 20 days

If a party or interested person discovers that they have not complied with the requirements for disclosure, they may bring a motion to correct the situation. It is important to point out that, without permission from the Tribunal, an element that has not been disclosed may not be introduced at the hearing and a witness who has not been identified may not testify (rule 41).

B. Proceedings dealing with disciplinary action

After issuing its decision that a reprisal was taken and its order granting a remedy to the complainant, the Tribunal will, if necessary, deal with the disciplinary action it could order against the person who took the reprisal (subs. 21.5(4) of the Act). This involves a separate proceeding.

Once the Registrar has served the notice of commencement of time limits (rule 22), the parties must serve and file a Statement of Particulars (rule 19).

A party's Statement of Particulars includes (rule 20):

- the party's position on the disciplinary action requested
- the documents the party intends to file for which no privilege is claimed
- a list of the documents the party had or has in his or her possession that are relevant to the case
- a list of all the witnesses the party intends to call (not including expert witnesses)
- the areas and issues that the party's expert witnesses will deal with

These are the time limits for filing the statements of particulars (rule 22):

If you are . . .	you must serve and file your after service of the decision
the Commissioner	Statement of Particulars	no later than 20 days
the person designated by the Tribunal	Statement of Particulars	no later than 35 days
the person who took the reprisal	Statement of Particulars	no later than 50 days

Within 65 days after the order is served, the Commissioner may file a reply once the statements of particulars of the employer, the person who took the reprisal and the other parties, if any, have been filed (rule 23).

If new facts or issues are raised in the statements of particulars that are filed subsequently, the parties who file previously their Statement of Particulars may file a Supplementary Statement of Particulars to deal with these new elements. The Supplementary Statement of Particulars must be served and filed no later than 20 days after the Statement of Particulars containing the new elements was served (rule 25).

After the pre-trial conference, the Registrar sends a notice of hearing to the parties and interested persons to inform them of the date, time and place of the hearing. This notice must be sent no later than 65 days before the hearing (rule 37).

After receiving the notice of hearing, the parties and interested persons (if any) file their expert witness reports. These reports must (rule 26):

- be dated and signed by the expert
- set out the expert's name, address and qualifications
- set out the summary of the expert's proposed testimony

These are the time limits for filing the expert witness reports (rule 28):

If you are . . .	you must serve and file. before the hearing
the Commissioner	each expert's report	no later than 60 days
the designated person by the Tribunal	each expert's report	no later than 40 days
the person who took the reprisal	each expert's report	no later than 20 days

If a party or interested person discovers that they have not complied with the requirements for disclosure, they may bring a motion to correct the situation. It is important to point out that, without permission from the Tribunal, an element that has not been disclosed may not be introduced at the hearing and a witness who has not been identified may not testify (rule 41).

Pre-hearing conference

The Tribunal may schedule a [pre-hearing conference](#) to resolve administrative or procedural issues regarding the proceeding (rule 30). This conference helps the parties, interested persons and the Tribunal prepare for the hearing.

A number of issues can be dealt with at a pre-hearing conference. Here are some examples:

- admitting facts that are not in dispute
- determining the number of witnesses in order to avoid repetitive evidence
- deciding how the hearing will be conducted (the order in which the parties and interested persons will present their evidence and submissions as well as the time this will take)
- the use of expert witnesses
- establishing the date, duration and location of the hearing
- the need for simultaneous interpretation
- motions that have been filed or are anticipated and that must be dealt with before the hearing
- any other issue that could expedite the proceeding

Pre-hearing conferences may be held by telephone conference, video conference or in person (rule 31). Before scheduling a pre-hearing conference, the Registrar may consult with the representatives of the parties and interested persons to take into account their preferences. The Registrar will then notify the representatives of the method, place and time for the pre-hearing conference (rule 32). There may be more than one pre-hearing conference.

A pre-hearing conference takes place before a member of the Tribunal and includes the representatives of the parties and interested persons. The Tribunal permits the parties and interested persons to participate as observers. The date for a pre-hearing conference will be set based on the availability of the representatives.

Book of authorities

No later than 15 days before the date of the hearing, the parties and interested persons must serve and file a [book of authorities](#), i.e. a book containing copies of the legislative provisions, case law and other legal authorities they intend to refer to at the hearing. The relevant passages in each authority must be highlighted. Federal statutory and regulatory provisions shall be reproduced in both official languages (rule 29).

Summoning of witnesses

On the request of a party, the Tribunal may issue a subpoena to compel one or more witnesses to attend the hearing or to produce a document at the hearing (rule 33). The subpoena must be served on the witness(es) at least 10 days before the hearing (rule 35).

The Tribunal may decide that the witnesses who have been summoned are entitled to be paid witness fees. The amounts are the same as those paid by the Federal Court (subs. 21.2(3) of the Act). These fees are paid by the party who subpoenas the witness.

Tribunal hearing

At the hearing, the Tribunal hears the testimony and the arguments of the parties and interested persons to determine whether a reprisal was taken. If the facts prove it is more probable than not that a reprisal occurred, the Tribunal will decide that the complaint is valid.

At least 65 days before the hearing, the Registrar sends a notice of hearing to the parties and interested persons stating the date, time and place of the hearing (rule 37). The Registrar will try to choose a location that is convenient for the parties. Hearings are usually held in the town or city closest to where the complainant works or lives.

Hearings are public, which means that the media may be present. The Tribunal may hold its hearings *in camera*, i.e. the public is not allowed in the hearing room, only if one of the parties requests this and proves that the circumstances of the case require it (s. 21.3 of the Act).

The Tribunal decides all procedural issues related to the hearing (rule 37). A hearing may proceed in the absence of a party if the Tribunal is satisfied that the absent party received notice of the hearing (rule 39).

Depending on the circumstances, the Tribunal may conduct a hearing in whole or in part by using telecommunication methods such as teleconference and video conference (rule 36).

Conduct of the hearing

The Tribunal is composed of one or three members (subs. 21.1(1) of the Act). The one member or the chairperson of the panel conducts the hearing (subs. 21.1(2) of the Act). On the day of the hearing, the [Registry officer](#) welcomes the parties and takes them to the room where the hearing will be held. The Registry officer opens the hearing and introduces the members of the Tribunal. The officer then asks the parties or their representatives to introduce themselves; they take turns standing up and introducing themselves. After making sure that the notice of hearing was properly issued, the Tribunal may begin the hearing even if a party or interested person is not there (rule 39). The Tribunal then asks each party to make an opening statement summarizing the main points to be discussed during the hearing.

A. Evidence

After the opening statements, the Tribunal asks the parties to call their witnesses. Before each witness testifies, the Tribunal administers the oath. The order in which the evidence will be presented should have been determined at the pre-trial hearing. Depending on the circumstances, the Tribunal may decide otherwise.

The expected order of presentation for proceedings that deal with reprisals and remedies should be as follows: the Commissioner, the complainant, the employer and the other parties. The expected order of presentation for proceedings that deal with

disciplinary action should be as follows: the Commissioner, the person designated by the Tribunal on behalf the employer, the person who took the reprisal and the other parties. The Tribunal will have decided the role of the interested persons and the procedure to be followed when it granted them status (rule 12).

In turn, the parties and interested persons call their witnesses to testify. Ordinary witnesses talk about facts they know personally whereas expert witnesses give opinions related to their expertise.

Each witness is first questioned by the party who called the witness: this is called the examination in chief. Next, the other parties may [cross-examine](#) the witness, i.e. ask him or her questions to challenge their testimony. The party who called the witness may then re-examine the witness to clarify new points raised during the cross-examination. The Tribunal members may also ask questions at any time.

If a party wants to examine a person who is unable to attend the hearing, a motion can be brought in order to allow an examination before the hearing. If the motion is granted, the Tribunal will fix the conditions (date, location, manner and production of documents) (rule 42).

It is important to point out that, to avoid taking the other parties by surprise and causing requests for adjournments, a party cannot raise or introduce an element that was not mentioned in his or her Statement of Particulars (rule 40). Without the Tribunal's permission, a party cannot talk about new facts or take new positions, introduce new documents, call a new witness or submit a new expert witness report.

B. Exclusion of witnesses

The Tribunal may order that a witness who has not yet testified be excluded from the hearing room (rule 43). This is done to prevent a witness from being influenced by previous witnesses. A party or a witness whose presence is essential to instruct a representative cannot be excluded but may be asked to testify before the other witnesses. No one may communicate with excluded witnesses until they have finished testifying (rule 44).

C. Arguments

After the witnesses have testified, the parties and interested persons present their arguments. Each party tries to show how the evidence and case law, i.e. previous decisions of courts and tribunals, support their case.

Like the presentation of the evidence, the order of presenting the arguments will have been decided at the pre-hearing conference or at the beginning of the hearing. The order in which the arguments are made should be similar to the order in which the evidence was introduced.

The Tribunal may ask the parties to file written arguments if that will accelerate the process and avoid scheduling other hearing dates for oral argument.

The Commissioner and the complainant will have the opportunity to respond when the other parties and interested persons have finished their arguments. Their response may also be given in writing.

Once the Tribunal has heard all the arguments, the hearing is over.

D. Adjournment

If the hearing cannot continue for any reason, the Tribunal may adjourn the hearing and set other dates and terms for its continuation (rule 40). Because of the difficulties in scheduling hearings, the Tribunal will only grant adjournments for serious reasons that are beyond the control of the parties.

Decision

After reviewing all the documents and testimony, the Tribunal will decide how much weight to give to the evidence and the arguments. The Tribunal will then give its decision in writing as quickly as possible. The decision will contain the reasons why the Tribunal reached its decision. The Tribunal's decisions are final and cannot be appealed.

The decision will be sent to the parties and interested persons. It will be posted on the Tribunal's Web site as soon as it is available in both official languages.

AFTER THE DECISION

Enforcement of decisions

If it appears that an order of the Tribunal will not be complied with, a party may ask the Commissioner to file a certified copy of the order with the Federal Court. When the order is filed, it becomes an order of the Federal Court and may be enforced (s. 21.9 of the Act).

Judicial review

The Tribunal's decisions are final and cannot be appealed. However, if a party believes that the Tribunal acted without jurisdiction or in a way that was contrary to law, did not comply with a [principle of natural justice](#) or based its final decision on an error in fact or law, the party may ask the Federal Court of Appeal to conduct a judicial review of the decision (para. 28(1)(q) of the *Federal Courts Act*). The application must be made within 30 days after the date on which the Tribunal's decision was communicated to the party (subs. 18.1(2) and 28(2) of the *Federal Courts Act*). If the Federal Court of Appeal allows the application for judicial review, the decision will be returned to the Tribunal so that it can issue a new decision.

APPENDIX I: GLOSSARY

Argument: statement that tries to persuade the Tribunal to reach a particular conclusion. It is also called a “legal argument” or “legal submission.”

Book of authorities: book containing copies of statutory provisions, case law and other legal authorities that the party intends to refer to.

Complainant: person or group of people who claim that a reprisal was taken against them.

Cross-examination, to cross-examine: the questioning of a witness by another party (or by another party’s representative) for the purpose of challenging the testimony of that witness.

Disciplinary Action: action taken against the person(s) identified as having taken the reprisal(s).

Discovery of evidence: disclosure of all relevant evidence to the other parties before the hearing. This is done to prevent surprises at the hearing.

Evidence: documents and testimony presented by the parties to support the statements they put forward as facts.

Hearing: session during which the parties present their evidence and their submissions or arguments to the Tribunal.

Interested person: anyone who has a direct interest in a proceeding and has been recognized by the Panel as an interested person. Generally, such a person presents only arguments before the Tribunal.

Motion: a request made to the Tribunal to give a decision or make an order concerning a procedural or evidentiary issue that arises before or during the hearing.

Notice of hearing: notice sent by the Registrar informing the parties and interested persons of the date, time and place of the hearing.

Panel: the member or members assigned by the Chairperson of the Tribunal to hear the evidence and make a decision in a particular case.

Party: person that can be directly affected by an order of the Tribunal. Participant in a case who has the right to present evidence and arguments to the Tribunal.

Pre-hearing conference: meeting that the Tribunal holds before the hearing to resolve administrative or procedural matters relating to the proceeding.

Principles of natural justice: basic or fundamental judicial rights that include the right to be heard, the right to be represented, the right to have an impartial hearing and the right to receive a decision with reasons.

Registrar: most senior employee at the Registry.

Registry: office that provides administrative support to the Tribunal. It also maintains contact between the parties and the Panel who is hearing the case.

Registry officer: a Registry employee assigned to every case before the Tribunal. He or she is the contact person between the parties to the proceeding and the Tribunal.

Remedy: action taken to correct any wrong done to the complainant as a result of a reprisal.

Reply: the Commissioner's and complainant's responses to the Tribunal about any new facts raised in the other parties' Statements of Particulars.

Reprisal: any measure taken to punish the person who reported wrongdoing. Reprisal includes: disciplinary action, demotion, loss of employment, any measure that affects the employment or working conditions and any threat to take any of these measures.

Serve, service: to deliver a document to someone by any of the following methods: fax, email, bailiff or process server, registered mail, ordinary mail, courier, in person or any other way that the Panel orders.

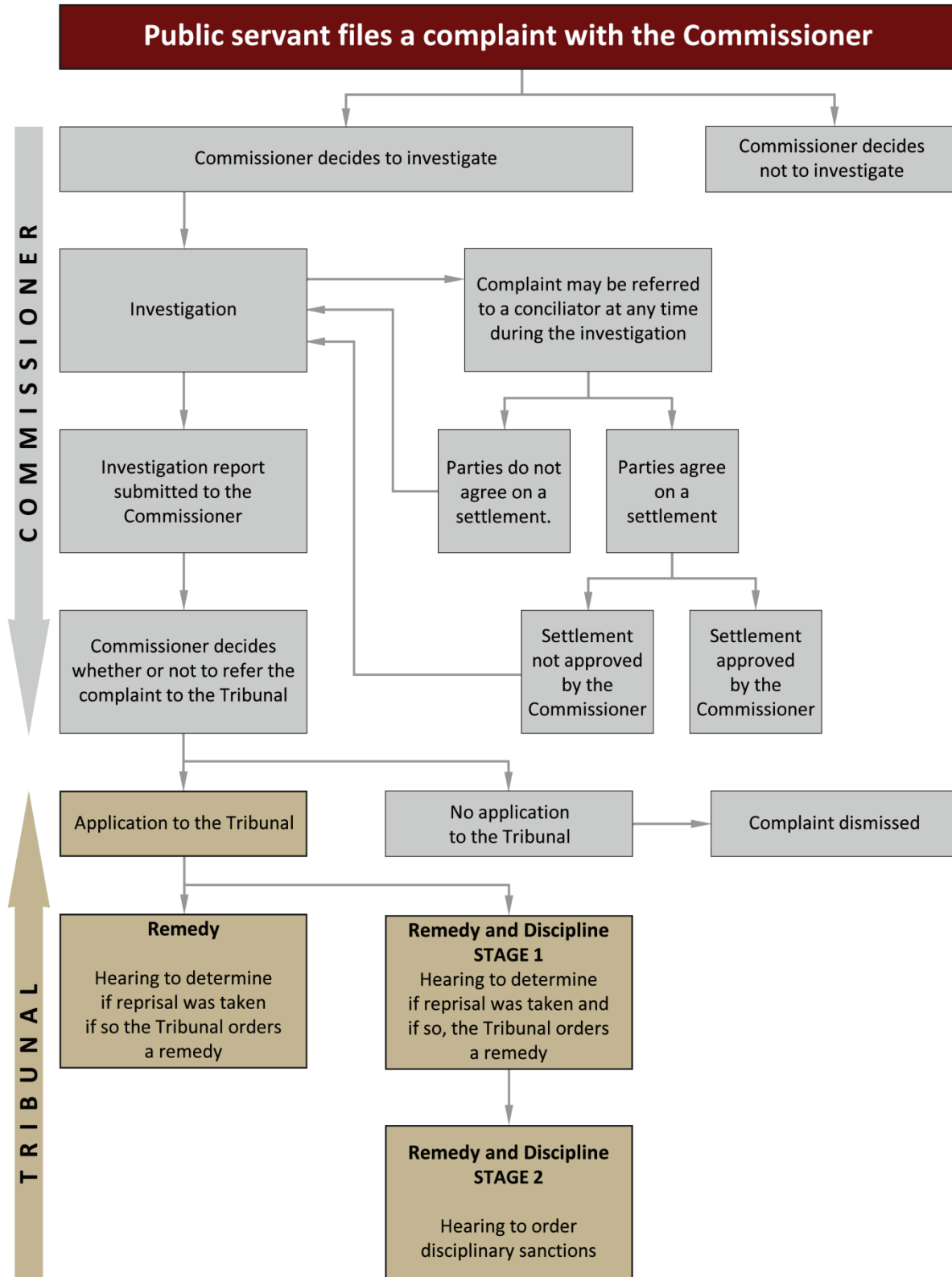
Subpoena: legal document that orders a person to appear at the hearing to testify. A subpoena may also be used to make someone produce a document as evidence at the hearing.

Testimony, to testify: statements a witness make under oath (or affirmation) at the hearing.

Witness: person who can confirm the truth of the facts or identify the documents filed in evidence at the hearing.

Wrongdoing: a contravention of any federal or provincial act or regulation, a misuse of public funds or a public asset, a gross mismanagement, an act or omission that creates substantial and specific danger to the life, health or safety of persons, or to the environment, a serious breach of a code of conduct and directing or counselling a person to commit wrongdoing.

APPENDIX II: DIAGRAM OF REPRISAL PROCESS



APPENDIX III: LIST OF HOLIDAYS

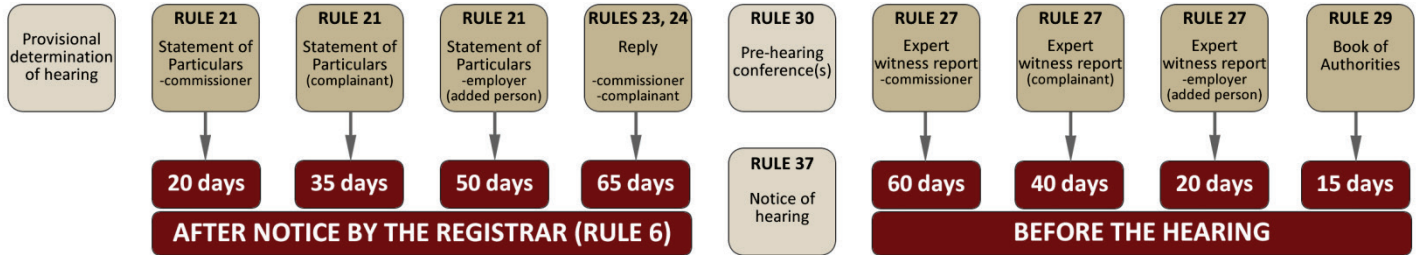
Under the *Interpretation Act*,¹ the following days are public holidays:

- Sunday;
- New Year's Day;
- Good Friday;
- Easter Monday;
- Christmas Day;
- Victoria Day;
- Canada Day;
- the first Monday in September, known as Labour Day;
- Remembrance Day;
- Thanksgiving Day;
- any day chosen as a day of general prayer or mourning;
- any day chosen by the Lieutenant Governor of a province as a public holiday in that province;
- any day chosen by a city, town or municipality as a civic holiday.

¹ *Interpretation Act*, R.S.C. 1985, c. I-21, subs. 35(1).

APPENDIX IV: TIME LIMITS IN THE RULES OF PROCEDURE (PSDPT)

DETERMINATION OF REPRISAL + REMEDY IN FAVOUR OF THE COMPLAINANT



DISCIPLINARY ACTION AGAINST THE PERSON WHO TOOK THE REPRISAL

