

The Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009

UNION OF INDIA

India

The Competition Act, 2002

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Regulation

THE-COMPETITION-COMMISSION-OF-INDIA-PROCEDURE of 2009

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1. Short title and commencement. -

(1)These regulations may be called the Competition Commission of India (Procedure for Engagement of Experts and Professionals) Regulations, 2009.(2)They shall come into force on the date¹ of their publication in the Official Gazette.

2. Definitions. -

(1)In these regulations, unless the context otherwise requires,-(a) "Act" means the Competition Act, 2002 (12 of 2003);(b)"Chairperson" means the Chairperson of the Commission appointed under sub-section (1) of section 8 of the Act;(c)"Commission" means the Competition Commission of India established under sub-section (1) of section 7 of the Act;(d)"Director-General" means the Director-General appointed under sub-section (1) of section 16 of the Act and includes any Additional, Joint, Deputy or Assistant Directors-General appointed under that section;(e)"expert or professional" for the purpose of these regulations means a person of integrity and outstanding ability having special knowledge of, and experience in, economics, law, business or such other discipline related to competition as the Commission deems necessary to assist it in discharge of its functions under the Act;(f)"Secretary" means the Secretary appointed under sub-section (1) of section 17 of the Act and includes an officer of the Commission authorized by the Chairperson to

function as Secretary;(2)Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act or in the Companies Act, 1956 (1 of 1956), as the case may be.

3. Engagement of experts and professionals. -

The Commission may engage such number of experts and professionals in the fields of economics, law, business or such other disciplines related to competition, as it may deem fit.

4. Functions of experts and professionals. -

The experts and professionals engaged by the Commission shall discharge such functions as directed by the Chairperson, in assisting the Commission.

5. Qualifications, experience and classification of experts and professionals. -

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(1)The experts and professionals to be engaged shall be classified on the basis of their qualifications and experience in the respective fields of specialization and/or the eminence in their professions as given in Schedule I:Provided that the Commission may also engage experts and professionals from any other discipline as deemed necessary to assist the Commission in the discharge of its functions under the Act.(2)Subject to sub-regulation (1) and depending upon the qualification, specialization and experience in respective disciplines, the experts shall be categorized into five levels as given in Schedule II.

6. Remuneration payable to experts and professionals. -

The remuneration to be paid by the Commission to different categories of experts and professionals shall be in accordance with Schedule III:Provided that the Commission may, for reasons to be recorded in writing, agree to pay higher remuneration than those given in Schedule III, in specially deserving cases.

7. Evaluation of performance. -

The performance of each expert and professional engaged under these regulations, with reference to the tasks assigned and output delivered, shall be reviewed periodically, within such time and manner, as may be specified by the Commission.

8. Procedure of selection of experts and professionals. -

(1)The experts and professionals shall ordinarily be engaged by the Commission on contractual basis for not less than three months and not more than three years.(2)The Commission may decide, from time-to-time, the number of the experts and professionals to be engaged.(3)After the number of the

experts and professionals to be engaged is decided, as mentioned in sub-regulation (2), the Secretary shall publish the number of the experts and professionals to be engaged with details of qualifications, experience needed and the remuneration payable on the official website of the Commission and invite applications for each category and level of expert and professional giving a stipulated last date for the receipt of the applications for each category and level: Provided that the Secretary may also invite the applications by suitable public notice, for each category and level of expert and professional. (4) The Commission shall constitute a selection board for each category of expert and professional. The Commission may invite eminent experts having special knowledge and experience in the relevant field to join the selection boards. (5) The Secretary shall scrutinize the applications in accordance with these regulations and prepare lists of eligible candidates for each category to be called for interview and submit a report to the Commission. (6) The selection boards mentioned in sub-regulation (4) shall be convened with the approval of the Chairperson for each category and the Secretary shall notify the date and the venue of the interview to the short listed eligible candidates sufficiently in advance. (7) The recommendations of each selection board regarding engagement for each category shall be placed by the Secretary before the Commission for decision. (8) On approval of the engagements by the Commission as mentioned in sub-regulation (7), the Secretary shall inform each candidate in writing by an offer letter of engagement giving not less than ten days time to accept the offer of engagement. (9) After receipt of acceptance from the selected candidates as per sub-regulation (8), the Secretary shall issue letter of engagement to each candidate giving not less than thirty days time to join: Provided that the joining time may be extended by the Secretary on being satisfied that extension is sought on circumstances beyond the control of the individual candidate. (10) The Secretary shall inform the number of selected candidates who have joined in the next meeting of the Commission and obtain approval of the Commission to restart the process of selection to fill up the shortfalls, if any, in the total number of experts and professionals decided to be engaged as per sub-regulation (2).

9. Terms and condition of engagement of experts and professionals. -

(1) The expert and professionals on having accepted the offer of engagement, shall enter into a contract, also having the confidentiality clause, with the Secretary, acting on behalf of the Commission, detailing the terms and conditions of engagement, before being assigned any work. (2) The terms and conditions of engagement may be modified, in a specific case, where the Commission deems it necessary. (3) Without prejudice and in addition to the legal remedies available to the Commission, the breach of agreement executed under sub-regulation (1) by or on behalf of any expert or professional shall be considered a sufficient ground for termination of the engagement made under contract and may further debar such expert or professional from future engagement by the Commission.

10. Power to relax. -

The Commission may relax such restrictions imposed in these regulations as may be deemed necessary in the discharge of its functions under the Act.

11. Removal of difficulties. -

In the matter of implementation of these regulations, if any doubt or difficulty arises, the same shall be placed before the Commission and the decision of the Commission shall be final.

1. Came into force on 15-5-2009.