

R. 75.2.01

RULE 75.2

STATED CASE PROCEDURE

APPLICATION

75.2.01 Where an enactment provides that a tribunal, commission or panel thereof may refer a question of law to the court for an opinion, the tribunal, commission or panel shall state a case in writing setting forth the question or questions of law to be answered and shall file it with the court.

MOTION FOR DIRECTIONS

Motion to Seek Directions re Conduct of Case

- 75.2.02** (1) Upon filing the stated case the tribunal, commission or panel shall make a motion to the Court seeking directions as to the conduct of the stated case.
- (2) The motion shall set forth the issues raised by the questions of law posed and it shall also provide the court with the particulars any person or class of persons who, to its knowledge, may have an interest in the issues raised by the questions.

Giving of Notice to Interested Parties

- (3) The court upon hearing the motion for directions may order that any person, or any one or more of a class of persons, interested in the issues raised by the questions posed in the stated case be given notice of the filing of the stated case which notice shall provide for a period of time within which to file a motion for leave to intervene.

Publication of Notice to Interested Parties

- (4) The court may also direct that notice of the stated case be published in a local newspaper and the Royal Gazette as many times as the court in its discretion deems necessary, notifying the public of the

R. 75.2.03

stated case and providing a specific period of time to file an application to intervene and to make submissions, either oral or written, on the stated case.

Motion by Interested Parties Seeking to Intervene

- (5) Any person wishing to intervene and make submissions to the court on the questions raised in the stated case shall make a motion to the court, within the time prescribed in the notice, for leave to intervene in the stated case.
- (6) The motion shall:
 - (i) briefly describe the intervener and its interest in the stated case;
 - (ii) identify the position to be taken by the intervener on the questions posed in the stated case; and
 - (iii) set out a summary of the arguments to be advanced in the stated case as well as the reasons why the intervener's submissions will be of assistance to the court.

Exercise of Court's Discretion

- (7) The court may exercise its discretion in deciding whether to allow an application to intervene; however in exercising such discretion the court shall have regard to whether the applicant:
 - (a) has an interest in the subject matter of the stated case;
 - (b) may be adversely affected by the answers given to the questions posed;
 - (c) represents a class of persons that has a public interest in the subject matter of the stated case; and
 - (d) will assist the court in answering the questions posed in the stated case.

COST OF INTERVENTION

Self-represented Interveners

- 75.2.03(1)** Where any person permitted by the court to intervene is not represented by counsel, the court may appoint counsel to argue on

R. 75.2.04

behalf of the interested person and order the tribunal, commission or panel thereof to pay the reasonable expenses of counsel.

Represented by Legal Counsel

- (2) Where any person permitted by the court to intervene is represented by counsel and requests that the tribunal, commission or panel thereof stating the case pay its costs of intervention, the court may make such order as to costs as it deems just in the circumstances.

QUESTION RE CONSTITUTIONALITY OF ACT/REGULATION

Notice of Intention

- 75.2.04(1)** Where a question relates to the constitutional validity or constitutional applicability of an Act of Parliament of Canada or the Legislature, or a regulation or bylaw made thereunder the Attorney General of Canada and the Attorney General of Prince Edward Island shall be notified and both are entitled to make written and oral submissions to the court.

TERMS OF ORDER GRANTING INTERVENTION

- 75.2.05(1)** In the order granting leave to intervene, the court may:
- (i) specify the filing date for the filing of a factum and case book by the tribunal, commission or panel stating the case;
 - (ii) specify the date for the filing of the factum of the intervener and, if applicable, the Attorneys General;
 - (iii) direct the times for filing of written submissions by the tribunal, commission, or panel stating the case as well as those for the interveners;
 - (iv) give directions as to who shall be entitled to make oral submissions at the hearing; or
 - (v) set a date for the hearing of oral submissions.

MOTION TO BE HEARD BY ONE /THREE JUDGES

- 75.2.06(1)** A motion made under this rule to the Appeal Division may be heard

R. 75.2.05

by a single judge or a panel of three judges.