

Super agency for federal tribunals raises concerns

BY KATHRYN MAY, OTTAWA CITIZEN APRIL 2, 2014

OTTAWA – The Conservative government’s plan to create a new super administrative agency to manage operations of federal tribunals has raised concerns about political influence and the independence of the quasi-judicial bodies which rule on cases ranging from human rights and competition to labour relations.

The legislative overhaul of tribunals, which is buried in the omnibus budget bill tabled last week, will separate the corporate and support services from the panels’ decision-making work as part of the push to improve efficiency in government.

This means that budgets, facilities and other resources, including some 450 public servants, will be pooled and managed centrally at a new Administrative Tribunals Support Services of Canada, which will be based in the National Capital Region and operate under the justice portfolio. Tribunals’ regional offices will also be turned over to the new ATSSC.

The new agency will be headed by a deputy minister, called a chief administrator, who will report to the minister of justice. The chief administrator will be appointed by the government to serve “at pleasure” for five-year terms that can be renewed.

Errol Mendes, a law professor at the University of Ottawa, argued a bill that fundamentally changes a critical piece of Canada’s administrative justice and legal system shouldn’t be rammed through in budget legislation without proper analysis and debate.

He flagged concerns about the chief administrator’s direct reporting relationship to the minister, which could open the door to political meddling in tribunals’ work – even if done “covertly” by starving tribunals of resources. On top of that, the government controls the appointment of tribunal members, who serve “at pleasure.”

“I don’t trust this government to give the tribunals complete independence in administrative support or in appointing people on merit,” Mendes said.

The move is reminiscent of a similar tribunals service operated by the United Kingdom and is in keeping with the Conservatives' efforts to streamline "back office" operations to eliminate duplication and beef up efficiency.

Within the bureaucracy, the changes are being presented as a way to improve efficiency, modernize and streamline tribunal operations by sharing services such as hearing rooms, human resources and finance personnel. The new service is touted as a "shared service agency" for tribunals, just as Shared Service Canada provides IT services for all departments.

Justice officials say it's difficult to estimate savings or how many jobs could be affected until the new agency is up and running.

They have been assured the tribunals' adjudicative and decision-making independence will be protected and in fact "access to justice" will be improved by pooling resources, especially for small tribunals. Although the ATSSC will be part of the Justice portfolio, all tribunals will remain in their current ministerial portfolios.

"Its creation will in no way diminish the independence of the tribunals which will continue to make independent decisions and maintain control over their rules and procedures. Chairs and members of the tribunals will remain in place but all staff, including counsel, currently working on these tribunals will report to the new organization," said Justice Deputy Minister William Pentney in an internal memo to staff.

Lisa Blais, president of the Association of Justice Counsel, said the union was briefed on the changes and so far members have raised no concerns about the tribunals' independence.

Rather, Blais said she was worried about the move affecting the quality of services as resources are centralized.

Here are the quasi-judicial tribunals whose support services will be centralized:

- Canada Agricultural Review Tribunal
- Canada Industrial Relations Board
- Canadian Cultural Property Export Review Board
- Canadian Human Rights Tribunal
- Canadian International Trade Tribunal
- Competition Tribunal
- Public Servants Disclosure Protection Tribunal

– Public Service Labour Relations Board

– Public Service Staffing Tribunal

– Specific Claims Tribunal

– Social Security Tribunal

– Transportation Appeal Tribunal