

PUBLIC SERVICE ACT

R-011-2006

Registered with the Registrar of Regulations

2006-07-07

PUBLIC SERVICE REGULATIONS, amendment

The Commissioner, on the recommendation of the Minister, under section 49 of the *Public Service Act* and every enabling power, makes the annexed amendment to the *Public Service Regulations*, R.R.N.W.T. 1990, c.P-28, as duplicated for Nunavut by section 29 of the *Nunavut Act*.

1. The *Public Service Regulations*, R.R.N.W.T. 1990, c.P-28, as duplicated for Nunavut by section 29 of the *Nunavut Act*, are amended by these regulations.

2. (1) Subsection 1(1) is amended by

- (a) **repealing the definitions "manager" and "seasonal employee";**
- (b) **repealing the definition "promotion" and substituting the following:**

"promotion" means the appointment of an employee to a position having a higher salary; (*promotion*)

- (c) **adding the following definitions in alphabetical order:**

"employee's immediate family" means an employee's father, mother, brother, sister, spouse, common-law spouse, child, step-child, foster child, father-in-law, mother-in-law, grandmother, grandfather, and any other relative permanently residing in the employee's household or with whom the employee presently resides; (*famille immédiate du fonctionnaire*)

"senior manager" means an employee who occupies a position that involves management of significant financial resources, programs and personnel, and, where an employee reports directly to a deputy head, means the deputy head; (*cadre supérieur*)

"step increment" means the salary adjustment referred to in section 21; (*augmentation d'échelon*)

(2) Subsection 1(3) is repealed and the following substituted:

(3) Where a person, other than a casual employee, is appointed to a position in the public service within three months after terminating his or her employment in the public service of Canada or public service of a territory for reasons other than dismissal, abandonment of position or rejection on probation, his or her periods of employment shall be considered as continuous service in the public service and all leave credits and benefits earned but not granted shall be considered as earned in the public service.

(3) The following is added after section 1:

Application

1.1. (1) These regulations apply to every person employed in the public service, except a person whose terms and conditions of employment are set out in a collective agreement or contract of employment.

(2) Sections 25 to 32, 35, 38 and 48 and subsection 51(1) apply to Deputy Ministers.

3. (1) The subheading "Probation" preceding section 4 in the French version is repealed and "Stage" substituted.

(2) Section 4 is repealed and the following substituted:

4. (1) A recommendation by a deputy head for the extension of the probationary period of an employee, as provided under the Act, shall be made to the Minister.

(2) Where the probationary period of an employee has been extended by the Minister, the deputy head shall notify, not less than 30 days before the end of the probationary period, the employee in writing of the decision of the Minister.

4. **Section 5 is amended by**

- (a) **striking out "six" and substituting "four"; and**
- (b) **striking out "the Minister" and substituting "a deputy head".**

5. **Section 6 is repealed and the following substituted:**

6. The Deputy Minister of the department responsible for the Act may, on the recommendation of a deputy head, release a casual employee where the work is no longer required or for cause.

6. **Section 7 is repealed and the following substituted:**

7. The standard hours of work are 7.5 hours a day, 37.5 hours a week.

7. (1) **Subsection 10(1) is amended by striking out "Deputy Minister" and substituting "senior manager".**

(2) **Subsection 10(2) is amended by adding "senior" after "other than a".**

(3) **Subsection 10(3) is amended by adding "senior" after "other than a".**

8. **Section 12 is amended by striking out "30" and substituting "15".**

9. **Section 13 is amended by striking out "Minister" and substituting "Deputy Minister of the department responsible for the Act".**

10. **Subsection 15(3) is repealed.**

11. **Section 16 is repealed.**

12. **Sections 18 to 23, the subheading "Pay Increase" preceding section 21, and the heading "LEAVES OF ABSENCE" and the subheading "Vacation Leave" preceding section 22 are repealed and the following substituted:**

18. (1) Where an employee, other than a casual employee or a senior manager, is required to perform the duties of a higher position for a minimum period of five consecutive days, the employee shall be paid acting pay for that period, being the lesser of the following:

- (a) 110% of the employee's regular rate of pay; or
- (b) the maximum of the pay band for the higher position.

(2) Where an employee, other than a casual employee or a senior manager, is required to perform the duties of a higher position for a minimum period of two consecutive months, the employee shall be paid acting pay for that period, being the lesser of the following:

- (a) 115% of the employee's regular rate of pay; or
- (b) the maximum of the pay band for the higher position.

(3) Where an employee, other than a casual employee or a senior manager, is required to perform the duties of a higher position for a minimum period of one year, the salary of the employee shall be subject to negotiation with the deputy head, but shall not exceed the maximum of the pay band for the higher position.

19. (1) Where an employee is appointed to a new position in the public service, he or she shall be paid,

- (a) if the appointment constitutes a transfer, at the rate nearest to, but not less than, his or her former rate of pay; or
- (b) if the appointment constitutes a promotion, at the rate nearest to, but not less than, his or her former rate of pay plus the difference between step one and step two of the pay band for the new position.

(2) A salary increase described in paragraph (1)(b) that represents 25% or more of the employee's former rate of pay may not be granted without the approval of the Deputy Minister of the department responsible for the Act.

20. (1) Where a senior manager is promoted to another senior manager position in the public service, the salary of the senior manager shall be subject to negotiation with a deputy head, but shall not exceed the maximum of the pay band for the new position.

(2) A salary increase referred to in subsection (1) that represents 25% or more of the senior manager's former rate of pay may not be granted without the approval of the Deputy Minister of the department responsible for the Act.

21. After satisfactorily completing one year of service in a position, an employee shall be paid at the next step of the pay band for the position, and, on satisfactorily completing each successive year of service in the position, shall be paid at the next step of the pay band for the position, until he or she reaches the maximum of the pay band for that position.

22. (1) A salary increase shall generally become effective on the first day of a month.

(2) A step increment shall generally become effective on the employee's annual anniversary date in the position.

(3) An employee, other than a senior manager, who is promoted within six months of his or her annual anniversary date is entitled to a step increment in addition to the salary increase referred to in paragraph 19(1)(b).

Annual Vacation Leave

23. (1) Every employee, other than a casual employee, is entitled to annual vacation leave in each fiscal year.

(2) No employee shall be granted annual vacation leave unless he or she has been employed in the public service for at least six months.

(3) Annual vacation leave is earned by an employee, for each month in which the employee works or is paid for at least 10 days, at the following rates:

- (a) 1.38 days per month, on entering the public service;
- (b) 1.79 days per month, on completing one year of service in the public service;
- (c) 2.21 days per month, on completing 10 years of continuous service in the public service or in the public service of Canada or a combined total of 10 years in both services;
- (d) 2.63 days per month, on completing 20 years of continuous service in the public service or in the public service of Canada or a combined total of 20 years in both services.

(4) Annual vacation leave is earned by a senior manager at the following rates for each month in which the senior manager works or is paid for at least 10 days:

- (a) 1.79 days per month, on entering the public service;
- (b) 2.21 days per month, on completing one year of service in the public service;
- (c) 2.63 days per month, on completing 10 years of continuous service in the public service or in the public service of Canada or a combined total of 10 years in both services;
- (d) 3.04 days per month, on completing 20 years of continuous service in the public service or in the public service of Canada or a combined total of 20 years in both services.

13. **Section 25 is amended by striking out "Deputy Minister" wherever it appears and substituting "senior manager".**
14. **Subsection 26(1) is amended by striking out "or an employee on retiring leave".**
15. **Section 27 is amended by striking out "on retiring leave,".**
16. **Section 28 is amended by**
 - (a) **striking out "seven" in subparagraph (b)(ii) and substituting "nine"; and**
 - (b) **striking out "the Deputy Minister" in subparagraph (b)(iii) and substituting "a senior manager".**
17. **Subsection 29(1) is amended by striking out "the Deputy Minister" and substituting "a senior manager".**
18. **Subsection 30(1) is repealed and the following substituted:**
30. (1) Every employee, other than a casual employee, is entitled to special leave to a maximum of six weeks, which is earned at the rate of 0.5 days for each month in which the employee works or is paid for at least 10 days.
19. **That portion of section 31 preceding paragraph (a) and paragraph 31(a) is repealed and the following substituted:**
31. A senior manager may grant an employee special leave with pay for a maximum period of five days, to the extent that it has been earned, in the following circumstances:
 - (a) where a member of the employee's immediate family becomes ill, not including normal childbirth, and the employee is required to care for the ill person or the dependants of the employee or the ill person;
20. **(1) Subsection 32(1) is repealed and the following substituted:**
32. (1) Special leave for more than five days shall only be granted with the approval of a deputy head.
 - (2) **Subsection 32(2) is amended by striking out "on retiring leave,".**
 - (3) **The following is added after subsection 32(2):**
 - (3) Special leave may be advanced with the approval of a deputy head.
21. **Sections 33 and 34 are repealed and the following substituted:**
33. (1) A deputy head may grant educational leave.
 - (2) Educational leave shall be based on an appraisal of the present and future requirements of the public service and the qualifications of the employee applying for the leave.
 - (3) Educational leave may be granted to employee who has completed a minimum of three years of continuous service in the public service or, in exceptional circumstances, to an employee who has completed less than three years of continuous service.
 - (4) A deputy head may, before granting educational leave, require an employee to enter into an agreement with the Government of Nunavut as to the terms and conditions under which the leave is to be granted.
34. (1) An allowance equal to the employee's full salary may be paid during educational leave if the educational leave is taken at the request of the deputy head.

(2) An allowance equal to a portion of the employee's salary and partial payment of tuition fees and travelling and other expenses may be paid during educational leave where

- (a) the course will develop the general ability and potential of the employee, and
- (b) the course is of value to the employee's work,

with the extent of the allowance and payment depending on an assessment of the course's value to the work.

(3) Educational leave where an allowance is paid carries with it the obligation to return, after the successful completion of the course, to the public service for a period of time as long as the duration of the educational leave.

34.1. Tuition fees may be refunded on receipt of evidence of successful completion of a course, if

- (a) the course is of value to the work of the employee; and
- (b) the course does not require the employee to be absent from his or her duties.

22. That portion of section 35 preceding paragraph (a) is repealed and the following substituted:

35. A deputy head shall grant every employee, other than an employee on leave of absence without pay or under suspension, leave with pay for such time as is necessary and reasonable

23. Sections 36 and 37 and the subheading "Retiring Leave" preceding section 36 are repealed and the following substituted:

Retiring Leave and Gratuity on Resignation

36. (1) An employee, appointed before January 1, 1995, who is about to cease to be employed in the public service and who is eligible for an immediate annuity under the *Public Service Superannuation Act* (Canada), may be granted retiring leave for a period not in excess of 30 weeks calculated at the rate of one week for each completed year of continuous service in the public service minus any retiring leave, or gratuity in lieu of retiring leave, previously granted.

(2) Where the employee so requests, a gratuity may be granted in lieu of retiring leave which is calculated by multiplying the retiring leave earned under subsection (1) by the employee's final weekly remuneration and subtracting the amount of annuity he or she is entitled to under the *Public Service Superannuation Act* (Canada) for the period of retiring leave.

(3) An employee, appointed after January 1, 1995, who is about to cease to be employed in the public service, who is eligible for an immediate annuity under the *Public Service Superannuation Act* (Canada), and who has completed a minimum of ten years continuous service in the public service, may be granted retiring leave for a period not in excess of 13 weeks, calculated at the rate of one week for every two completed years of continuous service in the public service, minus any retiring leave or gratuity in lieu of retiring leave previously granted.

(4) Where the employee so requests, a gratuity may be granted in lieu of retiring leave which is calculated by multiplying the retiring leave earned under subsection (3) by the employee's final weekly remuneration and subtracting the amount of annuity he or she is entitled to under the *Public Service Superannuation Act* (Canada) for the period of retiring leave.

37. (1) A gratuity shall be granted on resignation to an employee who has completed a minimum of ten years continuous service in the public service, calculated at the rate of one week for every two completed years of continuous service in the public service, minus any retiring leave or gratuity in lieu of retiring leave previously granted.

(2) A gratuity shall not be paid to an employee who is dismissed or abandons his or her position.

24. (1) Section 38 is amended by striking out "the Northwest Territories" and substituting "Nunavut".

(2) The French version of section 38 is amended by striking out "sans traitement" and substituting "avec traitement".

25. Section 39 is repealed and the following substituted:

39. A senior manager may grant leave of absence without pay for a maximum period of six months, and any additional leave of absence without pay may be granted only with the approval of a deputy head.

26. Section 40 and the heading preceding section 40 is repealed.

27. Subsection 44(1) is amended by striking out "10" and substituting "15".

28. Subsection 45(1) is amended by striking out "10" and substituting "14".

29. Subsection 46(1) is amended by striking out "10" and substituting "14".

30. Paragraph 48(c) is amended by striking out "the Northwest Territories" and substituting "Nunavut".

31. (1) Paragraphs 49(f) and (i) are repealed.

(2) Section 49 is amended by

(a) striking out "the Northwest Territories" in paragraph (h) and substituting "Nunavut"; and

(b) striking out "Department of Personnel" in paragraph (l) and substituting "department responsible for the Act".

32. Paragraphs 50(1)(b), (c) and (d) are repealed.

33. Subsection 51(2) is repealed.

34. The Schedule is repealed and the Schedule set out in the schedule to these regulations substituted.

SCHEDULE

SCHEDULE

FORM 1

(Section

51)

OATH OR AFFIRMATION OF OFFICE AND SECRECY

I,, swear *(or solemnly affirm)* that
(name of employee)

I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the public service of Nunavut and that I will not, without due authority, disclose or make known any matter that comes to my knowledge by reason of such employment. *(Add, in the case where an oath is taken, "So help me God" or name of deity.)*