

PUBLIC SERVICE ACT

R-010-2013

Registered with the Registrar of Regulations

2013-04-15

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* (Canada).

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* (Canada), are amended by these regulations.

2. Section 1 is amended:

(a) in subsection (1) by adding the following in alphabetical order:

“relief employee” means a person engaged to perform work on an as and when needed basis; (*fonctionnaire de relève*)

“standard yearly hours of work” means the standard weekly hours of work as provided for in section 7, multiplied by 52; (*heures normales de travail par année*)

(b) by adding the following after subsection (3):

(4) The number of years of continuous service in the public service accumulated during an employee’s tenure as a relief employee is calculated by dividing the number of hours worked by the relief employee by the standard yearly hours of work, provided that no more than one year of continuous service may be accumulated in any one year period.

3. Section 1.1 is amended:

(a) in subsection (1) by striking out “subsection (2)” and substituting “subsections (1.1) to (2.6)”.

(b) by adding the following after subsection (1):

(1.1) Except for subsection 1(1), this section and sections 15, 19, and 39 to 51, these regulations do not apply to members of the bargaining unit represented by the Nunavut Teachers’ Association.

(c) by adding the following after subsection (2):

(2.1) Subject to subsection (2), employees of the Qulliq Energy Corporation who are members of the bargaining unit represented by the Nunavut Employees Union are not entitled to the benefits of the following provisions:

- (a) continuity of employment as provided for in subsections 1(2) and 1(3);
- (b) annual vacation leave as provided for in section 23.

(2.2) Casual employees are not entitled to continuity of employment as provided for in subsections 1(2) and 1(3).

(2.3) Casual employees who will have four months or less of continuous service at the end of their contract term are not entitled to the benefits of the following provisions:

- (a) acting pay as provided for in section 18;
- (b) annual vacation leave as provided for in section 23.

(2.4) Relief employees are not entitled to the benefit of the following provisions:

- (a) continuity of employment from a former employer as provided for in subsection 1(3);

- (b) holidays with pay as provided for in sections 11 and 13;
- (c) acting pay as provided for in section 18;
- (d) annual vacation leave as provided for in section 23;
- (e) sick leave accumulation as provided for in subsection 26(1);
- (f) medical travel leave as provided for in section 29.1;
- (g) special leave as provided for in sections 30 to 32;
- (h) education leave as provided for in sections 33 to 34.1;
- (i) court leave in the circumstances described in paragraphs 35(a) and (b);
- (j) injury-on-duty leave as provided for in section 38.

(2.5) Senior managers are not entitled to the benefits of the following provisions:

- (a) overtime rates as provided for in subsection 10(2);
- (b) step increments as provided for in section 21 and subsection 22(3).

(2.6) Counsel employed by the Department of Justice are not entitled to the overtime rates as provided for in subsection 10(2).

4. Section 5 is amended by striking out “extended to 12 months” and substituting “extended by up to 12 months at a time”.

5. Section 7 is amended:

- (a) **by renumbering section 7 as subsection 7(1);**
- (b) **by adding the following after subsection (1):**

(2) Where, in the opinion of the Minister, the nature of the work necessitates standard hours of work higher than those provided for in subsection (1), the Minister may set the standard hours of work for a position at up to 42 hours a week.

6. Subsection 18(1) is amended by striking out “, other than a casual employee”.

7. Section 19 is repealed and the following substituted:

19. Where an employee is appointed to a new position in the public service and the appointment constitutes a promotion, he or she shall not be paid a salary that represents an increase of 25% or more of the employee’s former rate of pay unless approval for such an increase is obtained from the Deputy Minister of the department responsible for the Act.

8. Section 21 is amended:

- (a) **by renumbering section 21 as subsection 21(1);**
- (b) **by adding the following after subsection (1):**

(2) Subject to subsection (3), where a relief employee works hours equivalent to the standard yearly hours of work in a manner satisfactory to the employee’s supervisor, the relief employee shall be paid at the next step of the pay band for his or her position, and, on completing each successive set of such hours in a manner satisfactory to the employee’s supervisor, 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 his or her position.

(3) For the purposes of subsection (2), step increments may be awarded at most once per year, and the first step increment shall not be awarded until one year after the employee’s date of hire.

9. Section 22 is amended:

- (a) **in subsection (2) by striking out “A step increment” and substituting “Subject to subsections 21(2) and (3), a step increment”;**
- (b) **by repealing subsection (3) and substituting the following:**

(3) An employee who is promoted within six months of his or her annual anniversary date is entitled to a step increment in addition to any salary increase to which he or she is entitled.

10. The following is added after section 22:

Hours Used for Leave Calculations

22.1 Where leave is earned on an hourly basis, leave is earned on the following hours:

- (a) all hours worked excluding:
 - (i) overtime hours,
 - (ii) subject to paragraph (c), hours worked on a holiday,
 - (iii) standby hours;
- (b) all hours of paid leave taken, including leave taken in lieu of overtime pay;
- (c) the standard hours of work on a paid holiday, whether worked or not.

11. Section 23 is amended by repealing subsections (3) and (4) and substituting the following:

(3) Subject to section 22.1 and subsection (4), annual vacation leave is earned by an employee at the following rates:

- (a) 0.082616 hours for each hour that the employee receives pay, on entering the public service;
- (b) 0.096 hours for each hour that the employee receives pay, on completing two years of continuous service in the public service;
- (c) 0.115385 hours for each hour that the employee receives pay, on completing nine years of continuous service in the public service;
- (d) 0.134770 hours for each hour that the employee receives pay, on completing fourteen years of continuous service in the public service;
- (e) 0.140769 hours for each hour that the employee receives pay, on completing nineteen years of continuous service in the public service.

(4) Subject to section 22.1, annual vacation leave is earned by a senior manager at the following rates:

- (a) 0.102 hours for each hour that the senior manager receives pay, on entering the public service;
- (b) 0.115385 hours for each hour that the senior manager receives pay, on completing two years of continuous service in the public service;
- (c) 0.134770 hours for each hour that the senior manager receives pay, on completing nine years of continuous service in the public service;
- (d) 0.140769 hours for each hour that the senior manager receives pay, on completing fourteen years of continuous service in the public service;
- (e) 0.161538 hours for each hour that the senior manager receives pay, on completing nineteen years of continuous service in the public service.

12. Section 24 is repealed and the following substituted:

24. (1) A casual employee who is not entitled to earn annual leave shall be granted 6% of his or her earnings in lieu of annual leave.

(2) A relief employee shall be granted in lieu of annual leave and other benefits, the following percentages of his or her earnings, excluding overtime or any other premium, on a bi-weekly basis:

- (a) 10%, on entering the public service;
- (b) 12%, on completing two years of continuous service in the public service;
- (c) 14%, on completing nine years of continuous service in the public service;
- (d) 16%, on completing fourteen years of continuous service in the public service;
- (e) 18%, on completing twenty years of continuous service in the public service.

13. Subsection 26(1) is repealed and the following substituted:

(1) Subject to section 22.1 and subsection (1.1), every employee is entitled to sick leave at the rate of 0.057692 hours for each hour that the employee receives pay.

(1.1) An employee cannot accumulate more than 15 days of sick leave in any one year period.

14. Subsection 30(1) is repealed and the following substituted:

(1) Subject to section 22.1 and subsections (1.1) and (1.2), every employee is entitled to special leave at a rate of 0.023077 hours for each hour that the employee receives pay.

(1.1) An employee cannot accumulate more than 6 days of special leave in any one year period.

(1.2) An employee cannot accumulate more than 30 days of untaken special leave.

15. The following is added after section 39:

Reservist Leave

39.01 (1) In this section,

“emergency situation” means a present or imminent situation or event that is seriously affecting or could seriously affect the health, safety or welfare of persons or substantially damage property; (*situation d’urgence*)

“reserve force” has the same meaning as in subsection 2(1) of the *National Defence Act* (Canada) and includes members of the Canadian Rangers; (*force de réserve*)

“service” means a period of time spent on duty with the reserve force, and includes

- (a) participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity, and
- (b) treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity. (*service*)

(2) Every employee is entitled to reservist leave without pay for the duration of a period of service if he or she is a member of the reserve force.

(3) An employee’s immediate supervisor shall grant the employee reservist leave where

- (a) the employee provides his or her immediate supervisor at least four weeks notice in writing or his or her intention to take the period of leave; or
- (b) if it is not reasonable in the circumstances to give four weeks notice, the employee provides his or her immediate supervisor notice at the earliest reasonable opportunity.

(4) The notice required under subsection (3) must give the date on which the leave will begin and the anticipated date on which the leave will end.

(5) Where the date on which an employee anticipates his or her leave will end changes, the employee shall provide notice to his or her immediate supervisor of the new end date at the earliest reasonable opportunity.

(6) No employee shall be denied leave under this section during an emergency situation only because that employee has not provided sufficient notice.

(7) Where granting leave under this section would cause undue hardship to the Government of Nunavut or the public, the employee’s immediate supervisor may deny the leave.

(8) Where an employee has been denied leave under subsection (7), the employee’s immediate supervisor must provide reasons for that decision to the employee and the deputy head.

16. Each provision listed in column 1 of the Schedule of this Regulation is amended by striking out the words set out in the same row of Column 2.

Transitional

17. Where a notice to bargain collectively has been given with respect to a bargaining unit under subsection 41.01(1) of the *Public Service Act* and the conditions set out in paragraphs 41.04(1)(a) or (b) of the Act have not been met with respect to that bargaining unit prior to the coming into force of these Regulations, the Regulations as they read immediately prior to the coming into force of these Regulations apply to the members of the bargaining unit until the conditions set out in paragraphs 41.04(1)(a) or (b) of the Act are met with respect to that bargaining unit.

SCHEDULE*(section 16)*

Provision Amended	Word or words that are struck out.
<ul style="list-style-type: none"> • subsection 1(2); • subsection 1(3); • subsection 18(2); • subsection 18(3); 	“, other than a casual employee,”
<ul style="list-style-type: none"> • subsection 10(2) 	“, other than a senior manager or a counsel employed by the Department of Justice,”
<ul style="list-style-type: none"> • section 21 	“, other than a senior manager,”
<ul style="list-style-type: none"> • subsection 23(1) 	“, other than a part-time or casual employee,”