



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

CIVIL SERVICE ACT REGULATIONS

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CIVIL SERVICE ACT
Chapter C-8
REGULATIONS

Made by the Civil Service Commission and approved by the Lieutenant Governor in Council pursuant to section 6 of the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8

PART I — INTERPRETATION

1. Definitions

In these regulations

- (a) “**classification series**” means a grouping of one or more position titles, as determined by the Commission;
- (b) “**layoff**” means a temporary or final severance of the employment relationship reducing the employment force to meet the manning requirements of the employer;
- (c) “**Union**” means the Prince Edward Island Union of Public Sector Employees.
(*EC709/83; 209/85; 639/95; 194/02*)

PART II — ATTENDANCE AND HOURS OF WORK

2. Attendance

Employees are expected to be regular and punctual in attendance. (*EC709/83*)

3. Record of attendance

- (1) Employees shall record their attendance by such means as the employer determines.

Failure to record

- (2) If employees who are required to record attendance fail to do so, payment of salary may be denied for the work period in respect of which the attendance is incompletely recorded.
(*EC709/83*)

4. Absence

- (1) An employee, other than a shift employee, who is absent from duty without prior authorization, shall communicate the reason for the absence to a supervisor as soon as possible and in any case within the first two hours of such absence.

Idem

- (2) A shift employee who is to be absent from duty without prior authorization shall notify a supervisor at least one hour before the commencement of the day shift and at least three hours before the commencement of any other shifts.

Forfeiture of pay

- (3) An employee absent from duty without authorization shall forfeit pay for the period of absence. (EC709/83)

5. Lateness

- (1) An employee who is late arriving at work shall report the reason therefor to the supervisor.

Deductions from pay

- (2) When pay is deducted for lateness, the deduction shall be made at the following rates:
- (a) for lateness 1 to 15 minutes, one-quarter hour's pay;
 - (b) for lateness of 16 to 30 minutes, one-half hour's pay;
 - (c) for every additional half-hour of lateness or fraction thereof, one additional half-hour's pay. (EC709/83)

6. Hours of work

- (1) All employees are required to be on duty in accordance with the hours specified by the employer.

Lunch break

- (2) Revoked by EC323/01.

Rest period

- (3) Revoked by EC323/01.

7. Hours of work, excluded employees

The hours of work per week for employees excluded from negotiation or consultation under section 92 vary in accordance with the requirements of the positions, but shall not be less than 37 1/2 hours per week for full time employees. (EC709/83)

PART III — APPOINTMENTS

8. Vacancy

No person shall be appointed to a position in the classified division unless there is a vacancy in the position, except that a person may be appointed for a period not exceeding six months to work with an employee who has given notice of resignation or who is to be retired, and



may be paid such salary for his services as may be fixed by the Commission. (EC709/83; 639/93; 194/02)

9. Request to fill vacancy

Where an employer wishes to fill a vacancy in the classified division, the employer shall forward the appropriate request form to the Commission. (EC709/83; 639/93; 194/02)

10. Secondment

- (1) A person, with the approval of the Commission, may be seconded within the civil service or to or from outside organizations.

Idem

- (2) A written agreement outlining the terms and conditions of the secondment will be entered into between the parties and the Commission. (EC709/83; 639/93; 194/02)

PART III.1 — SELECTION APPEALS

10.1 Notice of standing

- (1) The Commission shall give the successful candidate on an in-service competition written notice of the candidate's standing in the competition.

Finality

- (2) Where an appointment is to be made as a result of the competition, the notice referred to in subsection (1) shall indicate that an appointment shall become final only upon
- (a) exhaustion of the appeal period without an appeal being filed; or
 - (b) dismissal of an appeal that was filed in accordance with these regulations. (EC602/93; 194/02)

10.2 Notice to unsuccessful candidate

Where the selection of a person for appointment to a position within the civil service is made by way of in-service competition, the Commission shall notify an unsuccessful candidate who passes the competition and who stands among the top three candidates in order of merit of the names and ranking of the top three candidates and of the right to appeal the appointment of the successful candidate. (EC602/93; 194/02)

10.3 Appeal

- (1) Subject to subsection (2), an appeal to the Commission shall
- (a) be in writing;
 - (b) state the grounds for the appeal;
 - (c) be filed with the Commission within fifteen days of mailing of the notice referred to in section 10.2.

Preliminary review

- (2) The Commission shall not accept an appeal for consideration unless the appellant's ratings and test papers were reviewed by the appellant with an employee of the Commission prior to the filing of the appeal. *(EC602/93; 194/02)*

10.4 Frivolous etc. appeals

If, in the opinion of the Commission, an appeal is frivolous, vexatious or is not made in good faith, the Commission may dismiss the appeal at any stage of the proceedings. *(EC602/93; 194/02)*

10.5 Time for decision

- (1) Within forty days of the filing of an appeal, the Commission shall reach a decision on the appeal.

Hearing

- (2) The Commission shall determine whether or not a hearing is required to reach a decision on an appeal.

Notice

- (3) Where the Commission elects to hold a hearing
- (a) the hearing shall take place within twenty days of the filing of the appeal; and
 - (b) the Commission shall give at least ten days notice of the date and place of the hearing to the appellant, the Deputy Head concerned and the successful candidate.

Decision

- (4) In deciding on an appeal, the Commission may
- (a) allow the appeal by denying or revoking the appointment and, where appropriate, directing that a selection board be appointed to select from among the top three candidates; or
 - (b) dismiss the appeal. *(EC602/93; 194/02)*

10.6 Notice of decision

The Commission shall send a copy of its decision, together with the reasons therefor, to the appellant, the Deputy Head concerned and the successful candidate. *(EC602/93; 194/02)*

10.7 Majority decision

A decision of the majority of the Commission on an appeal shall constitute the decision of the Commission and shall be final and binding on the Commission, the Deputy Head, the appellant and all other candidates. *(EC602/93; 194/02)*



PART IV — TERMS OF SERVICE**11. Probation**

- (1) Subject to subsection (2), the appointment of every person entering the classified division, except provisional employees, shall be a probationary appointment until the person has performed 1000 hours of work in the position to which the person is appointed.

Idem

- (2) The Commission may designate positions where the probationary period may be less than 1000 hours of work.

Idem

- (3) An employee promoted, transferred, or hired from a reemployment list shall be probationary in the new position for a period of 500 hours of work. *(EC709/83; 639/93; 194/02)*

12. Group life insurance

It is a condition of employment that all eligible classified employees, on appointment, shall participate in the group life and long term disability insurance plans. *(EC709/83; 662/86)*

13. Assignment of duties

To meet operational requirements an employer may assign an employee to carry out duties other than the duties regularly assigned. *(EC709/83)*

14. Special leave

- (1) An employer may recommend special leave for an employee.

Idem

- (2) The Commission may approve special leave for reasons specified in the collective agreement or for other reasons considered by it to be in the public interest. *(EC709/83; 639/93; 194/02)*

14.1 Temporary employees, 6 month service

- (1) When a person is hired by an employer as a temporary employee, his employment is limited to the equivalent of six months service in any fiscal year, and his employment shall be terminated no later than

- (a) on the expiration of 1040 hours of work; or
(b) on the end of the fiscal year

whichever first occurs.

Rehiring, temporary employee

- (2) Where the employment of a temporary employee has been terminated under subsection (1), he may not be reemployed as a temporary employee by an employer until the next fiscal year. *(EC709/83; 195/84; 228/85)*

PART V — CLASSIFICATION

A - CLASSIFICATION REVIEW AND APPEAL

15. Review

- (1) In order to maintain or update the classification system, the Commission may review classifications.

Request

- (2) A classification review may be requested by an employer, a permanent employee or other eligible employee as designated by the Commission by submitting to the Commission a description of the position in the prescribed form and manner and a statement of the reasons for the request for a review.

Decision by Commission

- (3) The Commission will review the classification of the position and notify the employee and employer of its decision within forty-five working days of receiving the request. *(EC851/95; 194/02)*

16. Retroactivity

- (1) The effective date of a reclassification shall not be more than sixty working days retroactive from the date the request was submitted to the Commission.

Red circling

- (2) An employee whose position is reclassified to a position with a lower maximum rate of pay than the employee's current rate of pay shall retain the current rate of pay until such time as the rate for the new classification matches the current rate. *(EC851/95; 194/02)*

17. Appeal

- (1) An employer, a permanent employee or such other eligible employee as may be determined by the Commission may appeal the decision of the Commission with respect to classification of a position to the Classification Appeal Committee within fifteen working days of receipt of the decision.

Composition of Appeal Committee

- (2) The Lieutenant Governor in Council shall appoint the Classification Appeal Committee which shall be composed of three members and three alternate members.

Appointment

- (3) Of the Committee
 - (a) one member and one alternate member shall be appointed after nomination by the employer;
 - (b) one member and one alternate member shall be appointed after nomination by the Union;
 - (c) the chairperson and the alternate chairperson shall be appointed upon the mutual nomination of the employer and the Union.



Exception

- (4) Notwithstanding clause (3)(c), where there is no mutual nomination, the appointment shall be made by the Lieutenant Governor in Council. *(EC851/95; 194/02)*

18. Notice of appeal

- (1) An appeal to the Committee shall be made in writing to the chairperson specifying the reasons for the appeal and the appellant shall send a copy of the appeal to the Commission.

Review of Commission decision

- (2) An appeal shall not be considered by the Committee unless the decision of the Commission was reviewed by the appellant with a designated employee of the Commission prior to the filing of the appeal.

Documentation

- (3) The Commission shall provide the chairperson of the Committee with all documentation in the Commission's possession with respect to the appeal.

Hearing

- (4) The Committee shall review the appeal, and may hold a hearing.

Notice of decision

- (5) The Committee shall communicate its decision in writing, giving reasons therefor to the parties within thirty working days of reviewing the appeal.

Powers

- (6) The Committee may
- (a) allow the appeal by revoking the decision of the Commission and directing that the Commission *re*-evaluate the position and correct any errors or omissions or take other appropriate action; or
 - (b) dismiss the appeal. *(EC851/95; 194/02)*

19. Decision binding

A decision of the majority of the Committee on an appeal shall constitute the decision of the Committee and shall be binding on the Commission, the employer and the employee. *(EC851/95; 194/02)*

20. Interval between reviews

The Committee shall not deal with an appeal on any position which has been considered by it within the previous twelve months unless the appellant can demonstrate in writing that there has been a substantial change in the duties and responsibilities of the position since the position was last reviewed by the Committee. *(EC851/95)*

B - CONVERSION TO NEW CLASSIFICATION PLAN**21. Comprehensive classification plan**

- (1) The Commission may adopt a new classification plan affecting all positions with the government or an agency.

Application of this section

- (2) Where a request for a classification review
- (a) arises as a consequence of the adoption of a new classification plan;
 - (b) relates exclusively to the issue of the appropriate classification of a position under that plan; and
 - (c) is based on one of the following grounds:
 - (i) that a full and accurate description of the position was not included in the information on which the classification of the position within the plan was determined,
 - (ii) that the present duties of the position are substantially different from those on which the classification of the position within the plan was determined,
 - (iii) that the position did not exist or was an inactive position at the time of conversion to the new classification plan;
- the review shall be conducted under this section and not under sections 15 to 20.

Examination by committee

- (3) The Commission shall establish a *re*-examination committee to examine the request and make recommendations to the Commission with respect to the classification of the position.

Decision binding

- (4) The decision of the Commission is binding on the person making the request and the employer. (*EC851/95; 194/02*)

PART VI — EMPLOYEE BENEFITS

22. Applies to excluded employees

This Part applies to employees who are excluded from consultation and negotiation procedures under section 92. (*EC709/83*)

23. Employees not in Senior Compensation Plan

The collective agreement between the employer and the Union respecting the following benefits and conditions of work applies, with the necessary changes, to all excluded employees except students, contract employees and those Executive Division employees paid through the Senior Compensation Plan:

- (a) overtime;
- (b) increment increases and anniversary dates;
- (c) compensation on promotion by competition or reclassification;
- (d) standby;
- (e) callback;
- (f) acting pay;
- (g) severance allowance;
- (h) injury on duty;
- (i) vacation;
- (j) statutory holidays;
- (k) sick leave;



- (l) special leave;
- (m) motor vehicle allowances;
- (n) group insurance;
- (o) transfer;
- (p) Schedule “B” (deferred salary plan); and
- (q) Schedule “C” (deferred salary plan memorandum of agreement);
- (r) lay-off and *re-employment*. (*EC709/83; 209/85; 662/86*)

PART VII — RETIRING PAY

24. Persons entitled

- (1) Retiring pay shall be granted on retirement to an employee who has at least ten years continuous service with the province who has reached age 55 or over and is eligible to receive a pension from either the Civil Service Superannuation Fund or the Pension Plan for Classified Part-Time Employees.

Exemption

- (2) Subsection (1) does not apply to Executive Division employees who are eligible for retiring pay benefits under the guidelines of the Senior Compensation Plan. (*EC320/91; EC332/00*)

25. Continuous service

- (1) For the purposes of this Part “continuous service” means uninterrupted service immediately prior to retirement.

Retiring pay

- (2) The retiring pay entitlement is an amount equal to one week’s pay for each year of service calculated as follows:

Total Paid Hours During Continuous Service X Weekly Salary

Divided by 1950 or 2080 Hours

Computation

- (3) The weekly salary shall be determined by dividing 52 into the annual full-time regular salary in effect for the employee’s position title and step at the time of retirement. The computation of total paid hours during service shall not include overtime hours.

Maximum

- (4) Retiring pay shall not exceed 26 weeks pay.

Deferment

- (5) An employee eligible for retiring pay may elect to immediately receive it or defer receipt until the beginning of the next calendar year, but receipt may not be deferred beyond the end of the fiscal year in which the amount is payable. (*EC320/91*)

26. Distribution

Where an employee specified in section 24 dies before retirement and retiring pay has not been granted, the retiring pay entitlement of the deceased employee as calculated pursuant to

section 25 shall be paid to the beneficiary designated in the employee's Group Life Insurance Policy unless another beneficiary is designated by the employee. (EC709/83; 209/85)

PART VIII - STAFF DEVELOPMENT & TRAINING

27. Staff development policies

The Department shall

- (a) determine staff development and training policies in the civil service and the administrative procedures to implement those policies; and
- (b) guide and assist departments and agencies in the identification of training and development needs, and provide appropriate training to meet those needs. (EC709/83; 639/93)

28. Educational leave

The Department shall administer the staff development and training program in relation to

- (a) the level and amount of assistance to be provided to employees granted educational leave; and
- (b) stipulations in regard to return service, employment while on leave, and acceptance of scholarships or bursaries for employees granted educational leave. (EC709/83; 639/93)

PART IX — CONDUCT OF EMPLOYEES

29. Discipline responsibility

The administration of discipline is the responsibility of the deputy head. (EC709/83)

30. Misconduct

An employee who fails to maintain proper standards of conduct or commits a disciplinary offence, shall be subject to disciplinary action. (EC709/83)

31. Categories of offence

The following is a general listing of disciplinary offences, which should not be taken as complete:

- (a) attendance, including
 - (i) lateness,
 - (ii) incorrect time reporting,
 - (iii) abuse of leave,
 - (iv) leaving without leave,
 - (v) leaving work without authorization;
- (b) work performance, including
 - (i) negligence,
 - (ii) unsatisfactory work performance;



- (c) personal behavior at work, including
 - (i) breach of the employer's rules or policies,
 - (ii) inattention to duties or carelessness,
 - (iii) falsifying records or expense claims,
 - (iv) harassment, use of obscene language, unruly behavior, fighting, or assault,
 - (v) use of alcohol or drugs,
 - (vi) insubordination,
 - (vii) theft or gambling,
 - (viii) smoking in forbidden areas,
 - (ix) indictable offence, or summary conviction offence,
 - (x) misuse of government property or services including the use of such property or services for purposes other than government business;
- (d) personal behavior away from work, including
 - (i) any act that would bring the civil service into disrepute, or
 - (ii) indictable offence. (EC709/83; 209/85)

32. Administration of discipline

- (1) Disciplinary action should be used only after other corrective measures have been considered.

Idem

- (2) Where a person having disciplinary authority delegated by a deputy head determines upon investigation that disciplinary action respecting an employee is necessary, the person may take disciplinary action.

Suspension

- (3) When it is necessary for the deputy head to remove an employee from a place of employment to investigate the employee's conduct because of a suspected disciplinary offence, the deputy head, may, subject to the approval of the Department, suspend the employee for a period of up to 30 days.

Extension

- (4) Where an additional period is required, the deputy head may extend the suspension for a period of up to 30 additional days.

Reinstatement

- (5) An employee shall be reinstated retroactive to the date of suspension if no charges are laid, if charges are withdrawn or not proven, or if no disciplinary action is taken. (EC709/83; 209/85; 639/93)

33. Disciplinary awards

- (1) The following is the scale of disciplinary actions:
 - (a) oral reprimand is a warning given orally to an employee, in which the employee is made aware of the problem and the changes required to correct the problem;
 - (b) written reprimand is a warning given in writing to an employee, in which the employee is made aware of the problem and given the reasons for the reprimand. A copy of the reprimand will be forwarded to the Department;

- (c) suspension as a disciplinary action is an enforced temporary absence from duty without pay. It is not necessarily preceded by less severe actions;
- (d) dismissal or demotion is taken for repeated violations of Government or departmental policy or for a single, serious disciplinary offence.

“dismissal”

- (2) In this Part “dismissal” means the ending of the employment relationship by an act of the employer for just cause, and for purposes other than a layoff. *(EC709/83; 639/93)*

34. Award of punishment

- (1) The deputy head may, subject to subsection (2),
 - (a) reprimand an employee; or
 - (b) suspend, demote or dismiss an employee.

Department approval

- (2) Where an employee of the classified division is disciplined under clause (1)(b), the discipline awarded is subject to the approval of the Department.

Power of Department

- (3) The Department may confirm, vary or quash a disciplinary action taken by a deputy head or delegate.

Reasons for discipline provided

- (4) Where an employee is disciplined by suspension, demotion, or dismissal, the employer shall, within ten days from the date of such disciplinary action, provide the employee with written reasons for such disciplinary action. A copy of such notice shall be sent to the Department, and, to the Union when the employee is a member of the Union. *(EC709/83; 209/85; 639/93)*

35. Demotion

An employee demoted for disciplinary reasons shall not be eligible for a salary increment for six months from the date of demotion. *(EC709/83)*

PART X — GRIEVANCE PROCEDURE FOR EXCLUDED EMPLOYEES

36. Application

This Part applies to permanent employees who are excluded from consultation and negotiation procedures under section 92. *(EC709/83)*

37. Grievance

- (1) An employee may process a grievance when
 - (a) a dispute arises between an employee and the employer with respect to the application, interpretation, or alleged violation of the regulations; or
 - (b) an employee feels aggrieved by any occurrence or matter affecting terms and conditions of employment.



Classification

- (2) Notwithstanding subsection (1), an employee may not process a grievance with respect to classification or reclassification of a position. *(EC709/83; 851/95)*

38. Discussion with supervisor

- (1) An employee shall first discuss the subject of the grievance with the immediate supervisor in an attempt to resolve the matter.

Submission to deputy head

- (2) An employee who wishes to pursue a grievance must submit it in writing to the deputy head within seven days of the date upon which the subject of the grievance occurred.

Response to deputy head

- (3) The deputy head shall submit a written reply to the employee within seven days of the submission of grievance. *(EC709/83)*

39. Decision final

The decision given by the deputy head shall be final and binding upon the employee unless the grievance is of a type that may be referred to the Adjudicator pursuant to section 45. *(EC709/83; 209/85)*

40. Withdrawal of grievance

An employee may withdraw a grievance at any time by so stating in writing. *(EC709/83)*

41. Correspondence

All correspondence between the deputy head and employee shall be hand delivered or by registered or certified mail, and the time limits may be extended by mutual agreement. *(EC709/83; 209/85)*

PART XI — GRIEVANCE ADJUDICATION**42. “Adjudicator”**

In this Part and in Part X “**Adjudicator**” means an independent person appointed by the Department to hear and rule on grievances filed under section 45. *(EC209/85; 639/93)*

43. Application

This Part applies to employees of the classified division who are excluded from consultation and negotiation procedures under section 92, except that probationary and provisional employees of that division who are excluded shall not have recourse to the Adjudicator in cases of dismissal. *(EC209/85)*

44. Fees

The fees and expenses of the Adjudicator shall be paid out of the Consolidated Fund. *(EC209/85)*

45. Types of grievance

Where an employee is not satisfied with the decision at the level immediately below that of the Adjudicator, the employee may, within fourteen days of being notified of the decision, file the grievance with the Department, if the grievance relates to

- (a) a dispute between the employee and the employer with respect to the application, interpretation or alleged violation of these regulations;
- (b) the appeal of a disciplinary award resulting in a dismissal, demotion, suspension or written reprimand;
- (c) a financial penalty;
- (d) a question as to whether a matter is grievable;
- (e) a decision of the Department respecting the interpretation of these regulations that affects the employee. (*EC209/85; 639/93*)

46. Appointment of Adjudicator

The Department shall appoint an Adjudicator within thirty days of receipt of the grievance specified in section 45. (*EC209/85; 639/93*)

47. Powers

The Adjudicator shall have the power of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. (*EC209/85*)

48. Hearing

- (1) The Adjudicator shall commence to hear the grievance within twenty-one days of being appointed.

Procedure

- (2) The Adjudicator shall determine his own procedures, but shall give full opportunity to all parties to present evidence and make representations. The Adjudicator shall, as much as possible, avoid legalistic procedures.

Alteration of penalty

- (3) Where disciplinary action against an employee is involved, the Adjudicator may confirm, increase, reduce, or rescind the penalty. (*EC209/85*)

49. Decision binding

The decision of the Adjudicator is final and binding on all parties. (*EC209/85*)

50. Copy of decision

The Adjudicator shall deliver a written copy of his decision together with the reasons therefor, within twenty-one days of the conclusion of the hearing to the employee, the employer, and the Department. (*EC209/85; 639/93*)



PART XII — ALCOHOLISM AND DRUG ABUSE

51. Application

This Part applies to permanent employees. (EC709/83)

52. Policy

It is the policy of the Government of Prince Edward Island as an employer to provide its employees with an opportunity for treatment in relation to drug abuse, problem drinking and alcoholism

- (a) by a voluntary act on the part of the employee; or
- (b) by direction of the deputy head or person delegated, without prejudice initially to the employee's job or career. (EC709/83)

53. Action *re* drug or alcohol problem

- (1) When a supervisor suspects that an employee has a drug or alcohol problem affecting work performance, the supervisor shall discuss the matter with the employee. The deputy head or delegate may direct the employee to

- (a) undergo an examination by a person designated by the Department;
- (b) follow such course of treatment as may be prescribed; and
- (c) participate in such continuing programs as may be prescribed.

Sick leave

- (2) When prescribed treatment requires admittance to a hospital or other facility, such time off may be covered by earned sick leave.

Results of treatment to be reported

- (3) The results of the examination, course of treatment, and the proposed program shall be forwarded to the employer and the Department.

Failure of participation by employee

- (4) Failure of the employee to participate in any phase detailed in subsection (1) may result in disciplinary action. (EC709/83; 209/85; 639/93)

Sections 54 to 64 Revoked by EC662/86.

PART XIV — IMPROPER INFLUENCE

65. Improper influence

- (1) Any person who violates subsection 44(1) of the *Civil Service Act* is guilty of an offence and is liable on summary conviction to a fine not exceeding \$500.

Penalty

- (2) Any employee who violates subsection 44(1) of the *Civil Service Act* on behalf of himself, in addition to the penalty specified in subsection (1), shall be deemed to be unworthy of the appointment, and it shall not be accorded. (EC709/83)

PART XV — CONSULTATION AND NEGOTIATION PROCEDURES

66. Definitions

In this Part

- (a) “**agreement**” means an agreement in writing between the authorized representative and Her Majesty the Queen in right of the Province of Prince Edward Island stipulating the term of the Agreement and containing terms and conditions of employment including rates of salary and wages for employees and may include provisions for other benefits;
- (b) “**authorized representative**” means the organization that represents employees;
- (c) “**Union**” means the Prince Edward Island Union of Public Sector Employees;
- (d) “**authorizing body**” means a group of three persons composed of the Minister responsible for the *Civil Service Act* acting as Chairman and two additional members appointed by the Lieutenant Governor in Council;
- (e) “**board**” means a board or arbitration established under these regulations;
- (f) “**employees**” means permanent employees and those relief employees with a minimum of six months continuous employment, but does not include the employees specified in section 92;
- (g) “**consultation and negotiation**” means
 - (i) in case of consultation
 - (A) an open exchange of information for the purpose of examining a problem, clarifying a situation, or improving the relationship between parties,
 - (B) discussion, study, and research of problems of concern to either party, and solutions for recommendation to the appropriate decision-making authorities,
 - (ii) in the case of negotiation
 - (A) discussing in good faith,
 - (B) bargaining collectively,
 - (C) conciliation as prescribed in sections 77 to 79,
 - (D) arbitration as prescribed in sections 80 to 87;
- (h) “**government authority**” means a person or group of persons designated by the Lieutenant Governor in Council;
- (i) “**parties**” means those persons who may negotiate and conclude an agreement.
(EC709/83; 209/85)

67. Authorized representative

- (1) The Union will continue to be the authorized representative until it is replaced in accordance with this section.

Idem

- (2) Where the Union no longer represents the employees, an organization of employees shall be designated as the authorized representative when it establishes to the satisfaction of the authorizing body that it represents for consultation and negotiation purposes more than 50 per cent of the employees.



Idem

- (3) Any organization claiming to represent a majority of the employees may apply to the authorizing body for a declaration that the organization designated as the authorized representative no longer represents a majority of the employees.

Application

- (4) An application under subsection (3) may be made only during the seventh and eighth months preceding the expiry date of the agreement.

Financial statements

- (5) Any authorized representative designated under subsection (2) shall provide to its members and the authorizing body an official audited statement of its financial activities within three months after the end of each fiscal year of the organization. (*EC709/83; 209/85*)

68. Divestment of authority

The authorizing body may divest the authorized representative of its authority to represent when

- (a) in the case of the Union, it no longer represents for consultation and negotiation purposes more than 50 per cent of the employees;
- (b) in the case of any other provincial organization or local unit of an organization authorized to represent employees for consultation and negotiation purposes, it
 - (i) no longer represents for consultation and negotiation purposes more than 50 per cent of the employees organization or unit,
 - (ii) ceases to be a legal entity, or
 - (iii) provides funds directly to a federal, provincial, or municipal political party, or directly to a person or group of persons for political purposes, or is officially endorsing a political party or person. (*EC709/83; 209/85*)

69. Revocation of designation

Where the authorizing body has revoked the designation of the authorized representative, any organization may submit at any time thereafter an application to be designated as the authorized representative. (*EC709/83*)

70. Consultation process

Consultation processes may be established by the Management Commission and the authorized representative. (*EC709/83; 639/93*)

71. Negotiations, parties

- (1) The parties to the negotiation of an agreement shall be the authorized representative and Her Majesty the Queen in right of the Province of Prince Edward Island.

Idem

- (2) Her Majesty the Queen in right of the Province of Prince Edward Island shall be represented by such persons as may be designated by the Management Commission.

Idem

- (3) Each party shall advise the other party of the names of its negotiators prior to the commencement of formal negotiations. *(EC709/83; 639/93)*

72. Prior to negotiations

Prior to the commencement of negotiations the parties shall meet to exchange data and attempt to resolve as many issues as possible through consultation. *(EC709/83)*

73. Notice to commence

- (1) Three months preceding the expiry date of the agreement in force, either party may by notice in writing to the other party request it to commence negotiations with a view to the renewal or revision of an agreement or the adoption of a new agreement.

Idem

- (2) The parties may commence negotiations at any time by mutual consent. *(EC709/83)*

74. Commencement of negotiations

When one party has given notice under the subsection 73(1) the parties shall, without delay, but in any case within fourteen calendar days after the notice was given, meet and commence to negotiate with a view to the renewal or revision of an agreement or the adoption of a new agreement. *(EC709/83)*

75. Discontinuance

Where the negotiations have been entered into under section 74, a party to the negotiations shall not discontinue or withdraw from the negotiations on the ground that no notice, or improper or insufficient notice has been given under section 73. *(EC709/83)*

76. Negotiable matters

The authorized representative may negotiate with the employer on terms and conditions of employment, which, without limiting the generality of the foregoing, include

- (a) rates of remuneration;
- (b) hours of work;
- (c) overtime and other premium allowances for work performed;
- (d) benefits pertaining to time not worked including paid holidays and paid vacations;
- (e) group life insurance;
- (f) procedures applicable to the processing of grievances;
- (g) conditions applicable to leaves of absence for purposes other than
 - (i) standing for election for any public office,
 - (ii) political activities, or
 - (iii) training or development;
- (h) the rate payable to an employee for distances travelled when he is required to use his own vehicle on the employer's business

and such other matters as may be mutually agreed upon by the parties. *(EC709/83)*



77. Conciliation

Where a notice to commence negotiations has been given under subsection 73(1) and

- (a) negotiations have not commenced within the time prescribed by section 74, or
- (b) negotiations have not commenced and continued for six weeks and either party requests the Attorney General, in writing to appoint a conciliation officer to assist them in concluding an agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties that have been encountered; and if in the opinion of the Attorney General it is advisable to do so, the Attorney General shall within seven calendar days of receiving the request, appoint a conciliation officer. *(EC709/83; 209/85; 484/86; 639/93)*

78. Functions of conciliator

The conciliation officer appointed under section 77 shall inquire into the matters of dispute and endeavour to bring about agreement between the parties. *(EC709/83)*

79. Conciliation report

After the conciliation officer has been appointed and the parties fail to adopt a new or revised agreement on the expiry date of the agreement in force, or at a later date mutually agreed by the parties, conciliation shall cease and the conciliation officer shall submit his report to the Attorney General. *(EC709/83; 209/85; 484/86; 639/93)*

80. Arbitration board

Where the parties have not adopted a new or revised agreement on the expiry date of the existing agreement, and

- (a) either party, in writing, requests the appointment of a board of arbitration; or
- (b) in the opinion of the Attorney General, following consultation with the parties, a board of arbitration should be established

the Attorney General shall appoint a board of arbitration as hereinafter set out. *(EC709/83; 209/85; 484/86; 639/93)*

81. Composition

- (1) A board of arbitration shall consist of three members.

Appointment of members

- (2) When under section 80 the Attorney General is requested to establish, or decides to establish, a board of arbitration, he shall forthwith by notice in writing, require the parties each to nominate, within ten calendar days after the mailing by registered mail or delivery of the notice by the Attorney General, one person to be a member of the board of arbitration; and upon receipt of the nomination, the Attorney General shall appoint each of these persons as a member of the board of arbitration; and in the event of the failure of either party to make such nomination within the time specified, the Attorney General may appoint any person whom he thinks fit and proper and that person shall be deemed to be nominated by the party so in default.

Notification of appointments

- (3) After appointing a person as a member of the board of arbitration, the Attorney General shall forthwith notify that member of his appointment by registered letter addressed to him at his

latest address known to the Attorney General, and the notification shall include the name and address of the other arbitrator.

Appointment of chairman

- (4) The Attorney General by notice in writing shall require the persons nominated to nominate within ten days of the date of such notice a third person who is willing and able to act to be a member and chairman of the board of arbitration, and, in the default of such nomination, the Attorney General shall appoint a person whom he thinks to be fit and proper to be the third member and chairman of the board or arbitration.

Regularity of appointments

- (5) When the Attorney General has given notice to the parties that the board of arbitration has been appointed under this section, it shall be deemed that the board of arbitration described in the notice has been established in accordance with this section; and no order shall be made or process entered, or proceedings taken, in any court to question the appointment of the board of arbitration or to review, prohibit or restrain the establishment of the board of arbitration or any of its proceedings.

Single arbitrator

- (6) If mutually agreed to by the parties, the Attorney General may appoint one person to act as the arbitration board, under the same provisions provided for the selection of a chairman.

Powers

- (7) A single arbitrator appointed under this section shall have the same powers, duties and responsibilities as a board of arbitration appointed under these regulations.

Arbitration Act

- (8) The *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 does not apply to arbitrators under these regulations. (*EC709/83; 209/85; 484/86; 639/93*)

82. Hearings

- (1) Not later than ten calendar days after the board is appointed, the board shall proceed to hear the matters referred to it and to determine the matters upon which the parties are unable to agree.

Presentations

- (2) The initial presentations to the board by each of the parties shall be made with both parties present and with each having the opportunity for rebuttal.

Representation by counsel

- (3) The parties to the arbitration proceedings may be represented by legal counsel.

Powers

- (4) The board of arbitration is empowered to make awards on
- (a) those matters detailed in clauses 76(a) to (h);
 - (b) such other matters presented by mutual agreement of the parties.

Matters resolved

- (5) The board of arbitration shall not decide upon matters already resolved but may, upon agreement of the parties, alter previously resolved matters in order to arrive at its award.



Awards

- (6) The board of arbitration is empowered to make awards for those employees listed in clause 66(f). (EC709/83)

83. Oath of Office

Each member of the board shall, before acting as such, take and subscribe before a person authorized to administer an oath or affirmation, and file with the Attorney General, an oath or affirmation in the following form:

I do solemnly swear (affirm) that I will faithfully, truly, and impartially to the best of my knowledge, skill and ability, execute and perform the office of member of the board of arbitration appointed to and will not, except in the discharge of my duties, disclose to any person any of the evidence or other matter brought before the said board. So help me God.

(EC709/83; 209/85; 484/86; 639/93)

84. Procedure

- (1) Except where otherwise provided in these regulations, a board of arbitration may determine its own procedure, but shall give full opportunity to all parties to present evidence, and make representations.

Notice of hearing

- (2) The chairman of the board shall, not later than five calendar days prior to the date fixed for the purpose, give notice of the time and place of the hearing to the parties to the negotiations.

Quorum

- (3) The chairman and one other member of the board shall constitute a *quorum*, except in the case of a board established pursuant to subsection 81(6) and in the case of the absence of any member from a meeting of the board, the other two members shall not proceed unless satisfied that the third member has been notified of the meeting in ample time to admit his attendance. If a member is unable to attend because of illness, death or other reasons mutually agreed upon by the parties, an alternate member may be appointed by the party affected to act on behalf of the absent member.

Majority decision

- (4) The decision of the majority of members present at the sitting of a three person board on questions of procedure, admissibility of evidence and other matters which arise during such sitting shall be the decision of the board, but lacking a majority decision on such matters the decision of the chairman shall govern.

Powers

- (5) A board of arbitration shall have the power
- (a) to summon and enforce the attendance of witnesses and to require them to give oral and written evidence on oath or on solemn affirmation, if they are persons entitled to affirm in civil matters, in the same manner as a court of record in civil cases;
 - (b) to administer oaths; and
 - (c) to accept, admit and call for such evidence it thinks fit, whether admissible as a court of law or not. (EC709/83)

85. Considerations for award

Recognizing the general aim of providing incomes for employees which are fair to both the Prince Edward Island taxpaying public and to the civil service, the board of arbitration, in the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute, shall consider

- (a) on a priority basis where in the opinion of the arbitration board there is validity, a fair comparison between the relationship of incomes and other benefits for employees to those available to persons doing similar work,
 - (i) in the Prince Edward Island private sector for better paying employers with modern employee relations and structures suitable for fair comparability purposes, and
 - (ii) in other governments and companies suitable for fair comparison in other Atlantic provinces, particularly when adequate comparisons are not available on Prince Edward Island, but having regard to the varying economic capabilities of the provinces;
- (b) in addition as the arbitration board in its opinion may consider relevant
 - (i) the requirements to obtain and retain competent employees,
 - (ii) the desirability of maintaining appropriate relationships in the conditions of employment as between classifications in the public service, and
 - (iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed, and the nature of the services rendered;
- (c) where current remuneration of those doing comparable work outside the civil service can be shown to be based on pay rates in the civil service, these comparisons may not be considered in isolation from other comparisons in making awards;
- (d) such other factors as the board may deem applicable without significantly diminishing the requirements of clause (a). (EC709/83)

86. Award

- (1) After making full inquiry and without undue delay, the board shall make an award, setting out its decision in writing as to the manner in which all matters in dispute between the parties shall be settled and the chairman of the board shall forthwith forward certified copies of the decision in writing to the parties to the negotiations and to the Attorney General.

Signature on award

- (2) The board's award shall be signed by the members concurring therein.

Majority decision

- (3) A decision of or award of a majority of the members shall be the decision of the board.

Award binding

- (4) An award of a board of arbitration is binding upon the parties.

Time for making awards

- (5) Except where the parties concerned mutually agree to an extension, the board shall make its award not later than ten days after completing an inquiry. (EC709/83; 209/85; 484/86; 639/93)



87. Remuneration of members

- (1) The members of the board of arbitration shall be paid such remuneration as the Attorney General determines, and their fees and expenses shall be cost shared on a 50-50 basis by the Government of Prince Edward Island and the authorized representative.

Services

- (2) With the approval of the Attorney General, a board of arbitration may secure such secretarial and clerical assistance as it deems necessary for the efficient carrying out of its duties. *(EC709/83; 209/85; 484/86; 639/93)*

88. Management rights

All the functions, rights, powers and authority which have not been specifically abridged, delegated or modified by these regulations or any agreement are recognized as being retained by the employer. *(EC709/83)*

89. Agreement to be signed

Not later than thirty days from the date that a board makes its decision, the parties shall prepare and sign an agreement embodying all matters settled in the award and all matters previously agreed upon in negotiations. *(EC709/83)*

90. Duration of agreement

- (1) An agreement made pursuant to these regulations remains in force until a new agreement is adopted to replace it.

Idem

- (2) Every agreement made pursuant to these regulations shall remain in force for at least one year and not more than three years.

Alterations to agreement

- (3) Neither party to an agreement shall change any term or condition therein unless the other party consents to the change or until a new agreement has been concluded. *(EC709/83)*

91. Grievance procedure

- (1) The parties shall negotiate a grievance procedure to carry out such functions as may be required under this section and the procedure shall be included in the agreement.

Dispute subject to grievance

- (2) Where any dispute or difference of opinion arises as to the interpretation, application, administration, operation or any alleged violation of an agreement including any question as to whether any matter is arbitrable, and such dispute or difference of opinion cannot be settled at any local or other level through consultations, either party to the negotiations may make

representations to the appropriate persons or bodies under the grievance procedure, which has been established for consideration of the dispute and achieving a decision. *(EC709/83)*

92. Excluded employees

- (1) The authorized representative shall not represent
 - (a) employees of the executive division;
 - (b) employees of the Executive Council Office, Management Commission, and the Commission;
 - (c) employees of the Department involved in the carrying out of the provisions of these regulations as designated by the Minister and pay equity officers involved in the carrying out of the provisions of the *Pay Equity Act* R.S.P.E.I. 1988, Cap. P-2;
 - (d) solicitors employed in the Office of the Attorney General;
 - (e) employees participating in collective bargaining on behalf of the Government;
 - (f) employees covered under the Master Agreement between the Government and the Medical Society of Prince Edward Island, and employees who are subject to the terms and conditions of employment for excluded supervisory and confidential employees in the Health Sector;
 - (g) contract employees;
 - (h) students;
 - (i) employees providing administrative support services directly to department heads and deputy heads; and
 - (j) senior departmental administrative officers who have primary responsibility for the department's financial and personnel management.

*These employees shall not maintain membership in or pay dues to the authorized representative.

Idem

- (2) The Lieutenant Governor in Council may, after consultation between the employer and the authorized representative, add to or delete from the positions or employees listed in subsection (1). (*EC709/83; 209/85; 484/86; 662/86; 323/89; 639/93; 422/95; 721/05*)

93. Variation of time limits

Notwithstanding anything in the regulations, the parties to an agreement or the parties negotiating an agreement may by mutual consent alter or vary the time for the doing of anything herein prescribed on the coming into effect of any matter or thing under the regulations. (*EC709/83*)

PART XV.1 — POLITICAL RIGHTS

93.1 Leave of absence

- (1) A leave of absence granted pursuant to section 40 of the Act is a leave of absence without pay and shall commence on the date the employee has been adopted as a candidate by a political party.

Withdrawal of candidate

- (2) Where the employee withdraws as a candidate and before the election notifies the deputy head and the Department of his intention to return to work, the employee may return to his original position upon the expiration of two weeks after the notice is given, unless the deputy head and the employee agree upon an alternative date of return to work.



Termination of leave

- (3) Where an employee fails to be elected, the leave of absence shall terminate two weeks after the date on which the result of the election is officially declared and the employee may return to his original position unless the deputy head and the employee agree upon an alternative date of return to work.

Idem

- (4) Where an employee is elected, the leave of absence shall terminate two weeks after
- (a) the employee resigns the office to which he was elected;
 - (b) where the Legislature or Parliament of Canada is dissolved, the employee notifies the deputy head and the Department of his intention not to seek *re*-election;
 - (c) nomination day at the next election if the employee is not nominated; or
 - (d) the date on which the result of the next election is officially declared, if the employee is not *re*-elected,

whichever first occurs.

Second term, employee elected

- (5) Where an employee is elected for the second successive term, the leave of absence terminates on the day on which the employee is officially declared to be elected and the employee shall cease to be an employee on that day.

Idem, employee not elected

- (6) Where an employee is not elected for a second successive term, the leave of absence shall terminate in accordance with subsection (3) except that where the original position is not then vacant or has been eliminated the employee may return to an equivalent position. (EC555/88; 639/93)

93.2 Appeal

- (1) Where the deputy head refuses to grant a leave of absence or denies permission under section 39 of the Act, the employee may appeal the refusal or denial to the Appeal Commission.

Notice

- (2) An employee who wishes to appeal the decision of the deputy head shall deliver to the deputy head a written notice of appeal within five days of receipt of the decision of the deputy head.

Employee representative

- (3) The employee's notice of appeal shall include the name of the employee's representative to the Appeal Commission.

Employing authority representative

- (4) Within five days of receipt of the notice of appeal, the deputy head shall deliver to the employee the name of the employing authority's representative to the Appeal Commission.

Persons excluded

- (5) Neither of the representatives nominated under subsection (3) or (4) shall be an employee of the department in which the employee appealing is employed.

Chairperson

- (6) Within five days of receipt by the employee of the name of the employing authority's representative, the two representatives shall agree upon the person to chair the Appeal Commission, but, in the absence of agreement, the chairperson shall be named by the Chief Electoral Officer.

Qualification

- (7) The members of the Appeal Commission, including the chairperson, shall be permanent employees.

Determination

- (8) The Appeal Commission shall meet and determine the appeal within three calendar days of the appointment of the chairperson.

Notice of decision

- (9) The employee and the deputy head shall be advised in writing of the decision of the Appeal Commission forthwith upon a decision being reached.

Decision final

- (10) The decision of the Appeal Commission shall be final and binding on the employee and the deputy head.

Procedure

- (11) The Appeal Commission shall, subject to observance of the rules of natural justice, conduct its proceedings in an informal manner.

Record

- (12) The Appeal Commission shall make a written record of its decision and the reasons for it. (EC555/88)

PART XVI — GENERAL

94. Defects

No proceedings under these regulations shall be deemed invalid by reason of any defect in form or any technical irregularity. (EC709/83)

