



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **CIVIL SERVICE ACT**

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## CIVIL SERVICE ACT

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## CIVIL SERVICE ACT

### CHAPTER C-8

#### 1. Definitions

In this Act

- (a) “**agency**” means any authority, board, commission, or other body, whether incorporated or unincorporated, all the members of which, or all the members of the management or board of directors of which,
  - (i) are appointed by an Act or by the Lieutenant Governor in Council, or
  - (ii) if not so appointed, are, in the discharge of their duties, directly or indirectly responsible to the Crown;
- (b) repealed by *1998, c.83, s.1*;
- (b.1) “**chairperson**” means the chairperson of the Commission;
- (b.2) “**Chief Executive Officer**” means the Chief Executive Officer of the Commission appointed under section 5;
- (c) “**collective agreement**” means an agreement in writing between the employer and the Union pursuant to section 43;
- (d) “**Commission**” or “**Public Service Commission**” means Prince Edward Island Public Service Commission;
- (e) “**demote**” means to reduce the salary of an employee by transferring him to a position with a lower maximum salary or by reducing the salary of his present position;
- (e.1) repealed by *1998, c.83, s.1*;
- (f) “**department head**” means a member of the Executive Council charged with the administration of a department or agency;
- (g) “**deputy head**” means the Deputy Minister of a department or the chief executive officer of an agency;
- (h) “**employee**” means a person employed by the Crown in the right of the province or any agency thereof, as a
  - (i) “**casual employee**” being an employee hired in the casual division,
  - (ii) “**executive division employee**” being an employee who holds a position in the executive division,
  - (iii) “**permanent employee**” being an employee appointed by the Commission to a position in the classified division who has completed the probationary period,
  - (iv) “**probationary employee**” being an employee appointed by the Commission to a position in the classified division who has not completed the probationary period, or

- (v) “**provisional employee**” being an employee appointed by the Commission to a position in the classified division whose qualifications are incomplete for appointment as a probationary employee;
- (i) “**employer**”
  - (i) in relation to consultation and negotiation, means the Treasury Board or such other body as the Lieutenant Governor in Council may designate, and
  - (ii) in relation to a department or agency, means the department head or the deputy head or such other official as the department head may designate;
- (j) “**employment list**” means a list of names of successful candidates in a competition for a position, rated in order of merit;
- (k) “**merit principle**” means the principle that merit governs the appointment of a person to and advancement within the civil service on the basis of qualifications, relative ability, knowledge and skills;
- (k.1) “**Minister**” means the Minister of Finance;
- (l) “**part-time**” in relation to an employee, means employment for irregular hours of duty or for specific intermittent periods, or both, where the services of that employee may not be required for the whole of the normal work day, week, month or year;
- (m) “**promotion**” means the appointment of an employee, as a result of competition or a classification review, to a position having a higher maximum salary;
- (n) “**recall list**” means a list of names of persons eligible for appointment to vacant positions as a result of lay-off from the classified division;
- (o) “**regulations**” means regulations made under this Act;
- (p) “**secondment**” means the temporary transfer of an employee for a specified period of time to or from one position to another position;
- (q) “**selection board**” means a board appointed by the Chief Executive Officer to examine candidates in a competition;
- (r) “**transfer**” means to transfer an employee to a position for which the maximum rate of pay does not exceed the maximum rate of pay for the position from which the employee is transferred;
- (s) “**Union**” means the Prince Edward Island Union of Public Sector Employees;
- (t) “**veteran**” means a person who has served in Her Majesty’s armed forces or merchant marine during World War I, World War II or the Korean theatre of war, and was honourably discharged therefrom. *1983,c.4,s.1; 1987,c.9,s.1,2; 1993,c.2,s.1,13; 1997,c.7,s.1; 1998,c.83,s.1; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

## 2. Application of Act

Except as herein otherwise provided, and unless provided to the contrary in another Act, this Act applies

- (a) to every position, appointment, and employment with the Government or with an agency; and
- (b) to every person appointed thereto or employed therein. *1993,c.2,s.2; 2009,c.66,s.4(2).*

### 2.1. Purpose of Commission

The purpose of the Commission is

- (a) to maintain a professional and independent civil service;

- (b) to foster the development of a public service that is representative of the province's diversity;
- (c) to provide the public with a service which is responsive and flexible to their needs; and
- (d) to foster a constructive working relationship among the Government, its employees and their representatives. *1998,c.83,s.2; 2015,c.36,s.18(2).*

## PUBLIC SERVICE COMMISSION

### 3. Public Service Commission

- (1) There is established a Prince Edward Island Public Service Commission consisting of three part-time members appointed by the Lieutenant Governor in Council of whom
  - (a) one shall be selected by the Lieutenant Governor in Council;
  - (b) one shall be selected by the Lieutenant Governor in Council from a list of three nominees submitted by the Union; and
  - (c) one shall be the chairperson, selected by the Lieutenant Governor in Council from a list of at least two nominees submitted jointly by the persons referred to in clauses (a) and (b).

#### Eligibility

- (2) No employee or employee of the Union is eligible for appointment to the Commission.

#### Term of office

- (3) A member of the Commission shall hold office for five years and is eligible for reappointment.

#### Removal

- (4) A member of the Commission may be removed from office only for just cause.

#### Vacancies

- (5) In the event of a vacancy in the membership of the Commission the Lieutenant Governor in Council may, in accordance with the procedure set out in subsection (1), appoint a person to complete the unexpired portion of the term of the member being replaced.

#### Remuneration

- (6) The members of the Commission shall be paid such remuneration and expense allowance as the Lieutenant Governor in Council may determine.

#### Quorum

- (7) A majority of the members of the Commission constitutes a quorum.

#### Meetings

- (8) The Commission shall meet as often as it considers necessary for the conduct of regular business and the Chief Executive Officer may at any time call a special meeting. *1993,c.2,s.3; 1998,c.83,s.2; 2015,c.36,s.18(2).*

### 4. Commission responsibilities

- (1) The Commission shall

- (a) administer this Act and the regulations;
- (b) recruit and appoint employees to the classified division;
- (c) establish and maintain a classification plan;
- (d) administer payroll programs;
- (e) make an annual report to the Minister;
- (f) negotiate and administer the collective agreement between the employer and the Union;
- (g) provide leadership and strategic direction for departments in human resource planning;
- (h) coordinate programs concerning employee training, education and career development;
- (i) appoint under this Act, employees of the Commission as may be necessary to carry out its functions;
- (j) conduct research as required, respecting human resource management policies and procedures;
- (k) advise the employer with respect to terms and conditions of employment for employees excluded from the collective agreement pursuant to section 43; and
- (l) advise the employer respecting policy development for the improvement of the civil service.

**Commission may**

(2) The Commission may

- (a) advise and assist departments on human resource matters;
- (b) provide health and wellness programs for the development of employees;
- (c) provide advisory services including human resource planning and organizational development and design;
- (d) conduct studies concerning any aspect of staff utilization in the public service;
- (e) make any investigation that it considers desirable concerning human resource management in the public service;
- (f) carry out research to identify and evaluate jobs in other jurisdictions and to collect compensation data on comparable positions for the purposes of classification;
- (g) delegate human resource functions to departments as deemed appropriate; or
- (h) perform other functions that it considers appropriate to carry out the purposes and provisions of this Act.

**Report to be laid before Legislative Assembly**

- (3) The Minister shall cause the annual report made under clause (1)(e) to be laid before the Legislative Assembly if then in session or, if not, within fifteen days of the opening of the next ensuing session.

**Powers of Board of Inquiry**

- (4) For the purposes of any investigation or report, the members of the Commission have the powers of a Board member under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. 1993,c.2,s.3; 1998,c.83,s.5; 2007,c.3,s.1; 2015,c.36,s.18(2),(3),(4).



**5. Chief Executive Officer**

- (1) The Lieutenant Governor in Council shall appoint as Chief Executive Officer of the Commission a person who has experience in personnel administration and is familiar with its principles and methods, and the Chief Executive Officer shall coordinate the activities and be responsible for the administration of the affairs of the Commission.

**Term of office**

- (2) Repealed by *1999,c.83,s.6*.

**Removal**

- (3) The Lieutenant Governor in Council may remove the Chief Executive Officer from office for just cause.

**Remuneration**

- (4) The Chief Executive Officer shall be paid such remuneration and expense allowance as the Lieutenant Governor in Council may determine.

**CEO responsibilities**

- (5) The Chief Executive Officer shall
- (a) act as secretary to the Commission;
  - (b) provide the Commission with information and research required to provide strategic policy direction;
  - (c) articulate and implement the decisions and direction of the Commission;
  - (d) provide direction, advice, or assistance to departments in the application of human resource management policies, standards, regulations and procedures; and
  - (e) fulfil any other responsibilities that the Commission or the Lieutenant Governor in Council may assign.

**Status of Chief Executive Officer**

- (6) The Chief Executive Officer shall have the rights and privileges of a civil servant. *1993,c.2,s.3; 1998,c.83,s.6; 2015,c.36,s.18(2)*.

**6. Access to records**

Deputy heads and employees shall give the Commission such access to their offices and such facilities, assistance and information as the Commission may require for the performance of its functions but where any information supplied to the Commission is confidential or otherwise restricted by law, the Commission is bound by the rules of confidentiality or restrictions applicable to the person or authority supplying the information. *1993,c.2,s.3*.

**6.1 Regulations**

Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations governing and respecting

- (a) the selection, transfer, and secondment of persons to or from positions in the civil service;
- (b) probationary appointments and terms of probation;
- (c) the classification of positions in the civil service;
- (d) the review of classifications;
- (e) classification appeal procedures;

- (f) personnel records and statistics to be maintained by departments and agencies;
- (g) any matter considered necessary for the purpose of carrying out the provisions of this Act. *1993,c.2,s.3.*

## PERSONNEL ADMINISTRATION

### 6.2 Duties of Department

Repealed by *1998,c.83,s.7.*

## ORGANIZATION OF THE CIVIL SERVICE

### 7. Civil service

The civil service consists of the executive division, the classified division and the casual division. *1983,c.4,s.7.*

### 8. Executive division

(1) The executive division is comprised of the positions of

- (a) deputy heads and assistant deputy ministers;
- (b) the Clerk of the Executive Council;
- (b.1) the Secretary to Treasury Board;
- (c) repealed by *2014,c.30,s.3(2)*;
- (d) special advisors and assistants to members of the Executive Council; and
- (e) the Chief Executive Officer of the Commission,

and such other similar positions as the Lieutenant Governor in Council may designate.

#### Appointment

(2) Employees in the executive division are appointed by the Lieutenant Governor in Council and shall have such remuneration and benefits as the Lieutenant Governor in Council may determine. *1983,c.4,s.8; 1987,c.9,s.2; 1993,c.2,s.4; 1998,c.83,s.8; 2009,c.66,s.4(3); 2012,c.6,s.1; 2012,c.15,s.16; 2014,c.30,s.3(2); 2015,c.36,s.18(2).*

### 9. Classified division

(1) The classified division is comprised of the classified full-time or part-time positions now existing or hereafter created.

#### Composition

(2) The classified division consists of

- (a) permanent employees;
- (b) probationary employees; and
- (c) provisional employees.

**Appointment**

- (3) Appointments to positions in the classified division shall be made by the Commission. *1983,c.4,s.9; 1993,c.2,s.13; 2015,c.36,s.18(2).*

**10. Casual division**

- (1) The casual division consists of employees of the following descriptions holding positions which are not permanent:
- (a) “contract employee” being an employee engaged by means of a contract authorized by a department head or deputy head, for temporary employment for a fixed term;
  - (b) “relief employee” being an employee engaged to fill a position on a temporary basis as a replacement for the regular incumbent;
  - (c) “temporary employee” being an employee engaged to perform specific duties because of a temporary increase in the work load;
  - (d) “student employee” being a person employed in the period from May to September who has been in full-time attendance as a student at an educational institution and affirms at the time of his appointment that he will return to full-time attendance at an educational institution in the same year.

**Authority to hire**

- (2) An employer may hire student, temporary or relief employees who are considered capable of performing the required work.

**Duration of employment**

- (3) Temporary employees hired by an employer may be retained for a maximum period of six months and their employment shall be terminated no later than the end of that period.

**Duration of employment,**

- (4) Without prejudice to subsection (3), the Commission may appoint a temporary employee for such specific period as it may determine.

**Seasonal jobs**

- (5) Subject to the rights of employees of the classified division, where a person has received a satisfactory performance evaluation in a seasonal, temporary job, it shall be *re-offered* to the person in the immediately succeeding season, should that job be available and an annual advertisement shall be made by the Public Service Commission to create a list for future vacancies in the seasonal job category.

**Equity and Human Rights**

- (6) Provision shall be made for the hiring of persons with disabilities in accordance with employment equity principles and the *Human Rights Act* R.S.P.E.I. 1988, Cap. H-12. *1983,c.4,s.10; 1993,c.2,s.5,13; 1997,c.7,s.2; 1998,c.2,s.1,2.*

**11. Duties of deputy head**

- (1) Subject to the direction of his department head, a deputy head is responsible for the operation of his department or agency, and shall perform such other functions as are assigned to him by his department head or by the Lieutenant Governor in Council.

**Acting deputy head**

- (2) A department head may appoint an acting deputy head who may exercise the powers and perform the duties of the deputy head.

**Delegation**

- (3) Where a deputy head delegates any of his authority under this Act, the delegation does not include the right to demote or dismiss an employee. *1983,c.4,s.11.*

**12. Commission classifies position**

- (1) The Treasury Board may authorize the creation of new positions in the classified division but the Commission shall, prior to the creation of a new position, classify that position.

**Transfer of positions**

- (2) The Treasury Board may transfer positions from one department or agency to another department or agency.

**Abolition of positions**

- (3) The Treasury Board may abolish positions.

**Commencement of decision to create, transfer or abolish positions**

- (4) For greater certainty, every decision made under this section by the Treasury Board, which is not expressed in the minute of the Board setting out the decision to come into force on a certain day or time, comes into force on the commencement of the day the decision is made. *1983,c.4,s.12; 1993,c.2,s.13; 1998,c.83,s.9; 2012,c.6,s.2.*

**13. Classification Plan**

- (1) The Commission shall maintain, develop and implement a classification plan
- (a) as a basis for uniform treatment of employees performing the same kind or level of work; and
  - (b) to provide a systematic basis for organization and administration.

**Classification of positions**

- (2) The Commission shall approve the classification of each position in the classified division.

**Alteration**

- (3) The classification of each position shall not be altered for the purpose of adjusting rates of compensation.

**Duties**

- (4) An employer shall define the duties and responsibilities to be assigned to each position under his jurisdiction.

**Deputy head may request review**

- (5) A deputy head may request the Commission to review the classification of any position under his jurisdiction.

**Employee request**

- (6) A permanent employee may request the Commission to review the classification of his position in accordance with the regulations. *1993,c.2,s.6.*

**14. Reclassification, promotion**

Where, as a result of a reassignment of duties and responsibilities, a position is reclassified to a class having a higher maximum salary and, if in the opinion of the Commission, the incumbent of the position has the necessary qualifications and satisfactorily performs the duties of the position, the Commission may promote the incumbent, without competition, to the position as reclassified. *1983,c.4,s.14; 1993,c.2,s.13.*

**15. Remuneration, Commission appointed employees**

- (1) In respect of any employee appointed by the Commission,
- (a) no payment of remuneration shall begin; and
  - (b) other than a negotiated increase or an increment, no increase in remuneration shall be granted,

without the written authorization of the Chief Executive Officer.

**Authority to reduce pay rate or add to payroll**

- (2) Without the authorization of the Commission,
- (a) no reduction shall be made of the rate of pay of any employee; and
  - (b) no person, other than a student or entry-level labourer, shall be added to the hourly payroll.

**Authorization, employing authority**

- (3) Without the written authorization of the employing authority,
- (a) payment of remuneration to any employee shall not be terminated; and
  - (b) no student or entry-level labourer shall be added to the hourly payroll. *1995,c.6,s.1; 1998,c.83,s.10; 2015,c.36,s.18(2).*

**16. Commission to appoint**

The Commission shall make all appointments and promotions to positions in the classified division on the basis of the merit principle and in accordance with this Act. *1983,c.4,s.16; 1993,c.2,s.13.*

**17. Vacancies, form of competition**

- (1) Where a vacancy or new position in the classified division becomes available,
- (a) if the vacancy or new position is covered by the collective agreement, the Commission shall hold an in-service competition; or
  - (b) if the vacancy or new position is not covered by the collective agreement, the Commission shall hold either an in-service or an open competition.

**In-service competition**

- (2) An applicant for an in-service competition must be
- (a) an employee in the classified division;
  - (b) a person who was an employee of the classified division at the time of accepting a position with the
    - (i) Office of Auditor General,
    - (i.1) Office of the Child and Youth Advocate,

- (ii) Prince Edward Island Business Development Agency,
- (iii) Prince Edward Island Marketing Agency, and
- (iv) Prince Edward Island Regulatory and Appeals Commission;
- (c) a casual employee appointed by the Commission through a competitive process approved by it and who has at least one year of continuous service after that appointment; or
- (d) a casual employee
  - (i) who was appointed by the Commission through a diversity and equity program, and
  - (ii) who has completed at least one year of continuous service after that appointment.

**Open competition**

- (3) Where the vacancy or new position in the classified division remains unfilled following an in-service competition, the Commission shall hold an open competition.

**Idem**

- (4) An applicant for an open competition may be an employee or a member of the public. *1983,c.4,s.17; 1992,c.10,s.1; 1993,c.2,s.13; 1994,c.7,s.1; 1995,c.6,s.2; 1997,c.7,s.3; 1998,c.2, s.3; 2001,c.3,s.1; 2009,c.66,s.4(4); 2015,c.36,s.18(3),(5); 2019,c.21,s.38.*

**17.1 Recent employment**

- (1) Repealed by *2002,c.3,s.1.*

**Expiry**

- (2) Repealed by *2002,c.3,s.1.*

**18. Examinations**

To establish lists of persons eligible for appointment to and promotion within the civil service, the Commission shall conduct such examinations as it considers necessary, but an examination shall not be conducted so as to elicit information concerning the political or religious opinions or affiliations of an applicant. *1983,c.4,s.18; 1993,c.2,s.13.*

**19. One week's advance notice**

- (1) The Commission shall give notice of competition in the classified service at least one week in advance of the closing date of the competition.

**Posting of notices**

- (2) Notices pursuant to subsection (1)
  - (a) for in-service competitions, shall be posted
    - (i) on government notice boards in areas accessible to employees, and
    - (ii) in such other manner as the Commission considers will provide reasonable access to the notice; and
  - (b) for open competitions
    - (i) shall be posted on government notice boards, and
    - (ii) in such other manner as the Commission considers will provide reasonable access by the public to the notice. *1998,c.2,s.5; 2001,c.3,s.2; 2015,c.36,s.18(2).*

**20. Qualification standards**

When recruiting to fill a position, the Commission may establish a higher standard of qualifications than is specified in the classification plan. *1983,c.4,s.20; 1993,c.2,s.13.*

**21. Selection board**

- (1) Where a competition is to be held, the Chief Executive Officer shall appoint a selection board.

**Functions**

- (2) A selection board shall
  - (a) review the applications of candidates;
  - (b) examine those candidates who possess the required qualifications; and
  - (c) rate the candidates in order of merit.

**Review**

- (3) Repealed by *1993,c.2,s.7.*

**22. Employment lists**

- (1) The Commission shall establish and maintain employment lists for positions in the classified division.

**Order**

- (2) The Commission shall list the names of persons on each employment list in order of merit. *1983,c.4,s.22; 1993,c.2,s.13.*

**23. Recall list**

- (1) Employees on a recall list shall be given preference over new employees or employees who have not been affected by lay-off for appointment to vacant classified positions.

**Preference for veterans**

- (2) In all competitive examinations for admission to the civil service veterans shall, if they obtain the minimum marks necessary to qualify them, be credited with bonus marks of ten per cent of the marks earned by them on the competitive examination.

**Preference by length of service**

- (3) Where two or more employees are rated equally in an in-service competition, the employee whose length of continuous service in the classified division is greater shall be given preference of ranking. *1983,c.4,s.23; 1993,c.2,s.13; 1997,c.7,s.4.*

**24. Appointments**

- (1) Before appointing a person to a position, the Commission shall satisfy itself that the person is fit to perform the duties and to undertake the responsibilities of the position.

**Appointments**

- (2) The Commission shall
  - (a) in relation to in-service competitions, appoint the person who stands first in order of merit on the employment list; and

- (b) in relation to open competitions, after consultation with the employer, appoint one of three in order of merit on the employment list.

**Appointment from employment list for higher level**

- (3) Where there is no employment list in respect of a vacancy in a particular classification, the Commission may make an appointment from an employment list established for a similar classification at a higher level. *1983,c.4,s.24; 1990,c.6,s.1; 1993,c.2,s.13; 2015,c.36,s.18(2).*

**24.1 Review**

- (1) Candidates in a competition are entitled to review their ratings and test papers.

**Appeal, in-service competition**

- (2) Repealed by *1999,c.20,s.1.*

**Successful appeal**

- (3) Repealed by *1999,c.20,s.1.*

**25. Assumption of functions by Crown, transfer of employees**

Where the functions of any organization, the employees of which are not civil servants, are assumed by the Crown, the permanent employees of the organization shall, if the Act or agreement under which the functions are assumed states that this Act is to apply, have the option of probationary appointment without competition to positions in the classified division subject to the classification of those positions by the Commission. *1983,c.4,s.25; 1993,c.2,s.13.*

**26. Remuneration**

Where a person is appointed to a position, the Commission, after consultation with the employer, shall determine which of the rates of pay set out for the position shall be paid to him. *1983,c.4,s.26; 1993,c.2,s.13.*

**27. Probation**

- (1) An appointment, promotion, or transfer to a position in the classified division shall be probationary in accordance with and for such period as may be prescribed by the regulations.

**Notice of rejection**

- (2) The employer may, at any time during the probationary period, give notice to the employee and to the Commission that he intends to reject the employee and give the reasons therefor and, unless the Commission appoints the employee to another position in the civil service, he ceases to be an employee on the expiration of the period specified in the notice.

**Permanent appointment**

- (3) On successful completion of the probationary period the Commission shall grant the employee a permanent appointment.

**Reversion to former level**

- (4) If a promoted or transferred employee holding a probationary appointment fails to meet the requirements of the position or is required to vacate the position as a result of the grievance process, he shall revert to a position equivalent to his former position, and shall be paid at that rate at which he would have been paid had he not been promoted or transferred.



**Training positions**

- (5) The Commission may extend the probationary period for a position designated by the Commission as a training position for such length of time as may be required by the employee to successfully complete the training period.

**Casual employment discounted**

- (6) Employment in the casual division shall not be considered as part of the probationary period in the case of a subsequent probationary appointment. *1983,c.4,s.27; 1993,c.2,s.13; 1999,c.20,s.2.*

**28. Provisional appointments**

- (1) Where, following a competition, no candidates are held to be qualified, the Commission may appoint from the competition a candidate whose qualifications most closely match those required for the position and make
- (a) a provisional appointment at a salary rate less than the minimum rate set out for the position; or
  - (b) a probationary appointment to the position at a lower level than that assigned to the position in the classification plan.

**Probationary appointment on attainment of qualifications**

- (2) Where a person appointed under clause (1)(a) attains the necessary qualifications, he may be granted a probationary appointment to that position and the Commission may count any portion of the time held as a provisional appointment as part of the probationary period.

**Promotion of probationary appointee to original level**

- (3) Where an employee appointed under clause (1)(b) attains the necessary qualifications to the satisfaction of the Commission, he may be promoted without competition to the position at the level allocated to it in the classification plan. *1983,c.4,s.28; 1993,c.2,s.13.*

**29. Acting appointments**

- (1) When an employee substitutes in a higher level position during the absence of the regular incumbent he may be given an acting appointment to the higher level position if he is considered qualified by the employer.

**Vacant positions**

- (2) An employer may authorize an acting appointment to a vacant position. *1983,c.4,s.29; 1993,c.2,s.13; 1998,c.83,s.11.*

**30. Oath of office**

- (1) Every person appointed to a position in the executive division or the classified division shall on appointment take and subscribe the oath as set out in Schedule II.

***Idem***

- (2) A person engaged to work in the casual division may be required by the deputy head to take and subscribe the oath as set out in Schedule II. *1983,c.4,s.30.*

## TERMS OF SERVICE

### 31. Transfer, by employer

- (1) An employer may transfer an employee from one position to another position within the same department or agency.

#### Transfer, by Commission

- (2) The Chief Executive Officer or his designate may transfer an employee from a position in a department or agency to another department or agency with the approval of the employer of the department or agency to which the transfer is made.

#### Transfer to lower level position

- (3) No employee shall be involuntarily transferred to a position with a lower maximum salary except as a result of disciplinary action, incompetence, the application of the lay-off procedures or for health reasons. *1983,c.4,s.31; 1993,c.2,s.13; 1997,c.7,s.5.*

### 32. Discipline

- (1) Repealed by *1993,c.2,s.9.*

#### Penalties

- (2) Repealed by *1993,c.2,s.9.*

#### Reprimand and suspension

- (3) A deputy head or any official authorized by him may, for cause, reprimand or suspend an employee in his department or agency.

#### Promotion and dismissal

- (4) A department head or a deputy head may, for cause, demote or dismiss an employee in his department or agency.

#### Notice

- (5) An employee who is suspended, demoted or dismissed shall be notified in writing of the reason for the action and a copy of the notification shall be forwarded to the Chief Executive Officer. *1998,c.83,s.12.*

#### Saving

- (6) Repealed by *1995,c.6,s.5.*

### 33. Grievance procedure

The grievance procedure for the orderly resolution of differences between employers and employees shall be as established by collective agreement or prescribed in the regulations. *1983,c.4,s.34.*

### 34. Resignation

- (1) An employee of the classified division may resign by giving his employer at least two weeks notice in writing of his intention to resign, and stating therein the effective date of his resignation.

**Withdrawal of resignation**

- (2) A person may withdraw a resignation under subsection (1) if
- (a) the employer and the Chief Executive Officer approve; and
  - (b) no other person has been appointed to the position.

**Absence without leave**

- (3) An employee who is absent without leave for ten consecutive working days shall be deemed to have resigned from the service effective the first day of absence but where an employee of the classified division satisfies the Chief Executive Officer that his absence arose from a cause beyond his control, he shall be reinstated. *1983,c.4,s.35; 1993,c.2,s.13.*

**35. Lay-off**

The Deputy Minister may lay off an employee in accordance with the collective agreement. *1983,c.4,s.36; 1987,c.9,s.5; 1997,c.7,s.6.*

**36. Leave of absence**

Repealed by *1997,c.7,s.7.*

**37. Overtime**

Where in the opinion of the employer it is necessary, the employer may require an employee to work more than the prescribed working hours. *1983,c.4,s.38.*

**38. Restricted employee**

- (1) In this section “restricted employee” means
- (a) an executive division employee;
  - (b) an employee of the Legislative Assembly or in the office of the Executive Council, Treasury Board, the Auditor General or the staff of the Board; and
  - (c) an employee who by reason of the duties and responsibilities of his position, has regular access to, reports directly to or gives policy advice and information to a deputy head or Minister.

**Political activity, general provisions**

- (2) No employee, whether or not the employee is a restricted employee, shall
- (a) use or seek to use, directly or indirectly, the authority or official influence of his position to control or modify the political action of any other person;
  - (b) during his hours of duty engage in any form of political activity;
  - (c) solicit funds for the use of a political party or candidate;
  - (d) be threatened or discriminated against for refusing to take part in any political activity; or
  - (e) be compelled to take part in any political undertaking or to make a contribution to a political party.

**Political activity by employees who are not restricted employees**

- (3) An employee who is not a restricted employee may

- (a) participate in political activities if in doing so he does not impair his usefulness in the position in which he is employed or reveal any information obtained in the course of the duties of his employment;
- (b) join a political party; or
- (c) be a candidate in a federal or provincial election.

**Discipline**

- (4) An employee who violates clause (2)(a), (b) or (c), or any person who, in relation to an employee, acts in contravention of clause (2)(d) or (e), is liable to disciplinary action. *1983, c.4, s.39; 1988, c.14, s.1; 1993, c.2, s.10; 2015, c.36, s.18(2), (3).*

**39. Nomination for municipal office**

- (1) Subject to subsection (2) and any restrictions imposed under any other Act, an employee may nominate for election as
  - (a) a member of an education authority; or
  - (b) a mayor or other member of a council of a municipality as defined in the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1.*

**Permission from deputy head**

- (2) An employee intending to nominate for an office referred to in subsection (1) shall request permission from his deputy head and the deputy head shall grant permission unless, in the opinion of the deputy head, a conflict of interest exists. *1988, c.14, s.1; 2015, c.36, s.18(2); 2016, c.6, s.112; 2016, c.44, s.264.*

**40. Nomination for federal or provincial office**

- (1) An employee intending to declare himself to be or to seek nomination as a candidate in a federal or provincial election shall before doing so apply to his deputy head for a leave of absence.

**Leave of absence**

- (2) The deputy head shall grant a leave of absence unless the deputy head determines that to do so would seriously undermine the ability of the government to deliver a necessary or essential service to the public.

**Terms of leave of absence**

- (3) A leave of absence granted under subsection (2) shall have effect in accordance with the regulations but shall not in any event extend beyond the day on which an employee is declared elected for the second successive time. *1988, c.14, s.1.*

**41. Appeal**

Where a deputy head refuses to grant a leave of absence under section 40 or denies permission under subsection 39(2), the employee may appeal to the appeal board established by the regulations. *1988, c.14, s.1.*

**42. Regulations**

The Lieutenant Governor in Council may make regulations governing and respecting

- (a) the lay-off and resignation of persons to or from positions in the civil service;

- (b) holidays, leave of absence, overtime pay, performance pay and other allowances for employees excluded from collective bargaining;
- (c) the conduct of employees and disciplinary action including penalties for breach of discipline;
- (d) the administration of pay plans, hours of work, safety, attendance, and programs for providing incentive awards;
- (e) staff development and training including educational leave;
- (f) personnel records and statistics to be maintained by departments and agencies;
- (g) consultation and negotiation;
- (h) exclusion of positions from application of the collective agreement;
- (i) a leave of absence, including the commencement, duration, termination and conditions thereof;
- (j) appeals, including the composition of the appeal board and all matters of procedure for the determination of appeals;
- (k) any matter necessary for the purpose of carrying out the provisions of this Act.  
*1993,c.2,s.11.*

#### **43. Consultation & negotiation**

- (1) The employer shall consult and negotiate with the Union subject to subsection (2) on all such matters as may be prescribed by regulation.

##### **Authorized representative, excluded employees**

- (2) The Union shall be the authorized representative of all persons employed pursuant to this Act for the purpose of consulting and negotiating with the employer, other than
  - (a) an employee of the executive division;
  - (b) an employee of the
    - (i) Executive Council office,
    - (ii) Commission, or
    - (iii) Treasury Board,
 who was not transferred to the Executive Council office, Commission or Treasury Board under subsection 12(2) by Treasury Board on April 11, 2012;
  - (b.1) repealed by *2009,c.66,s.4(5)*;
  - (c) an employee of the Department of Economic Growth, Tourism and Culture who is required to carry out the provisions of legislation respecting conciliation or who provides advice with respect thereto to the department head;
  - (d) a solicitor;
  - (e) a contract employee;
  - (f) a student employee; or
  - (g) an employee who exercises managerial functions or who is employed in a confidential capacity in relation to labour relations.

##### **Review**

- (2.1) Where the Union disputes the employer's decision that an employee falls within clause (2)(g), the Union may, within twenty days of written notification of the employer's decision, apply to the chair of the Labour Relations Board for a review of the employer's decision.

**Representations**

- (2.2) The employer and the Union may make representations to the chair of the Labour Relations Board respecting the matter in dispute in such form as the chair may direct.

**Final decision**

- (2.3) The decision of the chair of the Labour Relations Board on the dispute shall be final and binding on the employer and the Union.

**Where Union ceases to be authorized representative**

- (3) In the event the Union ceases to be authorized to consult and negotiate pursuant to this section, the employer shall consult and negotiate with such other organization
- (a) that is authorized by all persons employed pursuant to this Act in the manner prescribed by regulation to consult and negotiate on their behalf; and
  - (b) that requests the right to consult and negotiate with the employer as the representative organization and spokesman for such purposes.

**Proof of authority**

- (4) The Union or any organization requesting the right to consult and negotiate with the employer pursuant to this section shall upon its request provide it with such proof as it may require of the authorization of the Union or organization to act on behalf of persons employed pursuant to this Act.

**Definition**

- (5) The meaning of the terms “consult and negotiate” and “consultation and negotiation” shall be defined by regulation, and all procedures and processes relating to or incidental to such consultation and negotiation shall be prescribed by regulation.

**Collective agreement to prevail**

- (6) During the life of a collective agreement executed pursuant to this section, when any matter relating to which the Board or Lieutenant Governor in Council is empowered by this Act to make regulations, is a matter being the subject of an article in the collective agreement, the Board or Lieutenant Governor in Council shall not amend, revise or repeal the regulations in a manner that would lead to a conflict with the collective agreement. *1983,c.4,s.40; 1987,c.9,s.2; 1993,c.2,s.12; 1995,c.6,s.5; 1997,c.20,s.3; 1998,c.83,s.13; 2000,c.5,s.3; 2006,c.4,s.1; 2009,c.66,s.4(5); 2010,c.31,s.3; 2010,c.14,s.3; 2012,c.6,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2015,c.36,s.18(3); 2022,c.62,s.9.*

**44. Improper influence**

- (1) No person shall directly or indirectly endeavour to improperly influence the Commission or any employee of the Commission or any member of a selection board with respect to the appointment of himself or any other person within the civil service.

**Penalties and redress**

- (2) Penalties and redress for violation of subsection (1) shall be as prescribed in the regulations. *1983,c.4,s.41; 1993,c.2,s.13.*

## **SCHEDULE I**

### **OATH OF COMMISSIONERS**

I, (A.B.) do sincerely promise and swear (or affirm) that I will faithfully and honestly fulfil the duties which devolve upon me as a Civil Service Commissioner. (In the case where an oath is taken, add, "So Help Me God".)

## **SCHEDULE II**

### **OATH OF OFFICE**

I, (A.B.) solemnly and sincerely swear (or affirm) that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the civil service and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. (In the case where an oath is taken add, “So Help Me God”.)