

Civil Service Act

CHAPTER 70 OF THE REVISED STATUTES, 1989

as amended by

1993, c. 38, ss. 22-24; 1995-96, c. 8, s. 18; 2001, c. 4, ss. 2-6, 57;
2002, c. 5, s. 4; 2014, c. 44; 2015, c. 14; 2018, c. 1, Sch. A, s. 103



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**An Act Respecting
the Public Service Commission**

title amended 1993, c. 38, s. 23

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(The table of contents is not part of the statute)

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Schedule

Short title

1 This Act may be cited as the *Civil Service Act*. R.S., c. 70, s. 1.

Interpretation

2 In this Act,

(a) *repealed 2001, c. 4, s. 2.*

(b) “Civil Service” means the positions in the public service of the Province to which appointments may be made by the Commission and such other positions as may be designated as positions in the Civil Service by the Governor in Council;

(c) “collective agreement” means a collective agreement as defined in the *Civil Service Collective Bargaining Act* or the *Highway Workers Collective Bargaining Act*;

(d) “Commission” means the Public Service Commission;

(da) “Commissioner” means the Public Service Commissioner;

(e) “deputy head” means the deputy of the member of the Executive Council presiding over a department and all others whom the Governor in Council from time to time designates as having the status of deputy head;

~~(f) “Deputy Minister of the Department” means the Deputy Minister of the Department appointed pursuant to the *Public Service Act*;~~

(g) “employee” means a person appointed to the Civil Service;

(h) “head of the department” means the member of the Executive Council presiding over a department;

(i) “Minister” means the member of the Executive Council to whom the Commissioner reports. R.S., c. 70, s. 2; 1993, c. 38, s. 23; 2001, c. 4, ss. 2, 57; 2015, c. 14, s. 1.

Application of Act

3 This Act applies to all employees whether appointed before or after the coming into force of this Act. R.S., c. 70, s. 3.

4 *repealed 1993, c. 38, s. 24.*

Oath of office

5 The Commissioner, before entering upon the duties of the office, shall take and subscribe before the Attorney General or the Clerk of the Executive

Council the oath in the Schedule to this Act. R.S., c. 70, s. 5; 1993, c. 38, s. 23; 2001, c. 4, s. 57; 2015, c. 14, s. 2.

Duties of Commission

- 6 It is the duty of the Commission to
- (a) administer this Act and the regulations;
 - (b) consult with, advise and assist departments in the conduct of departmental human resource activities;
 - (c) provide, upon the request of a department, the Treasury and Policy Board or the Minister, management advisory services in such areas as human resources and succession planning and organization studies or proposed reorganization of a department or departments;
 - (d) provide, assist in or co-ordinate staff training and development programs throughout the Civil Service;
 - (e) evaluate and classify each position in the Civil Service and determine the qualifications therefor;
 - (f) recruit qualified persons for the Civil Service and establish lists of persons eligible for appointment;
 - (g) assign and appoint persons to positions in the Civil Service and specify the status and the salary payable upon appointment;
 - (h) act as bargaining agent and bargain pursuant to the provisions of the *Civil Service Collective Bargaining Act* and the *Highway Workers Collective Bargaining Act*;
 - (i) engage competent persons to assist the Commission in the performance of its duties;
 - (j) present annually through the Minister to the House of Assembly a report upon the performance and operation of the Commission for the preceding fiscal year;
 - (k) keep and make such records as considered necessary for the proper administration of this Act or as directed by the Minister and prescribe the use of such forms as may be required for carrying out this Act and the regulations;
 - (l) administer and interpret collective agreements;
 - (m) develop human-resource management policies, programs, procedures, standards and practices for the Civil Service;
 - (n) perform such other duties as are assigned to the Commission by the Governor in Council. R.S., c. 70, s. 6; 1993, c. 38, ss. 22, 23; 2001, c. 4, ss. 3, 57; 2015, c. 14, s. 3.

Salary ranges and benefits and work conditions

7 (1) It is the duty of the Commission, subject to the approval of the Governor in Council, to determine

- (a) salary ranges for all classifications; and
- (b) the benefits and working conditions applicable to employees.

(2) Nothing in subsection ~~(2)~~[(1)] shall limit or be deemed to limit the authority of the Commission contained in the *Civil Service Collective Bargaining Act*. R.S., c. 70, s. 7; 2001, c. 4, s. 57.

Delegation by Commission

8 The Commission may delegate in writing some of its duties and powers for such period as it may determine to a deputy head or employee, whereupon the duties and powers may be fully and effectively performed and exercised as if given to the deputy head or employee by this Act. R.S., c. 70, s. 8; 1993, c. 38, s. 23; 2001, c. 4, ss. 4, 57.

Duty to provide access

9 All persons in the public service shall give the Commission such access to their respective departments and offices and such facilities, assistance and information as the Commission may require for the performance of its duties. R.S., c. 70, s. 9; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Deputy head

10 (1) The Governor in Council may designate any person in the public service as being a deputy head within the meaning of this Act.

(2) Subject to the administration, supervision, direction and control of the head of the department, the deputy head of each department shall

- (a) oversee and direct the attendance, conduct and work performance of the employees in the department; and
- (b) organize the department in such manner as the deputy head considers best for the efficient administration of the department, its functions and duties. R.S., c. 70, s. 10; 2015, c. 14, s. 4.

Delegation by deputy head

11 (1) Subject to subsection (2), the deputy head may delegate in writing any of the deputy head's powers and duties under this Act to any employee in the deputy head's department, including any of the duties and powers delegated to the deputy head by the Commission pursuant to Section 8.

(2) The deputy head may not delegate the deputy head's authority to dismiss an employee from employment. 2015, c. 14, s. 5.

Absence of deputy head or vacancy

12 Where a deputy head is absent or where there is a vacancy in the office, the deputy head's powers and duties shall be exercised and performed by such employee as may be designated by the head of the department. R.S., c. 70, s. 12; 2015, c. 14, s. 6.

Tabling of reasons for removal of deputy head

13 Whenever a deputy head is removed from office, a statement of the reasons therefor shall be tabled in the Assembly by the head of the department within the first twenty days of the next following session. R.S., c. 70, s. 13.

Appointments and promotions

14 (1) Appointments and promotions to fill vacancies in the Civil Service must

- (a) be made on the basis of merit; and
- (b) be based on a competition or another selection process designed to establish the merit of candidates.

(2) The factors to be considered in determining merit may include education, skills, knowledge, experience, years of employment in the public service, personal attributes and any other matter considered by the Commission to be necessary or desirable having regard to the nature of the duties to be performed. 2015, c. 14, s. 7.

Positions covered by collective agreement

15 Notwithstanding Section 14, appointments and promotions to fill vacancies in the Civil Service in positions that are covered by a collective agreement shall be made in accordance with the collective agreement. 2001, c. 4, s. 5.

Publicity respecting vacancy

16 The Commission shall determine the manner and extent to which vacancies in the Civil Service are given publicity. R.S., c. 70, s. 16; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Filling of vacancy

17 Vacancies shall be filled by promotion or transfer in so far as is consistent with the best interests of the Civil Service. R.S., c. 70, s. 17.

Appointment or promotion from eligibility list

18 The Commission shall make appointments and promotions to positions in the Civil Service from the list of eligible candidates meriting appointment or promotion. R.S., c. 70, s. 18; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Human Rights Act

19 Appointments to the Civil Service must be made in accordance with the *Human Rights Act*. 2015, c. 14, s. 8.

20 *repealed 2015, c. 14, s. 8.*

Preference for military service

21 (1) In this Section, “honourably released” means honourably released within the meaning of subparagraph 15.01(4)(d) of the *Queen’s Regulations and Orders for the Canadian Forces* under the *National Defence Act* (Canada).

(2) Persons who are otherwise eligible for appointment to an excluded position in the Civil Service and who have qualifications equal to the qualifications of other applicants for a position and who have served in the Canadian Armed Forces and who were honourably released shall be given preference for an appointment to the Civil Service. 2014, c. 44.

22 and 23 *repealed 2015, c. 14, s. 9.*

False statement

24 Any person who makes a false statement of any material fact or omits to state a material fact in the person’s application

- (a) shall not be eligible for appointment in the Civil Service; or
- (b) shall, if appointed to a position in the Civil Service, be liable to dismissal. R.S., c. 70, s. 24; 2015, c. 14, s. 10.

Lay-off or termination of services

25 Notwithstanding any other enactment, when the services of an employee are no longer required because of shortage of work or funds or because of the discontinuance of a function or program, the deputy head, in accordance with the regulations or in accordance with the terms of a collective agreement, may lay off the employee or terminate the employee’s services. R.S., c. 70, s. 25; 2015, c. 14, s. 11.

Suspension

26 A deputy head or any official authorized by the deputy head may for cause suspend an employee in the department and may reduce, extend or revoke the suspension. R.S., c. 70, s. 26; 2015, c. 14, s. 12.

Dismissal

27 A deputy head may for cause dismiss an employee in the department from employment in accordance with the regulations or the terms of a collective agreement. R.S., c. 70, s. 27; 2015, c. 14, s. 13.

Report

28 A deputy head or official who suspends an employee or who reduces, extends or revokes a suspension and a deputy head who dismisses an employee shall immediately report in writing the action with the reason therefor to the employee and shall forward a copy of the report to the head of the department and to the Commission. R.S., c. 70, s. 28; 1993, c. 38, s. 23; 2001, c. 4, s. 57; 2015, c. 14, s. 14.

Classification of positions

29 The Commission after consultation with the deputy head or deputy heads shall classify the positions in the Civil Service according to the character and importance of the work and the duties and responsibilities of the position. R.S., c. 70, s. 29; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Variation of classes

30 The Commission may from time to time as it deems necessary establish, divide, combine, alter or abolish classes. R.S., c. 70, s. 30; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Effect of statement of duties

31 Where a statement of duties is made in defining a class, that statement does not affect the powers or duties of any employee under any Act or the power of a head or deputy head to control and direct the work of any employee under the head or deputy head. R.S., c. 70, s. 31; 2015, c. 14, s. 15.

Recommendation of rates of compensation

32 Except where rates of compensation are established through collective bargaining, the Commission shall from time to time, as it deems necessary, recommend rates of compensation for classes that are established pursuant to this Act and may recommend changes in the rates of compensation for classes. R.S., c. 70, s. 32; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Approval of rates of compensation

33 Except where rates of compensation are established through collective bargaining, the rates of compensation recommended by the Commission become operative only upon their approval by the Governor in Council. R.S., c. 70, s. 33; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Rate of compensation of employee

34 (1) The rate of compensation of a person upon appointment to a position in the Civil Service shall be in accordance with the regulations.

(2) The rate of compensation of an employee upon promotion or demotion to a position in a new classification shall be in accordance with the regulations or the terms of a collective agreement. R.S., c. 70, s. 34.

Duty to act in impartial manner

35 (1) Except as provided in this Act, a deputy head and a person appointed to the Civil Service shall not undertake activities, assume responsibilities or make public statements of a politically partisan nature or kind, in respect of a candidate at a federal or Provincial election or a federal or Provincial political party, which could give rise to the perception that the deputy head or the person appointed to the Civil Service may not be able to perform duties as a public servant in a politically impartial manner and, without restricting the generality of the foregoing, shall not

(a) be a candidate at a federal or Provincial election, whether publicly declared as such or officially nominated; or

(b) contribute or receive or in any way deal with money for a candidate at a federal or Provincial election or for a federal or Provincial political party.

(2) A deputy head or person appointed to the Civil Service who violates subsection (1) is subject to disciplinary action including dismissal. R.S., c. 70, s. 35.

Interpretation of Sections 37 to 40

36 In Sections 37 to 40,

(a) “candidate” means a person who has been officially nominated as a candidate, or who is declared to be a candidate by that person or by others with that person’s consent, in a federal or Provincial election;

(b) “employee” means a deputy head or person appointed to the Civil Service who is not a politically restricted employee;

(c) “political party” means an organization which endorses candidates in a federal or Provincial election;

(d) “politically restricted employee” means a deputy head or a person employed in the Civil Service in a managerial or confidential capacity as described in subsection (2) of Section 11 of the *Civil Service Collective Bargaining Act*. R.S., c. 70, s. 36.

Right to vote

37 No deputy head or person appointed to the Civil Service is prevented from voting at any federal or Provincial election if pursuant to the laws governing the election that deputy head or person has a right to vote. R.S., c. 70, s. 37.

Partisan activities

38 (1) An employee who is not a politically restricted employee may

(a) be a candidate in a federal or Provincial election;

(b) engage in partisan work in connection with a federal or Provincial election; and

(c) contribute or deal with money for a candidate or political party,

but the employee, except during a leave of absence to be a candidate, shall not

(d) solicit funds for or on behalf of a candidate or political party;

(e) publish or broadcast media statements of a partisan character which would in any way support or oppose a candidate or political party;

(f) draft or speak, in a partisan context, on policies directly associated with the employee's work, or in any way to support or oppose a candidate or political party;

(g) canvass as or on behalf of a candidate or political party during working hours;

(h) display, exhibit, post, supply, distribute, wear or carry, at the employee's workplace or during the employee's working hours, anything that supports or opposes a candidate or political party, or distinguishes the employee as a supporter of or a person opposing a candidate or political party.

(2) An employee who violates a prohibition in subsection (1) is subject to disciplinary action including dismissal. R.S., c. 70, s. 38.

Soliciting contributions

39 (1) No person in a position of authority or influence with respect to the employment of a deputy head or a person appointed to the Civil Service shall knowingly

(a) solicit a contribution from the deputy head or person appointed to the Civil Service for a candidate or political party;

(b) coerce or attempt to coerce the deputy head or person appointed to the Civil Service to contribute funds to a candidate or political party; or

(c) coerce or attempt to coerce the deputy head or person appointed to the Civil Service to solicit funds on behalf of a candidate or political party.

(2) A deputy head or person appointed to the Civil Service who violates this Section is subject to disciplinary action including dismissal. R.S., c. 70, s. 39.

Leave of absence

40 (1) An employee who becomes a candidate shall take an unpaid leave of absence beginning not later than

(a) the date the writ of election is issued if the employee is then a candidate; or

(b) as soon after the writ of election is issued as the employee becomes a candidate.

(2) An employee who

(a) is required to take a leave of absence pursuant to subsection (1); or

(b) is a candidate and wishes a leave of absence beginning sooner than the required leave of absence,

shall apply to the Commission and to the deputy head of the department in which the employee is employed and the leave of absence shall be granted.

(3) Where the employee withdraws as a candidate and, before the election, notifies the Commission and the deputy head of the department of the employee's intention to return to work, the employee is entitled to return, to the position the employee left, two weeks after the notice has been given to the Commission and the deputy head of the department, unless the Commission, the deputy head of the department and the employee all agree to the employee returning at another time.

(4) An employee's leave of absence to be a candidate shall terminate on the day the successful candidate in the election is declared elected unless, on or before the day immediately after ordinary polling day, the employee notifies the Commission and the deputy head of the department that the employee wishes the leave of absence to be extended for such number of days, not exceeding ninety, as the employee states in the notice and in such case the leave of absence shall terminate as stated in the notice.

(5) An employee on leave of absence who is an unsuccessful candidate is entitled to return to the position which that employee left.

(6) The leave of absence of an employee who is a successful candidate shall be extended from ordinary polling day of the election at which the employee is elected until two weeks after

(a) the employee resigns from the position to which the employee was elected where that resignation occurs before the next election;

(b) where the Assembly is dissolved for the next election, the date the employee notifies the Commission and the deputy head of the department that the employee does not intend to be a candidate at that next election;

(c) the date nominations close for the next election if the employee has not been officially nominated as a candidate; or

(d) declaration day for the next election when it is official that the employee has not been re-elected,

whichever is latest.

(7) Where an employee is elected for the second time, the leave of absence for the employee to be a candidate terminates on the day the employee is declared elected for the second time and the employee ceases to be an employee for all purposes, including entitlement to all employee benefits, as of that day.

(8) An employee who is not re-elected at the second election during the leave of absence may return to the position that employee left or, where that position has been filled or eliminated, to an equivalent position when the leave of absence expires pursuant to subsection (6).

(9) During an employee's leave of absence to be a candidate, the employee shall not be paid but the employee, upon application to the Commission at any time before the leave of absence, is entitled to pension credit for service as if the employee were not on a leave of absence and to medical and health benefits, long-term disability coverage and life insurance coverage, or any one or more of them, if the employee pays both the employee's and the employer's share of the cost. R.S., c. 70, s. 40; 1993, c. 38, s. 23; 2001, c. 4, s. 57; 2015, c. 14, s. 16.

Municipal office

41 An employee, other than a deputy head or employee in a position or classification designated in the regulations, may be a candidate for election to any elective municipal office, including a member of the Conseil scolaire acadien provincial, or actively work in support of a candidate for such office if

(a) the candidacy, service or activity does not interfere with the performance of the employee's duties; or

(b) the candidacy, service or activity does not conflict with the interests of Her Majesty in right of the Province. R.S., c. 70, s. 41; 2018, c. 1, Sch. A, s. 103.

Application of Act and regulations

42 Notwithstanding any other Act, the Governor in Council may order that this Act and the regulations, except with respect to tenure of office, shall apply in whole or in part to any employee or class of employees in the public service and to the employees of any board, commission or agency of Her Majesty in right of the Province. R.S., c. 70, s. 42.

Positions excluded from Act

43 (1) In any case where the Commission considers that it is not practicable or not in the public interest that this Act shall apply to any position or positions, the Commission, with the approval of the Governor in Council, may exclude such position or positions in whole or in part from the operation of the Act and make such special regulations as it deems advisable respecting such position or positions.

(2) The Commission shall make an annual report to the Governor in Council who shall cause such report to be presented to the Assembly, within the first twenty days of the next following session, setting forth the positions excluded under this Section in whole or in part from the operation of the Act and the regulations. R.S., c. 70, s. 43; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Improper influence prohibited

44 (1) No person shall directly or indirectly attempt to influence improperly the Commission or any employee of the Commission with respect to the appointment of the person or any other person to the Civil Service or with respect to the promotion or change in salary of the person or any other employee.

(2) Every person who violates this Section is liable on summary conviction to a penalty not exceeding five hundred dollars and in default of payment to imprisonment for a term not exceeding thirty days.

(3) No prosecution under this Section shall be instituted without the written consent of the Attorney General. R.S., c. 70, s. 44; 1993, c. 38, s. 23; 2001, c. 4, s. 57; 2015, c. 14, s. 17.

Defence by Province and indemnification

44A (1) Her Majesty in right of the Province shall defend, negotiate or settle a claim or charge made against a person appointed by the Governor in Council or a member of the Executive Council to any agency or board, including the board of directors of a corporation or commission, and indemnify the person from personal liability, if the selection of the person was at the sole discretion of the Governor in Council or a member of the Executive Council and the Governor in Council or a member of the Executive Council is satisfied the claim arises out of the person's activities in relation to the appointment and is not based on fraud or criminal activity.

(2) Where Her Majesty in right of the Province defends, negotiates or settles a claim or charge pursuant to subsection (1), Her Majesty has control of the conduct of the matter. 2002, c. 5, s. 4.

Regulations

45 (1) The Commission, with the approval of the Governor in Council, may make regulations relating to employment in the Civil Service and persons employed by a deputy head respecting

- (a) methods of evaluating and classifying positions;
- (b) an appeal procedure in respect of classifications;
- (c) the standards and procedures to be followed in recruitment, selection, assignment, appointment and promotion;
- (d) the status or change of status of a person on appointment to or promotion within the Civil Service;

- (e) the nature and extent of examination of a person or persons seeking appointment to the Civil Service;
- (f) group benefit plans;
- (g) the conduct of civil servants;
- (h) the suspension, removal from employment, demotion or otherwise of civil servants;
- (i) payments on death or retirement due to age or mental or physical disability;
- (j) arrangements, conditions and procedures for leave of absence for staff training and development;
- (k) conditions and procedures for release from employment, layoff and subsequent reappointment;
- (l) hours of work;
- (m) the definition of overtime work and providing for compensation therefor;
- (n) procedures for suspension or dismissal for cause;
- (o) procedures for transfer or relocation of employees;
- (p) holidays, vacation, sick leave, special leave and other absences;
- (q) the use of forms for this Act or the regulations;
- (r) appeal procedures for employees not covered by terms of a collective agreement where the employee is disciplined for cause pursuant to Sections 26 and 27;
- (s) the designation of positions or classifications of employees for the purpose of Section 41;
- (t) any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Commission of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 70, s. 45; 1993, c. 38, s. 23; 2001, c. 4, s. 57; 2015, c. 14, s. 18.

Conflict with collective agreement

46 A provision in a collective agreement that conflicts with a regulation affecting employees of a bargaining unit covered by a collective agreement prevails over the regulation. R.S., c. 70, s. 46.

Designation of member of Executive Council

47 The Governor in Council shall designate the member of the Executive Council to whom the Commissioner reports. R.S., c. 70, s. 47; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

Substituted reference

48 A reference in any Act of the Legislature or in any rule, order, regulation, by-law, ordinance or in any document or proceeding whatsoever to the Commissioner of the Civil Service Commission, whether such reference is by official name or otherwise, shall as regards any subsequent transaction, matter or thing relating to the affairs or matters or any of them assigned by this Act to the Commissioner, be held and construed to be a reference to the Commissioner. R.S., c. 70, s. 48; 1993, c. 38, s. 23; 2001, c. 4, s. 57.

SCHEDULE

OATH OF OFFICE AND SECRECY

I, A.B., Public Service Commissioner, do swear that I will faithfully and honestly fulfil the duties which devolve upon me by reason of my office and that I will not, without due authority in that behalf, disclose or make known any matter which comes to my knowledge by reason of such office. So help me God.

R.S., c. 70, Sch.; 1993, c. 38, s. 23; 2001, c. 4, s. 57.
