

Terms and Conditions of Employment for Excluded Employees/Appointees

Part 03 – General Conditions

Last updated: May 2, 2022

7. Probation: All employees/appointees, except OIC categories C and D

Every appointment or promotion shall be subject to a probationary period in accordance with [HR Policy 01 – Hiring and Deployment](#). A six-month probationary period will apply to initial appointments of deputy ministers, associate deputy ministers and assistant deputy ministers.

8. Movement from one employee / appointee category to another: All employees / appointees

1. An individual moving from one employee/appointee category to another (including to or from a bargaining unit), with no break in service, will be governed by the terms and conditions of employment into which the individual is moving, with the exception of any salary protection provisions. The salary protection provisions applicable to the group the employee came from (as per [HR Policy 07 – Pay, Benefits and Leave](#)) would continue to apply.
2. Where an employee/appointee is surplus to operational requirements and placement into a position in another employee category results in a lower job rate, unless otherwise approved by the Head of the Public Service Agency, the salary protection provisions applicable to the employee/appointee category from which the individual is moving (as per [HR Policy 07 – Pay, Benefits and Leave](#)) continues to apply.
3. Where an employee/appointee has in-service status, years of continuous service credited to date will be carried forward to the new category. Any benefits that are based on service will also be carried forward if such benefits apply in the new category.

9. OIC appointee movement to a public service position: All OIC appointees appointed under the *Public Service Act*

9.1 Temporary assignments in Public Service Employee Positions

OIC appointees may not apply on, accept, or enter any agreement related to a temporary assignment in an employee position in the public service. Temporary assignments are

considered career development opportunities and, as such, are open only to employees of the public service who are hired under section 8 of the [Public Service Act](#).

9.2 In Service Status

1. During the term of OIC appointments, appointees will have in service status for the purpose of applying on competitions for permanent positions.
2. Where an OIC is rescinded, an appointee will have in service status for the purpose of applying on public service competitions for a period of sixty days following the date the OIC is rescinded, or the appointee's last day on pay, which is later.
3. Where an OIC is rescinded and the OIC appointee previously held an employee position under section 8 of the [Public Service Act](#), they may be considered for placement without competition at or below their previous employee position level for a period of sixty days following the date the OIC is rescinded. The considerations for placement include any assurances in the OIC appointment letter and/or the discretion of the Deputy Minister to the Premier.

9.3 Continuous Service

1. During the term of OIC appointments, appointees will be granted credit for years of continuous service for competition purposes, up to but not including time spent in the OIC appointment, provided there was no break in service.
2. Where an OIC is rescinded, an appointee will be granted credit for years of continuous service for competition purposes, up to but not including time spent in the OIC appointment, provided there was no break in service.

9.4 Length of Service

Where an OIC is rescinded, an appointee will be granted credit for length of service for benefit entitlement purposes, including time spent in the OIC appointment, provided there was no break in service.

10. Bridging of service: Regular employees

1. If a regular employee terminates as a result of a decision to care for a dependent parent, spouse or child and is re-employed, upon application they shall be credited with their length of service accumulated at the time of termination for the purposes of benefits that are based on length of service. The following conditions shall apply:
 1. The employee must have been a regular employee with at least two years of service seniority at the time of termination,

2. The resignation must indicate the reason for termination,
 3. The break in service must be for no longer than six years, and
 4. The previous length of service shall not be reinstated until successful completion of the probationary period on re-employment.
2. Former regular employees who meet the conditions outlined above:
 1. Will have in-service status when applying for re-employment, and
 2. Will, if years of continuous service are being assessed during the selection process, be credited with points for the years of continuous service accumulated to the effective date of termination.

11. Dispute Resolution

11.1 Discrimination, bullying and harassment in the workplace: All employees/appointees

Resolution of a discrimination, bullying and harassment matter will be in accordance with [HR Policy 11 – Discrimination, Bullying and Harassment in the Workplace](#).

12. Hours of Work

12.1 Hours of work: Management, statutory term (with a management classification), OIC categories A and C

1. The hours of work for an employee/appointee shall normally be those of the full-time employees they supervise or with whom they work. It is understood an employee/appointee is expected to work the hours necessary to fulfill their job responsibilities, which may entail considerably more hours than those worked by their employees. However, greater flexibility will be afforded with respect to time off during work hours.
2. Terms and conditions of employment for leaves, allowances and benefits are calculated on the basis of a 35-hour week.

12.2 Hours of work: Schedule A, statutory term (with a bargaining unit classification), OIC category B

1. An employee/appointee is expected to work hours equivalent to their union counterpart.
2. Terms and conditions of employment for leaves, allowances and benefits are calculated on the basis of a 35-hour week.

3. An auxiliary employee who reports for work at the call of the employer will be paid at their straight time rate for all hours worked with a minimum of two hours pay at their regular rate of pay unless they are unfit to perform their duties or have failed to comply with the Industrial Health and Safety Regulations of the Workers' Compensation Board.
4. An auxiliary employee who commences work will receive three and one-half hours pay at their straight time rate of pay unless:
 - a. work is suspended for reasons completely beyond the control of the employer; or
 - b. the duration of the work assignment was known in advance by the employee.
5. Where 12.2(4)(a) or (b) occur, the provisions of 12.2(3) shall apply.

13. Meal and rest breaks: All employees / appointees except OIC category D

1. An employee/appointee shall be entitled to one meal break in each work period in excess of four and one-half hours. The meal break shall be scheduled near the mid-point in the scheduled work period.
2. An employee/appointee shall be entitled to two rest breaks of 15 minutes' duration in each work period in excess of six hours. One rest period shall be scheduled before and one rest period shall be scheduled after the meal break. An employee/appointee working a shift of at least three and one-half hours, but not more than six hours, shall be entitled to one 15-minute rest break during the shift.

14. Pro-Rating allowances and entitlements: All employees / appointees working less than full-time, except category D

1. When eligible for allowances and entitlements, an auxiliary or part-time regular employee/appointee working less than full-time will receive all allowances and entitlements on a pro-rata basis where not otherwise specified and where the allowances and entitlements are based on time worked.
2. The allowances and entitlements will be converted to an hourly amount based on full-time employment and applied to the auxiliary or part-time regular employee/appointee for each hour worked.

15. Re-employment: Regular employees, OIC categories A and B

1. Re-Employment of Former Employees: Regular Employees, OIC Categories A and B
A regular excluded employee who terminates employment and, within 90 days, is re-employed as a regular employee shall be granted a leave of absence without

pay covering those days absent and shall retain, effective the date of re-employment, all provisions and rights in relation to employee benefits, provided the employee has not withdrawn superannuation contributions and, where applicable, any benefit accrued under the Executive Benefit Plan.

2. Recognition of Service with Other Agencies: Regular Employees, OIC Categories A and B An employee appointed to an excluded position in the public service will have service with another organization recognized for purposes of benefit eligibility (vacation, pre- retirement leave, STIIP, LTD, extended health and dental) provided that the organization is listed in [Schedule 9](#) of this directive, initial probation was completed with the other organization and there has been no break in service.