

# Terms and Conditions of Employment for Excluded Employees/Appointees

## Part 04 – Salary Administration

Last updated: April 12, 2016

### 16. Salary Assignment

#### 16.1 Salary assignment: All management employees/appointees except Category D

1. Salary assignment will be in accordance with [HR Policy 07 – Pay, Benefits and Leave](#) for management employees/appointees, and [Treasury Board Directive 2/11](#) for tribunal appointees. Salaries will be based on the [Salary Assignment Schedules](#) for excluded employees/appointees.
2. Salary protection provisions for eligible excluded employees who are impacted by organization, position or classification changes are defined in [HR Policy 07 – Pay, Benefits and Leave](#).

#### 16.2 Salary assignment: OIC category D

On appointment, category D appointees will be assigned a per diem/stipend rate in accordance with the rates approved for per diem appointees in [Treasury Board Directive 3/11 for Crown Corporations, agencies, boards and commissions](#) and [Treasury Board Directive 2/11 for administrative tribunals](#).

#### 16.3 Salary assignment: Schedule A, statutory term (with a bargaining unit classification), OIC category B

1. On appointment: Salary assignment shall normally be at the minimum of the range provided in the [Salary Assignment Schedules](#). For appointments above the minimum, ministries must ensure that the new employee/appointee is not paid more than an employee/appointee with similar work experience, training and education within the work unit and that the additional expenditure associated with hiring above the minimum step is necessary to obtain the required service.
2. On upward reclassification and promotion:
  1. An employee/appointee promoted or reclassified to a position with a higher maximum salary will receive the rate for the position if a single salary or, in the case of a position in a salary range, will receive the rate in the salary range which is the closest step to eight percent above their previous rate, or

the minimum of the new range, whichever is greater, but not more than the top of the new salary range.

2. If an employee/appointee is promoted or reclassified to a higher paying classification where the salary placement in the salary range is less than the salary they would have received if substituting in a classification between their current classification and the new position, then the salary placement will be equivalent to the higher rate. This shall only apply to classifications in the same classification series or the classification series to which the employee is reclassified or promoted. An employee shall not receive a salary greater than the maximum of the range of the classification to which the employee is promoted or reclassified. Future increments, if any, shall be to the next higher step in the range of the classification to which the employee has been promoted or reclassified.
3. On demotion: An employee/appointee demoted to a position with a lower maximum salary will receive the rate for the position if a single salary. If a salary range is established, the maximum reduction shall be the closest step to eight percent, but where the differential between the employee/appointee's salary before demotion and the maximum salary of the lower position exceeds eight percent, the new salary shall be the maximum of the new position.
4. On downward reclassification of position:
  1. An employee/appointee shall not have their salary reduced by reason of a change in the classification of the position that is caused other than by the employee/appointee.
  2. An employee/appointee whose position classification is changed to one with a lower maximum salary through no fault of their own shall continue at the same salary and shall not receive salary increases applicable to the employee/appointee's new classification until the salary of the new classification exceeds the salary they are receiving.
  3. Where an employee/appointee with a protected salary is assigned a new salary in accordance with this section, the new salary calculation will be based on the protected salary except where the employee/appointee returns to the former classification on which the protected salary is based. In the excepted circumstance, the salary assignment will place the

employee/appointee at the salary they would have been receiving on the date of return had they not been demoted or reclassified downwards.

4. Where an employee/appointee with a protected salary is subsequently appointed to a position having a maximum salary lower than the protected salary, the salary protection provisions will continue to apply. The exception to this is a voluntary transfer or demotion where no further salary protection is extended.
  5. Salary protection will not apply to an appointee who moves to the public service or to a public servant who takes an Order in Council appointment.
5. On substitution in higher position:
1. Where the position description requires periodic substitution, an employee/appointee temporarily substituting in excess of 70 consecutive work hours in accordance with the Public Service Agency Policy, Substitution, shall receive the rate for the job, where a single rate is established. Where a salary range is established, they will receive the minimum rate of the new salary range or the rate which is the closest step to eight percent above their current rate, whichever is greater, but not more than the top of the new salary range.
  2. Payment for designated paid holidays, sick leave and leaves of absence with pay will be at an employee/appointee's basic rate of pay received prior to substituting in the higher paid position.
  3. An employee/appointee shall receive the higher rate of pay for a designated paid holiday or period of leave of five days or less (excluding the Short Term Illness and Injury Plan) provided that they have worked in the higher paid position for a majority of the 60 work days preceding the designated paid holiday or paid leave of absence.
  4. An employee/appointee working in excess of seven hours per day shall receive the higher rate of pay in accordance with subsection (c) above if they have worked in the higher paid position for a majority of the 420 working hours preceding the designated paid holiday or period of paid leave.
  5. If an employee/appointee substitutes in a higher paying classification where the salary placement in the salary range is less than the salary they would have received if substituting in a classification between their current classification and the substituting classification, then the salary placement will be equivalent to the higher rate. This shall only apply to classifications in the same classification series or the classification series in which the

employee is substituting. An employee shall not receive a salary greater than the maximum of the range of the classification in which the employee is substituting. Office assistants and clerks are considered to be in the same classification series.

6. On temporary assignment in a position with a lower classification: An employee/appointee temporarily assigned by the employer to a position with a rate of pay lower than their regular rate of pay shall maintain their regular rate of pay.

#### **16.4 Salary assignment: legal counsel**

1. Assignment of classification levels will be authorized by the Public Service Agency upon recommendation of the applicable agency.
2. Legal counsel classified at levels 1 and 2 of the legal counsel series will be assigned the salary specified in the [Legal Counsel Salary Schedule](#), by year of call to the bar.
3. Legal counsel classified at levels 3A, 3B, and 4 will not receive less than the minimum or more than the maximum of the salary range specified in the Legal Counsel Salary Schedule.

#### **17. Final month's salary where death occurs in service: Regular employees, OIC categories A, B and C**

1. When an employee/appointee dies while in service, the employer shall pay a full month's salary to the employee/appointee's dependants or estate for the month in which death occurred.
2. This provision shall not apply to an employee/appointee on leave of absence without pay at the time of death, except where the employer has been notified that they would be returning within the month, in which case the employer will pay the salary for the portion of the month the employee/appointee would have worked.