

Annex A - Interim Exceptions to the Public Service Terms and Conditions of Employment Regulations for Certain Unrepresented Employees

Application

1. The terms and conditions of employment as set out in Part I below as exceptions are applicable to employees classified in the following occupational groups and levels:

Administrative and foreign service category

AS -	7, 8
CO -	4
CS -	5
FI -	4
IS -	6
OM -	6
PE -	6
PM -	6, 7
PM -	Mediation/conciliation officer sub-group
PG -	6, 7
WP -	6, 7
TR -	4, 5, 6

Career Assignment Programme

CA -	1, 2
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Scientific and professional category

AR - 7	LA (Justice) - 1, 2A
AU - 5	MD-MSP - 2
CH - 5	MT - 8
DE - 3	NU-CHN - 8
DS - 6	NU-HOS - 8
ED-EDS - 5, 6	PC - 5
EN-ENG - 6	PS - 5
EN-SUR - 6	SE-REM - 1, 2
ES - 7	SG - 8
LA - 2	MA - 1 to MA - 7
	UT - 1 to UT - 4

2. The terms and conditions of employment as set out in Part II below as exceptions are applicable to employees classified as senior executive officer (residual) and in the following occupational groups and levels (formerly SX equivalents):

Scientific and professional category

ES - 8	MD-MOF - 4, 5
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HR - 5

MD-MSP - 3

LA - 2B, 3A, 3B, 3C

MT - 9

PC - 6

Part I

3. In this part an employee is an employee classified in a group and level listed in Section 1 of this Appendix.

Hours of work

4. The standard hours of work are normally seven and one-half (7 1/2) hours per day; thirty-seven and one-half (37 1/2) hours per week. Notwithstanding this, because the nature of the work and the exigencies of the service require flexibility in arrival and departure times and hours of work, an employee shall not be entitled to payment for overtime (including work on a day of rest or on a holiday) or other conditions relating to hours of work, such as call-back, stand-by, travel on a day of rest and travel on a holiday.

Holidays

5.(a) The following days are paid holidays:

New Year's Day

Good Friday

Easter Monday

The day fixed by proclamation of the Governor in Council for celebration of the Sovereign's Birthday

Canada Day

Labour Day

The day fixed by proclamation of the Governor in Council as a general day of thanksgiving

Remembrance Day

Christmas Day

Boxing Day, and

Such additional days as are designated by the deputy head to be holidays in the locality in which an employee works.

(b) When a day designated as a paid holiday coincides with an employee's day of rest, the holiday shall be moved to the employee's first working day following the day of rest.

(c) Where an employee works on a holiday, he or she may be granted management leave as provided in Section 6.

Management leave

6. An employee who is required by management to

work excessive hours;

work or travel on a day of rest or on a holiday;

may be granted such leave with pay as the deputy head considers appropriate.

Vacation leave

7.(a) An employee shall earn vacation leave in accordance with the provisions of the relevant collective agreement.

(b) Vacation leave will be taken at such time as the deputy head specifies. Deputies should encourage managers to take all of their vacation leave in the fiscal year in which it is earned.

(c) Accumulation

(i) Definition

Accumulated vacation leave is defined as the total number of earned but unused vacation leave credits. It does not include furlough leave.

(ii) Maximum accumulation

The maximum accumulation of vacation leave credits is the greater of the manager's:

- current annual entitlement;

or

- accumulated leave credits as at April 1, 1986, or the date of appointment to the specified groups and levels if after this date.

Maximum accumulations exceeding one year's entitlement are reduced (irrevocably) by:

- the deputy scheduling leave;
- utilization; and/or,
- cash-out.

(iii) Cash-out

Mandatory: On March 31st of each year, any earned but unused leave credit greater than the maximum accumulation will be paid in cash.

The immediate supervisor may authorize the carry-over of up to one year's annual entitlement of earned but unused vacation leave credits, beyond an individual's permitted maximum accumulation. The leave carried over must be used within the next fiscal year or be subject to mandatory cash-out at the end of the fiscal year.

Voluntary: Managers may cash-out, subject to deputy head approval, any or all of their accumulated leave.

Both mandatory and voluntary cash-out are based on current base salary (does not include performance awards and bonuses).

Recall from vacation leave

8.(a) An employee who is recalled to duty from vacation leave or whose vacation leave is cancelled by management without notice shall be reimbursed for reasonable expenses, as defined in the Travel Directive, that he or she incurs:

(i) in proceeding to his or her place of duty, and

(ii) in returning to the place from which he or she was recalled if he or she immediately resumes vacation upon completing the assignment for which he or she was recalled;

for any reasonable monetary penalty which results from cancellation of reservations; after submitting such expense accounts as may be required.

(b) An employee shall not be considered as being on vacation leave during any period in respect of which he or she is entitled under paragraph 8(a) to be reimbursed for reasonable expenses he or she incurred.

Vacation pay on termination of employment

9.(a) If an employee ceases to be employed or dies, the employee or the estate shall be paid, in lieu of the unused vacation leave which has been earned, an amount which is equal to the product of the employee's current daily rate of pay as calculated from the classification specified in his or her certificate of appointment, multiplied by the number of days of earned but unused vacation and furlough leave with pay to his or her credit on the day the employee ceased to be employed or died.

(b) Notwithstanding paragraph 9(a), an employee whose employment is terminated by reason of a declaration of abandonment of position is entitled to receive the payment referred to in 9(a) if the employee requests it within a period of three and one-half years following the date upon which employment is terminated.

Medical certificate for sick leave

10. A medical certificate is required only when requested by the deputy head.

Advance of sick leave credits

11. An employee who has insufficient sick leave credits to cover the granting of sick leave with pay during the entire period of illness may be granted, at the discretion of the deputy head, a repayable advance of sick leave credits of up to thirteen (13) weeks.

Pay for advanced leave credits on termination of employment

12. An employee who has been granted more vacation or sick leave with pay than has been earned, whose services are terminated by lay-off or death, is considered to have earned the amount of leave with pay granted to him or her.

Special leave

13. At the discretion of the deputy head, an employee may be granted leave with pay under the following circumstances:

(a) where there is illness or death in the employee's family;

(b) where he or she is to be married;

) where circumstances not directly attributable to the employee prevent him or her from reporting for duty;

(d) on the occasion of the birth of his child.

Other leave

4.(a) A deputy head may grant leave of absence with pay for a period not in excess of two weeks to an employee who is not on leave of absence where

(i) the place of work has been rendered uninhabitable and the employee cannot perform his or her duties until an alternative working place is found; or

(ii) he or she is required or urgently needed to assist in meeting a community emergency.

(b) Leave of absence with pay may be granted by a deputy head to an employee to take a course in civil defence training if

(i) no such training is available in his or her locality after regular working hours; and

(ii) the employee has not been required by the deputy head to take the course for purposes of Public Service civil defence.

15. A deputy head may grant to an employee leave of absence with pay for any period in which the services of that employee are required by

(a) a Commission established pursuant to the *Inquiries Act*;

(b) an Industrial Inquiry Commission, established pursuant to Part I of the *Canada Labour Code*; or

(c) an international organization of which the Government of Canada is a member.

Part II

16. In this part an employee is an employee classified in a group and level listed in Section 2 of this Appendix.

Hours of work

17. The standard hours of work are normally seven and one-half (7 1/2) hours per day; thirty-seven and one-half (37 1/2) hours per week. Notwithstanding this, because the nature of the work and the exigencies of the service require flexibility in arrival and departure times and hours of work, an employee shall not be entitled to payment for overtime (including work on a day of rest or on a holiday) or other conditions relating to hours of work, such as call-back, stand-by, travel on a day of rest and travel on a holiday.

Holidays

18.(a) The following days are paid holidays:

New Year's Day

Good Friday

Easter Monday

The day fixed by proclamation of the Governor in Council for celebration of the Sovereign's Birthday

Canada Day

Labour Day

The day fixed by proclamation of the Governor in Council as a general day of thanksgiving

Remembrance Day

Christmas Day

Boxing Day, and

such additional days as are designated by the deputy head to be holidays in the locality in which an employee works.

(b) When a day designated as a paid holiday coincides with an employee's day of rest, the holiday shall be moved to the employee's first working day following the day of rest.

(c) Where an employee works on a holiday, he or she may be granted management leave as provided in Section 19.

Management leave

19. An employee who is required by management to

work excessive hours;

work or travel on a day of rest or on a holiday;

may be granted such leave with pay as the deputy head considers appropriate.

Vacation leave

20.(a) An employee is entitled to four weeks' annual vacation at the rate of one and two-thirds (1 2/3) days for each calendar month in which the employee is entitled to 10 days' pay.

(b)(i) An employee who is classified in the **ES-8, HR-5, MT-9 or PC-6** groups and levels is entitled to five weeks' annual vacation leave after 20 years of service at the rate of two and one-twelfth (2 1/12) days for each calendar month in which the employee is entitled to 10 days' pay.

(b)(ii) An employee who is classified in the **DS-7 or 8, LA-2B, LA-3A-3C, MD-MOF-4 or 5, MD-MSP-3** groups and levels is entitled to five weeks' annual vacation leave, at the rate of two and one-twelfth (2 1/12) days a month, beginning the first month following the earliest attainment of:

- ten (10) years of service at one or a combination of the specified groups and levels;
- fifteen (15) years of service of which five (5) or more are at these groups and levels;
- twenty (20) years of service; or
- is already entitled to this level of benefit on appointment to the group and level from another group and level in the Public Service

"service" means employment with any department, Armed Forces, Royal Canadian Mounted Police, company, corporation, commission, board or agency established to perform a function or duty on behalf of the Government of Canada.

(c) An employee who has been granted or is entitled to furlough leave (5 weeks' leave after 20 years of continuous employment) shall have his or her leave entitlement reduced by five-twelfths (5/12) of a day per month (5 days per year) in the period between the ends of the employee's twentieth (20th) and twenty-fifth (25th) year of continuous employment.

(d) An employee may be granted advance payment of estimated net salary for vacation periods of two or more complete weeks if a written request is received from the employee at least six weeks prior to the last pay day before the vacation leave commences.

(e) Vacation leave will be taken at such time as the deputy head specifies. Deputies should encourage managers to take all of their vacation leave in the fiscal year in which it is earned.

(f) Accumulation

(i) Definition

Accumulated vacation leave is defined as the total number of earned but unused vacation leave credits. It does not include furlough leave.

(ii) Maximum accumulation

The maximum accumulation of vacation leave credits is the **greater** of the manager's:

- current annual entitlement;

or

- accumulated leave credits as at April 1, 1986, or the date of appointment to the specified groups and levels if after this date.

Maximum accumulations exceeding one year's entitlement are reduced (irrevocably) by:

- the deputy scheduling leave;
- utilization; and/or,
- cash-out.

(iii) Cash-out

Mandatory: On March 31 of each year, any earned but unused leave credit greater than the maximum accumulation will be paid in cash.

The immediate supervisor may authorize the carry-over of up to one year's annual entitlement of earned but unused vacation leave credits beyond an individual's permitted maximum accumulation. The leave carried over must be used within the next fiscal year or be subject to mandatory cash-out at the end of the fiscal year.

Voluntary: Managers may cash-out, subject to deputy head approval, any or all of their accumulated leave.

Both mandatory and voluntary cash-out are based on current base salary (does not include performance awards and bonuses).

Recall from vacation leave

21.(a) An employee who is recalled to duty from vacation leave or whose vacation leave

is cancelled by management without notice shall be reimbursed for reasonable expenses, as defined in the Travel Directive, that he or she incurs:

(i) in proceeding to his or her place of duty, and

(ii) in returning to the place from which he or she was recalled if he or she immediately resumes vacation upon completing the assignment for which he or she was recalled;

for any reasonable monetary penalty which results from cancellation of reservations; after submitting such expense accounts as may be required.

(b) An employee shall not be considered as being on vacation leave during any period in respect of which he or she is entitled under paragraph 21(a) to be reimbursed for reasonable expenses he or she incurred.

Compensation for unused vacation leave

22. On termination of employment an employee is entitled to be compensated for unused accumulated vacation leave in an amount determined by multiplying the number of days of accumulated vacation leave by the employee's daily rate of pay at the date of termination of employment. In the case of death, payment shall be made to his or her estate.

Sick leave

23. Subject to these regulations, where a deputy head is satisfied that an employee is unable to perform the duties of his or her position because of sickness or injury, the deputy head may grant that employee

(a) leave with pay (sick leave) to the extent that such leave has been earned by that employee in accordance with these regulations; or

(b) leave without pay where the employee has no earned sick leave.

24. Every employee, other than an employee on retiring leave, shall earn sick leave at the rate of one and one-quarter (1 1/4) days for each calendar month in which he or she received his or her pay for at least twice the number of days in his or her work week.

25. No employee shall be granted sick leave during a period in which he or she is on leave without pay or under suspension.

Medical certificate for sick leave

26. A medical certificate is required only when requested by the deputy head.

Advance of sick leave credits

27.(a) An employee who has insufficient sick leave credits to cover the granting of sick leave with pay during the entire period of illness may be granted, at the discretion of the deputy head, an advance of sick leave credits of up to 130 working days. Any amount so granted shall not be recovered from future earned sick leave credits.

(b) It is intended that this benefit be granted to an employee once during a career in the Public Service. In exceptional circumstance it may be in the public interest to grant this benefit in the event of a second prolonged illness.

Pay for advanced leave credits on termination of employment

28. An employee who has been granted more vacation or sick leave with pay than has been earned, whose services are terminated by lay-off or dies, is considered to have earned the amount of leave with pay granted to him or her.

Special leave

29. The deputy head, at his or her discretion, may grant an employee special leave with pay in whatever amount is considered appropriate in circumstances where there is illness or death in the employee's family; where he or she is to be married; where circumstances not directly attributable to the employee prevent him or her from reporting for duty; on the occasion of the birth of his child; or for such other purpose that the deputy head considers appropriate.

Other leave

30.(a) A deputy head may grant leave of absence with pay for a period not in excess of two weeks to an employee who is not on leave of absence where

(i) the place of work has been rendered uninhabitable and the employee cannot perform his or her duties until an alternative working place is found; or

(ii) he or she is required or urgently needed to assist in meeting a community emergency.

(b) Leave of absence with pay may be granted by a deputy head to an employee to take a course in civil defence training if

(i) no such training is available in his or her locality after regular working hours; and

(ii) the employee has not been required by the deputy head to take the course for purposes of Public Service civil defence.

31. A deputy head may grant to an employee leave of absence with pay for any period in which the services of that employee are required by:

(a) a Commission established pursuant to the *Inquiries Act*;

(b) an Industrial Inquiry Commission, established pursuant to Part I of the *Canada Labour Code*; or

(c) an international organization of which the Government of Canada is a member.

Annex B - Interim Exceptions to the Public Service Terms and Conditions of Employment Regulations for Excluded Employees of the Law Group

Maternity and Parental Leave

1. Leave Without Pay (mandatory)

(a) General

An employee who requests Maternity or Parental Leave and agrees to return to work a period equal to the period of receipt of maternity and/or parental allowance,

and who provides the deputy head with proof that she/he has applied for and is eligible to receive pregnancy or parental benefits pursuant to the *Employment Insurance Act (EI Act)*, shall be paid a maternity or parental allowance in accordance with the Supplemental Unemployment Benefit (SUB) Plan. If the employee fails to return to work, for reasons other than death, layoff, or having become disabled as defined in the *Public Service Superannuation Act*, on a date specified by the deputy head and for a period of work equivalent to the time for which benefits under maternity or parental leave were paid, then all monies received by the employee as maternity or parental allowance, equivalent to the period for which the employee fails to return to work, will be recovered.

(ii) The maternity or parental allowance to which an employee is entitled, as specified below, is limited to that provided under the SUB Plan and an employee will not be reimbursed for any amounts that she/he may be required to repay pursuant to the *EI Act*.

(iii) The weekly rate of pay referred to in the SUB Plan shall be the rate to which the employee is entitled for her/his substantive level; however, if on the day immediately preceding the commencement of maternity or parental leave without pay an employee has been on an acting assignment for at least four (4) months, the weekly rate shall be the rate she/he was being paid on that day.

(iv) An employee who fails to satisfy the eligibility requirements under the *EI Act*, for pregnancy or parental benefits, solely because of a concurrent entitlement to benefits under the Long-term Disability (LTD) Insurance Portion of the Public Service Management Insurance Plan (PSMIP) or the *Government Employees Compensation Act*, shall be paid:

- for a period of maternity leave, not greater than seventeen (17) weeks, the difference between ninety-three percent (93%) of her weekly rate of pay and the gross amount of her weekly disability benefit;

- for each week the employee would have received a parental allowance had the employee met the eligibility requirements, the difference between ninety-three percent (93%) of her/his weekly rate of pay and the gross amount of her/his weekly disability benefit.

(v) Maternity Leave and Parental Leave shall count for the calculation of "Continuous Employment" for the purpose of calculating severance pay and Service for the purpose of calculating vacation leave.

(b) Maternity

(i) An employee who is pregnant shall, at her request, be granted maternity leave without pay for a period beginning before, on or after the date of childbirth, and ending not later than seventeen (17) weeks after the date of childbirth or the expected date of childbirth.

(ii) Where the employee's new-born child is hospitalised within the period defined above, the deputy head may extend the period of maternity leave without pay beyond the date falling seventeen (17) weeks after the date of termination of pregnancy by a period equal to that portion of the period the new-born child was hospitalised. The employee must return to work during the period of hospitalisation and the extension shall end not later than fifty-two (52) weeks after the termination of pregnancy.

(iii) Maternity allowance payments made according to the SUB Plan will consist of the following:

- for the two (2) week waiting period (where there is one) before receiving EI maternity benefits, ninety-three percent (93%) of her weekly rate of pay for each of the two (2) weeks; and/or

- the difference between the gross weekly benefit rate payable under the *EI Act* and ninety-three percent (93%) of her weekly rate of pay, payable for each week the

employee receives a pregnancy benefit under the *EI Act*.

(c) Parental

An employee who becomes a parent through the birth of a child or adoption of a child shall be granted parental leave without pay for a single period of up to **thirty-seven (37) consecutive weeks in the fifty-two (52) week period** beginning on or after the date of the child's birth, or the date of acceptance of custody of the child for adoption.

(ii) The period of parental leave without pay shall end no later than **fifty-two (52) weeks** after the child is born or in the case of adoption no later than **twenty-four (24) weeks** after the acceptance of custody.

(iii) Where a period of maternity leave without pay has been extended due to the hospitalisation of the new-born child and is followed by a period of parental leave without pay, the period of parental leave without pay will end no later than **fifty-two (52) weeks** after the day the child is born.

(iv) Parental leave allowance payments made according to the SUB Plan will consist of the following:

- for the two (2) week waiting period (where there is one) before receiving *EI* parental benefits, ninety-three percent (93%) of his/her weekly rate of pay for each week of the waiting period, less any other monies earned during this period; and/or

- the difference between the gross weekly benefit rate payable under the *EI Act* and ninety-three percent (93%) of his/her weekly rate of pay, payable for **each week the employee receives a benefit under the *EI Act***.

(v) Parental leave without pay taken by a Public Service couple shall not exceed a total of **thirty-seven (37) weeks** for both employees combined.

(d) Transitional Provisions

Employees who on **March 22, 2001**, were currently on parental leave without pay or had requested a period of such leave without pay, but had not commenced the leave, shall upon request, be entitled to these revised provisions. Any application must be received before the termination date of the leave period originally requested.

2. Leave without pay (discretionary)

Leave without pay for the long-term care of a parent

At the discretion of the deputy head, an employee may be granted leave without pay for the long-term personal care of the employee's parents, including step-parents or foster parents, provided that:

- the employee notifies the deputy head at least four (4) weeks in advance of the commencement date of such leave, unless because of an urgent or unforeseeable circumstance such notice cannot be given;

- the leave is for a period of at least six (6) weeks;

- the total leave granted under this clause shall not exceed two (2) years during an employee's total period of employment in the Public Service.

Leave granted under this clause for a period of more than three months shall be deducted from the calculation of "continuous employment" for the purposes of calculating severance pay and from the calculation of "service" for the purposes of calculating vacation leave;

Time spend on such leave shall not be counted for pay increment purposes.

