



Treasury Board of Canada  
Secretariat

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du Canada

Group: Law  
Expiry Date: May 9, 2011

# Agreement between the Treasury Board and the Association of Justice Counsel

Group: Law  
(All Lawyers)

Expiry Date: May 9, 2011

Groupe : Droit  
Date d'expiration : le 9 mai  
2011

Canada

# **Agreement between the Treasury Board and the Association of Justice Counsel**

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Treasury Board of Canada Secretariat  
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**THIS AGREEMENT COVERS THE FOLLOWING CLASSIFICATION:**

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**TABLE OF CONTENTS**

<b><u>Article</u></b>	<b><u>Subject</u></b>	<b><u>Page</u></b>
1	PURPOSE AND RECOGNITION .....	1
2	INTERPRETATION AND DEFINITIONS .....	1
3	OFFICIAL TEXTS .....	3
4	INTERPRETATION OF AGREEMENT .....	3
5	MANAGEMENT RIGHTS .....	4
6	RIGHTS OF LAWYERS .....	4
7	REPRESENTATIVES .....	4
8	APPLICATION .....	5
9	INFORMATION .....	5
10	USE OF EMPLOYER FACILITIES .....	6
11	LEAVE WITH OR WITHOUT PAY FOR ASSOCIATION BUSINESS OR FOR OTHER ACTIVITIES UNDER THE <i>PUBLIC SERVICE LABOUR RELATIONS ACT</i> .....	7
12	MEMBERSHIP DUES .....	11
13	HOURS OF WORK .....	12
14	TRAVELLING TIME .....	15
15	PAY ADMINISTRATION .....	17
16	DESIGNATED PAID HOLIDAYS .....	20

17 VACATION LEAVE WITH PAY ..... 21

    18 SICK LEAVE WITH PAY  
    ..... 26

19 OTHER LEAVE WITH OR WITHOUT PAY ..... 27

20 CAREER DEVELOPMENT ..... 45

21 LEAVE - GENERAL .....

49 22 SEVERANCE PAY .....

23 LAWYER PERFORMANCE REVIEW  
    AND LAWYER FILES ..... 53

24 GRIEVANCE PROCEDURE ..... 54

25 JOINT CONSULTATION ..... 66

26 SAFETY AND HEALTH ..... 66

27 EMPLOYMENT REFERENCES..... 67

28 REGISTRATION FEES ..... 67

29 COURT CLOTHING ..... 67

30 AGREEMENT RE-OPENER ..... 68

31 NATIONAL JOINT COUNCIL AGREEMENTS ..... 68

32 PART-TIME LAWYERS ..... 69

33 STATEMENT OF DUTIES ..... 72

34 JOB SECURITY ..... 72

35 STANDARDS OF DISCIPLINE ..... 72



36 NO DISCRIMINATION ..... 73

37 BENEFITS ..... 73

38 DURATION ..... 76

**APPENDIX "A" ..... 79**

LA - LAW GROUP (BUD 21402) ANNUAL RATES OF PAY ..... 79

**APPENDIX "A" ..... 83**

LA - LAW GROUP (BUD 21400 and 21401) ANNUAL RATES OF PAY ..... 83

**APPENDIX "B" ..... 89**

PERFORMANCE PAY PLAN FOR LAWYERS AT THE LA-01, LA-2A AND LA-2B LEVELS ..... 89

**APPENDIX "C" ..... 99**

PERFORMANCE PAY PLAN FOR LAWYERS AT THE LA-3 LEVELS ..... 99

**APPENDIX "D" ..... 126**

OFFICE SPACE ..... 126



## ARTICLE 1

### PURPOSE AND RECOGNITION

**1.01** The purpose of this Agreement is to maintain harmonious and mutually beneficial relationships between the Employer, the lawyers and the Association, to set forth certain terms and conditions of employment relating to remuneration, hours of work, lawyer benefits and general working conditions affecting lawyers covered by this Agreement.

**1.02** The parties to this Agreement share a desire to improve the quality of the Public Service of Canada, to maintain professional standards and to promote the well-being and increased efficiency of its lawyers to the end that the people of Canada will be well and effectively served. Accordingly, they are determined to establish within the framework provided by law, an effective working relationship at all levels of the public service in which members of the bargaining units are employed.

**1.03** The Employer recognizes the Association as the exclusive bargaining agent for all lawyers in the bargaining unit as described in paragraph 2.01(a), and agrees to bargain collectively in accordance with the provisions of the *Public Service Labour Relations Act*.

## ARTICLE 2

### INTERPRETATION AND DEFINITIONS

**2.01** For the purpose of this Agreement:

- (a) “**bargaining unit**” (*unité de négociation*) means all the employees of the Employer in the Law group, as described in the certificate issued by the Public Service Labour Relations Board on the twelfth (12th) day of September 2007;
- (b) “**continuous employment**” (*emploi continu*) has the same meaning as defined in the Directive on Terms and Conditions of Employment on the date of the signing of this Agreement;
- (c) “**daily rate of pay**” (*taux de rémunération journalier*) means a lawyer weekly rate of pay divided by five (5);

- (d) **“day of rest”** (*jour de repos*) in relation to a lawyer means a day other than a designated paid holiday on which that lawyer is not ordinarily required to perform the duties of his position other than by reason of his being on leave;
- (e) **“designated paid holiday”** (*jour férié désigné payé*) means the twenty-four (24) hour period commencing at 00:01 hour of a day designated as a holiday in this Agreement;
- (f) **“Employer”** (*Employeur*) means Her Majesty in right of Canada as represented by the Treasury Board, and includes any person authorized to exercise the authority of the Treasury Board;
- (g) **“headquarters area”** (*zone du lieu d’affectation*) has the same meaning as given to the expression in the Travel Directive;
- (h) **“hourly rate of pay”** (*taux de rémunération horaire*) means a full-time lawyer’s weekly rate of pay divided by thirty-seven decimal five (37.5);
- (i) **“Association”** (*Association*) means the Association of Justice Counsel;
- (j) **“lay-off”** (*mise en disponibilité*) means the termination of a lawyer’s employment because of lack of work or because of the discontinuance of a function;
- (k) **“leave”** (*congé*) means authorized absence from duty;
- (l) **“membership dues”** (*cotisation syndicales*) means the dues established pursuant to the By-laws and Regulations of the Association as the dues payable by its members as a consequence of their membership in the Association, and shall not include any initiation fee, insurance premium, or special levy;
- (m) **“weekly rate of pay”** (*taux de rémunération hebdomadaire*) means a lawyer’s annual rate of pay divided by fifty-two decimal one seven six (52.176);
- (n) **“common-law partner”** (*conjoint de fait*) refers to a person living in a conjugal relationship with a lawyer for a continuous period of at least one (1) year.

**2.02** Except as otherwise provided in this Agreement, expressions used in this Agreement:

- (a) if defined in the *Public Service Labour Relations Act*, have the same meaning as given to them in *the Public Service Labour Relations Act*,  
and
- (b) if defined in the *Interpretation Act*, but not defined in the *Public Service Labour Relations Act*, have the same meaning as given to them in the *Interpretation Act*.

**2.03**

- (a) In this collective agreement, where the term “lawyer” is used, it includes all employees covered by this collective agreement. For greater certainty it includes notaries in the province of Quebec and all articling students.
- (b) Except for rates of pay, any reference in this Agreement to LA-2A includes a lawyer at LA-2(I) and any reference in this Agreement to LA-2B includes a lawyer at LA-2(II).

**ARTICLE 3**

**OFFICIAL TEXTS**

- 3.01** Both the English and French texts of this Agreement are official.

**ARTICLE 4**

**INTERPRETATION OF AGREEMENT**

- 4.01** The parties agree that, in the event of a dispute arising out of the interpretation of a clause or article of this Agreement, the parties should meet within a reasonable time and seek to resolve the problem. This Article does not prevent a lawyer from availing himself of the grievance procedure provided in this Agreement.

**ARTICLE 5**

**MANAGEMENT RIGHTS**

**5.01** All the functions, rights, powers and authority which the Employer has not specifically abridged, delegated or modified by this Agreement are recognized by the Association as being retained by the Employer.

**5.02** The Employer will act reasonably, fairly and in good faith in administering this Agreement.

*(Arbitral award dated October 23, 2009, provision of clauses 5.01 and 5.02 effective November 1, 2009)*

## **ARTICLE 6**

### **RIGHTS OF LAWYERS**

**6.01** Nothing in this Agreement shall be construed as an abridgement or restriction of any lawyer's constitutional rights or of any right expressly conferred in an Act of the Parliament of Canada.

## **ARTICLE 7**

### **REPRESENTATIVES**

**7.01** The Employer acknowledges the right of the Association to appoint lawyers as representatives.

**7.02** The Employer and the Association shall, by mutual agreement, determine the area of jurisdiction of each representative, having regard to the plan of organization and the distribution of lawyers. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**7.03** The Association shall notify the Employer promptly and in writing of the names and jurisdiction of its representatives.

#### **7.04 Leave for Representatives**

Operational requirements permitting, the Employer shall grant leave with pay to a lawyer to enable him to carry out his functions as a representative on the Employer's premises. When the discharge of these functions requires a lawyer who is a representative to leave his normal place of work, the lawyer shall report his return to his supervisor whenever practicable. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

## ARTICLE 8

### APPLICATION

**8.01** The provisions of this Agreement apply to the Association, lawyers and the Employer.

**8.02** In this Agreement, words importing the masculine gender shall include the feminine gender.

## ARTICLE 9

### INFORMATION

**9.01** The Employer agrees to supply the Association on a quarterly basis with a list of all lawyers in the bargaining unit. The list referred to herein shall include the name, employing department, geographical location and classification of the lawyer and shall be provided within one (1) month following the termination of each quarter. As soon as practicable, the Employer agrees to add to the above list the date of appointment for new lawyers. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

**9.02** The Employer agrees to supply each lawyer with a copy of the collective agreement and any amendments thereto.

**9.03** Upon the written request of a lawyer, the Employer shall make available at a mutually satisfactory time National Joint Council agreements listed in clause 30.03 which have a direct bearing on the requesting lawyer's terms and conditions of employment. For the purpose of satisfying the Employer's obligation under this clause, lawyers may be given electronic access to the agreements.

**9.04** The Employer agrees to distribute to each new lawyer an information package prepared and supplied by the Association. Such information package shall require the prior approval of the Employer. The Employer shall have the right to refuse to distribute any information that it considers adverse to its interests or to the interests of any of its representatives.

**9.05** The Employer shall, no less frequently than on a monthly basis, provide the Association with a list of any changes made to current excluded positions, including any positions that will no longer be excluded and any positions that have been proposed for exclusion. This information shall include the rationale for

any proposed exclusion, the position number and names of the incumbents of such positions, the employing department or agency and organizational unit, and the geographical location of the lawyer. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

## **ARTICLE 10**

### **USE OF EMPLOYER FACILITIES**

#### **10.01 Access by an Association Representative**

A representative appointed by the Association may be permitted access to the Employer's premises on stated Association business and to attend meetings called by management. Permission to enter the premises shall, in each case, be obtained from the Employer. Such permission shall not be unreasonably withheld.

#### **10.02 Bulletin Boards**

Reasonable space on bulletin boards, including electronic bulletin boards where available, will be made available to the Association for the posting of official notices, in convenient locations determined by the Employer and the Association. Notices or other material shall require the prior approval of the Employer, except notices relating to the business affairs of the Association and social and recreational events. The Employer shall have the right to refuse the posting of any information which he considers adverse to his interests or to the interests of any of his representatives.

#### **10.03 Association Literature**

The Employer shall continue its present practice of making available to the Association, specific locations on its premises for the placement of reasonable quantities of Association literature.

## **ARTICLE 11 LEAVE WITH OR WITHOUT PAY FOR ASSOCIATION BUSINESS OR FOR OTHER ACTIVITIES UNDER THE *PUBLIC SERVICE LABOUR RELATIONS ACT***

#### **11.01 Public Service Labour Relations Board Hearings (1)      Complaints made to the Public Service Labour Relations Board pursuant to Section 190(1) of the *Public Service Labour Relations Act***

Where operational requirements permit, in cases of complaints made to the Public



Service Labour Relations Board pursuant to section 190(1) of the *Public Service Labour Relations Act* (PSLRA) alleging a breach of sections 157, 186(1)(a), 186(1)(b), 186(2)(a)(i), 186(2)(b), 187, 188(a) or 189(1) of the PSLRA, the Employer will grant leave with pay:

- (a) to a lawyer who makes a complaint on his own behalf before the Public Service Labour Relations Board,  
and
- (b) to the lawyer who acts on behalf of a lawyer making a complaint, or who acts on behalf of the Association making a complaint.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**(2) Applications for Certification, Representations and Interventions with Respect to Applications for Certification**

Where operational requirements permit, the Employer will grant leave without pay:

- (a) to a lawyer who represents the Association in an application for certification or in an intervention,  
and
- (b) to a lawyer who makes personal representations with respect to a certification. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**(3) Lawyer Called as a Witness**

The Employer will grant leave with pay:

- (a) to a lawyer called as a witness by the Public Service Labour Relations Board,  
and
- (b) where operational requirements permit, to a lawyer called as a witness by a lawyer or the Association. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

### **11.02 Arbitration Board, Public Interest Commission and Alternate Dispute Resolution Process**

(1) Where operational requirements permit, the Employer will grant leave with pay to a lawyer representing the Association before an Arbitration Board, Public Interest Commission or in an Alternate Dispute Resolution Process. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

(2) **Lawyer Called as a Witness**

The Employer will grant leave with pay to a lawyer called as a witness by an Arbitration Board, Public Interest Commission or Alternate Dispute Resolution Process and, where operational requirements permit, leave with pay to a lawyer called as a witness by the Association. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

### **11.03 Adjudication**

(1) **Lawyer Who is a Party**

Where operational requirements permit, the Employer will grant leave with pay to a lawyer who is a party. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

(2) **Lawyer Who Acts as Representative**

Where operational requirements permit, the Employer will grant leave with pay to the representative of a lawyer who is a party. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

(3) **Lawyer Called as a Witness**

Where operational requirements permit, the Employer will grant leave with pay to a witness called by a lawyer who is a party. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

### **11.04 Meetings During the Grievance Process**

(1) **Lawyer Presenting Grievance**

Where operational requirements permit, the Employer will grant to a lawyer:

- (a) where the Employer originates a meeting with the lawyer who has presented the grievance, leave with pay when the meeting is held in the

headquarters area of such lawyer and “on duty” status when the meeting is held outside the headquarters area of such lawyer;

and

- (b) where a lawyer who has presented a grievance seeks to meet with the Employer, leave with pay to the lawyer when the meeting is held in the headquarters area of such lawyer and leave without pay when the meeting is held outside the headquarters area of such lawyer. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**(2) Lawyer Who Acts as Representative**

Where a lawyer wishes to represent at a meeting with the Employer, a lawyer who has presented a grievance, the Employer will, where operational requirements permit, grant leave with pay to the representative when the meeting is held in the headquarters area of such lawyer and leave without pay when the meeting is held outside the headquarters area of such lawyer. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**(3) Grievance Hearings**

Where a lawyer has asked or is obliged to be represented by the Association in relation to the presentation of a grievance and an lawyer acting on behalf of the Association wishes to discuss the grievance with that lawyer, the lawyer and the representative of the lawyer will, where operational requirements permit, be given reasonable leave with pay for

this purpose when the discussion takes place in the headquarters area of such lawyer and leave without pay when it takes place outside the headquarters area of such lawyer. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**11.05 Contract Negotiations Meetings**

Where operational requirements permit, the Employer will grant leave without pay to a lawyer for the purpose of attending contract negotiations meetings on behalf of the Association. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

### **11.06 Preparatory Contract Negotiations Meetings**

Where operational requirements permit, the Employer will grant leave without pay to a lawyer to attend preparatory contract negotiations meetings. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

### **11.07 Meetings Between the Association and Management**

Where operational requirements permit, the Employer will grant leave with pay to a lawyer to attend meetings with management on behalf of the Association. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

### **11.08 Association Executive Council Meetings and Conventions**

Where operational requirements permit, the Employer will grant leave without pay to a lawyer to attend Executive Council Meetings and Conventions of the Association. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

### **11.09 Representatives' Training Courses**

- (1) Where operational requirements permit, the Employer will grant leave without pay to lawyers appointed as Representatives by the Association, to undertake training sponsored by the Association related to the duties of a Representative.
- (2) Where operational requirements permit, the Employer will grant leave with pay to lawyers appointed as Representatives by the Association, to attend training sessions concerning Employer-lawyer relations sponsored by the Employer. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

## **ARTICLE 12**

### **MEMBERSHIP DUES**

**12.01** The Employer will deduct an amount of the membership dues from the pay of all lawyers in the bargaining unit.

**12.02** The Association shall inform the Employer in writing of the authorized deduction to be checked off for each lawyer in the bargaining unit.

**12.03** For the purpose of applying clause 12.01, deductions from pay for each lawyer will start the first (1st) day of the month following the employment to the extent that earnings are available. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

**12.04** A lawyer who satisfies the Association as to the bona fides of his or her claim and declares in an affidavit that he or she is a member of a religious organization whose doctrine prevents him or her as a matter of conscience from making financial contributions to an employee organization and that he or she will make contributions to a charitable organization registered pursuant to the *Income Tax Act*, equal to dues, shall not be subject to this Article, provided that the affidavit submitted by the lawyer is countersigned by an official representative of the religious organization involved. The Association will inform the Employer accordingly.

**12.05** No employee organization, as defined in section 2 of the *Public Service Labour Relations Act*, other than the Association, shall be permitted to have membership dues and/or other monies deducted by the Employer from the pay of lawyers in the bargaining unit.

**12.06** The amounts deducted in accordance with clause 12.01 shall be remitted to the Association by cheque within a reasonable period of time after deductions are made and shall be accompanied by particulars identifying each lawyer and the deductions made on his behalf. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

**12.07** The Employer agrees to make deductions for other purposes on the basis of the production of appropriate documentation in accordance with its past practice with other unions.

**12.08** The Association agrees to indemnify and save the Employer harmless against any claim or liability arising out of the application of this Article except for any claim or liability arising out of an error committed by the Employer that shall be limited to the amount of the unremitted membership dues.

**12.09** When it is mutually acknowledged that an error has been committed, the Employer shall endeavour to correct such error within the two (2) pay periods following the acknowledgement of error.

## **ARTICLE 13**

## HOURS OF WORK

- 13.01** The following applies to lawyers at the LA-1 and LA-02A levels:
- (a) The normal hours of work for lawyers shall average thirty-seven decimal five (37.5) hours per week over each four (4) week period. Subject to the approval of the Employer, the hours of work shall be arranged to suit a lawyer's individual duties and to permit the lawyer to carry out his or her professional responsibilities.
  - (b) In making arrangements for hours of work, lawyers will be permitted reasonable flexibility in the times during which they perform their work, including arrival and departure from the workplace, to enable them to balance work and family responsibilities.
  - (c) The normal work week shall be Monday through Friday, except where a lawyer is required to work on what would normally be a day of rest or a paid holiday in order to carry out his or her professional responsibilities.
  - (d) A reconciliation of hours of work will be made by the lawyer and his or her immediate supervisor for each four (4) week period. In computing the hours of work within the period, vacation, designated paid holidays, and other leaves of absence will account for seven decimal five (7.5) hours per day.
  - (e) Where a lawyer has been required to work in excess of an average of thirty-seven decimal five (37.5) hours per week over a 4-week period, the lawyer shall be compensated at the rate of one and one-half (1 1/2) times the lawyer's hourly rate of pay for each hour worked in excess of the normal hours of work for each four (4) week period.
  - (f) In the calculation of hours worked for the purposes of paragraph (e) hereof, a lawyer shall be deemed to have worked seven decimal five (7.5) hours on any day when the actual hours worked were more than seven decimal five (7.5) but less than eight decimal five (8.5) hours. All other calculations for overtime shall be based on each completed period of thirty (30) minutes.
  - (g) Upon application by the lawyer and at the discretion of the Employer, compensation earned under this Article will be taken in the form of compensatory leave calculated at the premium rate set out in this Article, provided that compensatory leave earned in a fiscal year and outstanding

on September 30th of the next following fiscal year shall be paid at the lawyer's daily rate of pay on September 30th.

- (h) When a payment is made to liquidate compensatory leave outstanding at the end of a fiscal year, the Employer will endeavour to make such payment within six (6) weeks of the first pay period after September 30th of the following fiscal year.
- (i) Nothing in this Article is intended to prevent lawyers from having access to the Employer's existing policies respecting alternate work arrangements, including compressed work week, job sharing, telework, self-funded leave and pre-retirement transition leave.
- (j) Lawyers will submit such attendance and timekeeping reports as may be required by the Employer for the purposes of this Article. (*Arbitral award dated October 23, 2009, provision effective February 20, 2010*)

**13.02** The following applies to lawyers at the LA-2B and LA-3 levels:

- (a) The normal hours of work for lawyers shall average thirty-seven decimal five (37.5) hours per week over each four (4) week period. Subject to the approval of the Employer, the hours of work shall be arranged to suit a lawyer's individual duties and to permit the lawyer to carry out his or her professional responsibilities.
- (b) In making arrangements for hours of work, lawyers will be permitted reasonable flexibility in the times during which they perform their work, including arrival and departure from the workplace, to enable them to balance work and family responsibilities.
- (c) The normal work week shall be Monday through Friday, except where a lawyer is required to work on what would normally be a day of rest or a paid holiday in order to carry out his or her professional responsibilities.
- (d) A reconciliation of hours of work will be made by the lawyer and his or her immediate supervisor for each four (4) week period. In computing the hours of work within the period, vacation, designated paid holidays, and other leaves of absence will account for seven decimal five (7.5) hours per day.
- (e) Lawyers are eligible for exceptional leave with pay, as the delegated manager considers appropriate, for a period of up to five (5) days in one (1) fiscal year. Examples of such leave are situations where lawyers are required to work excessive hours.

- (f) Under exceptional circumstances, the deputy head can approve exceptional leave with pay for a period exceeding the five (5) days referred to above.
- (g) Leave granted as exceptional leave with pay can be carried over into the next fiscal year, and is to be used within six (6) months of being granted.
- (h) Lawyers will submit such attendance and timekeeping reports as may be required by the Employer for the purposes of this Article.

*(Arbitral award dated October 23, 2009, provisions of clause 13.01 and 13.02 effective February 20, 2010)*

### **13.03 Reimbursement of Meal Expenses**

A lawyer who is required by the Employer to work beyond normal hours extending beyond the normal meal period or who works at least three (3) hours on a day of rest or on a designated paid holiday will be reimbursed for out of pocket expenses for one (1) or more meals, depending on the number of meal periods occurring in the period of time so worked, up to the amounts set out in Appendix C to the Travel Directive.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

## **ARTICLE 14**

### **TRAVELLING TIME**

**14.01** Clauses 14.02 to 14.07 inclusive apply only to lawyers at levels LA-01 and LA-2A. Clause 14.08 applies to all lawyers.

#### **14.02**

- (a) When a lawyer is required to travel outside his headquarters area on government business, the time of departure and the means of such travel shall be determined by the Employer and the lawyer will be compensated for travel time in accordance with clauses 14.02 and 14.03. Travelling time shall include time necessarily spent at each stop-over en route, provided such stop-over does not include an overnight stay.
- (b) Pursuant to paragraph (a), when a lawyer is travelling by public transportation and, owing to an unforeseeable or unavoidable delay, is subject to an unscheduled overnight stay with overnight accommodation, travelling time shall include time necessarily spent at the stop-over en



route as well as the necessary time to reach the overnight accommodation.

**14.03** For the purposes of clauses 14.02 and 14.04, the travelling time for which a lawyer shall be compensated is as follows:

- (a) For travel by public transportation, the time between the scheduled time of departure and the time of arrival at a destination, including the normal travel time to the point of departure, as determined by the Employer.
- (b) For travel by private means of transportation, the normal time as determined by the Employer to proceed from the lawyer's place of residence or work place, as applicable, direct to his destination and, upon his return, direct back to his residence or work place.
- (c) In the event that an alternate time of departure and/or means of travel is requested by the lawyer, the Employer may authorize such alternate arrangement in which case compensation for travelling time shall not exceed that which would have been payable under the Employer's original determination.

**14.04** If a lawyer is required to travel as set forth in clauses 14.02 and 14.03:

- (a) On a normal working day on which he travels but does not work, a lawyer shall receive his/her regular pay for the day.
- (b) On a normal working day on which the lawyer travels and works, the lawyer shall be paid:
  - (i) regular pay for the day for a combined period of travel and work not exceeding seven decimal five (7.5) hours,
  - and
  - (ii) compensation at the rate of time and one-half (1 1/2) for additional travel time in excess of a seven decimal five (7.5) hour period of work and travel, with maximum compensation for such additional travel time not to exceed twelve (12) hours pay at the straight-time rate in any day.
- (c) On a day of rest or on a designated paid holiday, a lawyer shall be compensated at the rate of time and one-half (1 1/2) for hours travelled to a maximum of twelve (12) hours" pay at the straight-time rate.

- (d) In the calculation of hours worked and/or travelled for the purposes of paragraphs (b) and (c) above, a lawyer shall be deemed to have worked and/or travelled seven decimal five (7.5) hours on any day when the actual hours worked and/or travelled were more than seven decimal five (7.5) but less than eight decimal five (8.5) hours. All other calculations for travelling time shall be based on each completed period of thirty (30) minutes.

**14.05** A lawyer shall not be compensated for travelling time to courses, training sessions, conferences and seminars to which the lawyer is sent for the purpose of career development, unless required to attend by the Employer.

**14.06** Upon application by the lawyer and at the discretion of the Employer, compensation for travel time will be taken in the form of compensatory leave, which will be calculated at the applicable premium rate laid down in this Article. Compensatory leave earned in a fiscal year and outstanding on September 30th of the next following fiscal year shall be paid at the lawyer's daily rate of pay on September 30th.

**14.07** Where the Employer has agreed to make cash payment under this Article the Employer will endeavour to make such payments within six (6) weeks from September 30th.

*(Arbitral award dated October 23, 2009, provisions of clauses 14.02 to 14.07 effective February 20, 2010).*

#### **14.08 Travel Status Leave**

- (a) A lawyer who is required to travel outside his or her headquarters area on government business, as these expressions are defined by the Employer, and is away from his permanent residence for forty (40) nights during a fiscal year shall be granted seven decimal five (7.5) hours of time off with pay. The lawyer shall be credited with seven decimal five (7.5) hours of time off for each additional twenty (20) nights that the lawyer is away from his or her permanent residence to a maximum of eighty (80) additional nights.
- (b) The maximum number of days off earned under this clause shall not exceed thirty-seven decimal five (37.5) hours in a fiscal year and shall accumulate as compensatory leave with pay.

- (c) This leave with pay is deemed to be compensatory leave. Compensatory leave earned and outstanding at the end of the fiscal year shall be paid at the lawyer's hourly rate of pay on that date.
- (d) The provisions of this clause do not apply when the lawyer travels in connection with courses, training sessions, professional conferences and seminars, unless the lawyer is required to attend by the Employer.

## **ARTICLE 15**

### **PAY ADMINISTRATION**

**15.01** Except as provided in clauses 15.02 to 15.08 inclusive, the terms and conditions governing the application of pay to lawyers are not affected by this Agreement.

**15.02** A lawyer is entitled to be paid for services rendered at:

- (a) the pay specified in Appendix "A" for the classification of the position to which he is appointed, if the classification coincides with that prescribed in his certificate of appointment,

or

- (b) the pay specified in Appendix "A" for the classification prescribed in his certificate of appointment, if that classification and the classification of the position to which he is appointed do not coincide.

#### **15.03 Rates of Pay**

- (a) The rates of pay set forth in Appendix "A" shall become effective on the dates specified.
- (b) Where the rates of pay set forth in Appendix "A" have an effective date prior to the date of signing of this Agreement, the following shall apply:
  - (i) "retroactive period" for the purpose of subparagraphs (ii) to (v) means the period from the effective date of the revision up to and including the day before the collective agreement is signed or when an arbitral award is rendered therefore;
  - (ii) a retroactive upward revision in rates of pay and associated recalculations as identified in the Directive on Terms and

Conditions of Employment shall apply to lawyers, former lawyers or in the case of death, the estates of former lawyers who were employees in the LA bargaining unit during the retroactive period;

- (iii) for initial appointments made during the retroactive period, the rate of pay selected in the revised rates of pay is the rate which is shown immediately below the rate of pay being received prior to the revision;
- (iv) for promotions, demotions, deployments, transfers or acting situations effective during the retroactive period, the rate of pay shall be recalculated, in accordance with the Directive on Terms and Conditions of Employment, using the revised rates of pay. If the recalculated rate of pay is less than the rate of pay the lawyer was previously receiving, the revised rate of pay shall be the rate, which is nearest to, but not less than the rate of pay being received prior to the revision. However, where the recalculated rate is at a lower step in the range, the new rate shall be the rate of pay shown immediately below the rate of pay being received prior to the revision;
- (v) no payment or no notification shall be made pursuant to paragraph 15.03(b) for one dollar (\$1.00) or less.

**15.04** Only rates of pay which have been paid to a lawyer during the retroactive period will be recomputed and the difference between the amount paid on the old rates of pay and the amount payable on the new rates of pay will be paid to the lawyer.

#### **15.05 Acting Pay**

- (a) When a lawyer is required by the Employer to substantially perform the duties of a higher classification level on an acting basis for a period of at least six (6) consecutive working days, the lawyer shall be paid acting pay calculated from the date on which the lawyer commenced to act as if the lawyer had been appointed to that higher classification level or managerial position for the period in which the lawyer acts.
- (b) When a day designated as a paid holiday occurs during the qualifying period the holiday shall be considered as a day worked for purposes of the qualifying period.

**15.06** Effective November 1, 2009, the performance pay plan in Appendix "B" will apply to lawyers at the LA-1 and LA-2 levels and the performance pay plan in Appendix "C" will apply to lawyers at the LA-3 level.

**Clauses 15.07 and 15.08 only apply to LAs subject to the lock step pay structure (BUD 21402), and no longer apply after October 31, 2009.**

**15.07** The pay increment date for a lawyer who was appointed to a position in the bargaining unit prior to the date of signing remains unchanged.

**15.08 Pay Administration**

When two (2) or more of the following actions occur on the same date, namely appointment, pay increment, pay revision, the lawyer's rate of pay shall be calculated in the following sequence:

- (a) he shall receive his pay increment;
- (b) his rate of pay shall be revised;
- (c) his rate of pay on appointment shall be established in accordance with this Agreement.

**ARTICLE 16**

**DESIGNATED PAID HOLIDAYS**

**16.01** Subject to clause 16.02, the following days shall be designated paid holidays for lawyers:

- (a) New Year's Day,
- (b) Good Friday,
- (c) Easter Monday,
- (d) the day fixed by proclamation of the Governor in Council for celebration of the Sovereign's Birthday,
- (e) Canada Day,
- (f) Labour Day,

- (g) the day fixed by proclamation of the Governor in Council as a general day of Thanksgiving,
  - (h) Remembrance Day,
  - (i) Christmas Day,
  - (j) Boxing Day,
  - (k) one (1) additional day in each year that, in the opinion of the Employer, is recognized to be a provincial or civic holiday in the area in which the lawyer is employed or in any area where, in the opinion of the Employer, no such day is recognized as a provincial or civic holiday, the first (1st) Monday in August,
- and
- (l) one (1) additional day when proclaimed by an Act of Parliament as a National Holiday. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

**16.02** A lawyer absent without pay on both his full working day immediately preceding and his full working day immediately following a designated paid holiday, is not entitled to pay for the holiday, except in the case of a lawyer who is granted leave without pay under the provisions of Article 11, Leave With or Without Pay for Association Business or for Other Activities under the *Public Service Labour Relations Act*.

**16.03 Holiday Falling on a Day of Rest**

When a day designated as a paid holiday under clause 16.01 coincides with a lawyer's day of rest, the holiday shall be moved to the lawyer's first (1st) normal working day following his day of rest.

**16.04** When a day designated as a paid holiday for a lawyer is moved to another day under the provisions of clause 16.03:

- (a) work performed by a lawyer on the day from which the holiday was moved shall be considered as work performed on a day of rest,
- and
- (b) work performed by a lawyer on the day to which the holiday was moved, shall be considered as work performed on a holiday.

### **16.05 Designated Paid Holiday Coinciding With a Day of Paid Leave**

Where a day that is a designated paid holiday for a lawyer coincides with a day of leave with pay or is moved as a result of the application of clause 16.03, the designated paid holiday shall not count as a day of leave.

## **ARTICLE 17**

### **VACATION LEAVE WITH PAY**

**17.01** The vacation year shall be from April 1st to March 31st, inclusive.

#### **17.02 Accumulation of Vacation Leave Credits**

A lawyer who has earned at least seventy-five (75) hours pay for each calendar month of a fiscal year shall earn vacation leave credits at the following rates:

- (a) nine decimal three seven five (9.375) hours at the lawyer's straight-time hourly rate until the month in which the lawyer's fifth (5th) anniversary of service occurs;
- (b) twelve decimal five (12.5) hours at the lawyer's straight-time hourly rate commencing with the month in which the lawyer's fifth (5th) anniversary of service occurs;
- (c) thirteen decimal seven five (13.75) hours at the lawyer's straight-time hourly rate commencing with the month in which the lawyer's fifteenth (15th) anniversary of service occurs;
- (d) fourteen decimal three seven five (14.375) hours at the lawyer's straight-time hourly rate commencing with the month in which the anniversary of the lawyer's seventeenth (17th) year of service occurs;
- (e) fifteen decimal six two five (15.625) hours at the lawyer's straight-time hourly rate commencing with the month in which the anniversary of the lawyer's eighteenth (18th) year of service occurs;
- (f) sixteen decimal eight seven five (16.875) hours at the lawyer's straight-time hourly rate commencing with the month in which the lawyer's twenty-fifth (25th) anniversary of service occurs;

- (g) eighteen decimal seven five (18.75) hours at the lawyer's straight-time hourly rate commencing with the month in which the anniversary of the lawyer's twenty-eighth (28th) anniversary of service occurs.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*

**Clause 17.03 is a grand parenting clause**

**17.03** Lawyers who are currently at levels LA-2B or LA-3 levels and who are entitled or might become entitled, to twenty-five (25) days of leave before the completion of eighteen (18) years of service, shall continue to qualify for twenty-five (25) days of leave as before. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**17.04** For the purpose of clause 17.02 only, all service within the public service, whether continuous or discontinuous, shall count toward vacation leave except where a person who, on leaving the public service, takes or has taken severance pay. However, the above exception shall not apply to a lawyer who receives severance pay on lay-off and is reappointed to the public service within one (1) year following the date of lay-off.

**17.05 Granting of Vacation Leave With Pay**

- (a) Lawyers are expected to take all their vacation leave during the vacation year in which it is earned.
- (b) The Employer reserves the right to schedule a lawyer's vacation leave with pay but subject to operational requirements, shall make every reasonable effort:
  - (i) to grant a lawyer's vacation leave with pay in an amount and at such time as the lawyer may request;
  - (ii) not to recall a lawyer to duty after the lawyer has proceeded on vacation leave with pay.

**17.06** A lawyer is entitled to vacation leave with pay to the extent of his earned credits but a lawyer who has completed six (6) months of continuous employment may receive an advance of credits equivalent to the anticipated credits for the vacation year.

**17.07** Where, in respect of any period of vacation leave, a lawyer:

- (a) is granted bereavement leave,



or

- (b) is granted sick leave on production of a medical certificate,

or

- (c) is granted court leave in accordance with paragraph 19.15(c),

the period of vacation leave so displaced shall either be added to the vacation period if requested by the lawyer and approved by the Employer or reinstated for use at a later date.

### **17.08 Carry-Over and Liquidation of Vacation Leave**

- (a) Where in any vacation year, a lawyer has not been granted all of the vacation leave credited to him or her, the unused portion of his or her vacation leave credits up to a maximum of two-hundred-sixty-two point five (262.5) hours shall be carried over into the following vacation year. All vacation leave credits in excess of two-hundred-sixty-two point five (262.5) hours shall be automatically paid in cash at the lawyer's daily rate of pay as calculated from the classification prescribed in the certificate of appointment of the lawyer's substantive position on the last day of the vacation year.
- (b) Notwithstanding paragraph (a), if on the date of signing of this Agreement or on the date a lawyer becomes subject to this Agreement, a lawyer has more than two-hundred-sixty-two point five (262.5) hours of unused vacation leave credits earned during previous years, a minimum of seventy-five (75) hours credit per year shall be granted, or paid in cash by March 31st of each year, until all vacation leave credits in excess of two-hundred-sixty-two point five (262.5) hours have been liquidated. Payment shall be in one (1) installment per year, and shall be at the lawyer's daily rate of pay as calculated from the classification prescribed in the certificate of appointment of the lawyer's substantive position on March 31st of the applicable previous vacation year.

- 17.09** Immediately following March 31, upon application by the lawyer and at the discretion of the Employer, vacation leave credits in excess of one hundred twelve decimal five (112.5) hours may be paid in cash at the lawyer's daily rate of pay as calculated from the classification prescribed in the lawyer's certificate of appointment of his substantive position on March 31st.

### **17.10 Recall From Vacation Leave With Pay**

Where, during any period of vacation leave with pay, a lawyer is recalled to duty, the lawyer shall be reimbursed for reasonable expenses, as normally defined by the Employer, that the lawyer incurs:

- (a) in proceeding to the lawyer's place of duty,  
and
- (b) in returning to the place from which the lawyer was recalled if the lawyer immediately resumes vacation upon completing the assignment for which the lawyer was recalled, after submitting such accounts as are normally required by the Employer.

**17.11** The lawyer shall not be considered as being on vacation leave with pay during any period in respect of which the lawyer is entitled under clause 17.10 to be reimbursed for reasonable expenses incurred by the lawyer.

**17.12** When the Employer cancels or alters a scheduled period of vacation leave of a lawyer, which has been approved in writing in advance, the lawyer shall be reimbursed for the non-returnable portion of vacation contracts and reservations made by the lawyer in respect of that period, subject to presentation of such documentation as the Employer may require. The lawyer must make every reasonable attempt to mitigate any losses incurred and will provide proof of such action to the Employer.

### **17.13 Leave When Employment Terminates**

When a lawyer dies or otherwise ceases to be employed, he or his estate shall be paid an amount equal to the product obtained by multiplying the number of days of earned but unused vacation and furlough leave with pay to his credit by the daily rate of pay applicable to the lawyer's authorized classification immediately prior to the termination of his employment.

### **17.14 Vacation Leave Credits for Severance Pay**

Where the lawyer requests, the Employer shall grant the lawyer the unused vacation leave credits prior to termination of employment if this will enable the lawyer, for purposes of severance pay, to complete the first (1st) year of

continuous employment in the case of lay-off, and the tenth (10th) year of continuous employment in the case of resignation.

## **ARTICLE 18**

### **SICK LEAVE WITH PAY**

#### **18.01 Credits**

A lawyer shall earn sick leave credits at the rate of nine decimal three seven five (9.375) hours for each calendar month for which he receives pay for at least seventy-five (75) hours.

**18.02** A lawyer shall be granted sick leave with pay when he is unable to perform his duties because of illness or injury provided that:

- (a) he satisfies the Employer of this condition in such a manner and at such a time as may be determined by the Employer,  
  
and
- (b) he has the necessary sick leave credits.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**18.03** A lawyer shall not be granted sick leave with pay during any period in which he is on leave without pay, or under suspension.

**18.04** When a lawyer is granted sick leave with pay and injury-on-duty leave is subsequently approved for the same period, it shall be considered for the purpose of the record of sick leave credits that the lawyer was not granted sick leave with pay.

#### **18.05**

- (a) Where a lawyer has insufficient or no credits to cover the granting of sick leave with pay under the provisions of clause 18.02 above, sick leave with pay may, at the discretion of the Employer, be granted to a lawyer for a period of up to one hundred and eighty-seven decimal five (187.5) hours, subject to the deduction of such advanced leave from any sick leave credits subsequently earned.
- (b) Notwithstanding the foregoing, a lawyer at the LA-3 level who has insufficient credits to cover the granting of sick leave with pay during the

lawyer's entire period of illness may be granted, at the discretion of the Employer, an advance of sick leave credits of up to one hundred and thirty (130) working days. Any amounts so granted shall not be recovered from future earned sick leave credits. .

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**18.06** Unless the lawyer is otherwise informed by the Employer, a statement signed by him stating that because of illness or injury he was unable to perform the lawyer's duties shall, when delivered to the Employer, be considered as meeting the requirements of paragraph 18.02(a).

The Employer may obtain at any time a medical opinion from Health Canada or its authorized agent on the lawyer's ability to perform all or some of his duties.  
*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

## ARTICLE 19

### OTHER LEAVE WITH OR WITHOUT PAY

**19.01** In respect to applications for leave made pursuant to this Article, the lawyer may be required to provide satisfactory validation of the circumstances necessitating such requests.

#### **19.02 Bereavement Leave With Pay**

For the purpose of this clause, immediate family is defined as the father, mother, child (or alternatively stepparent, foster parent, stepchild or ward) of the lawyer or the lawyer's spouse (including common-law partner), brother, sister, spouse (including common-law partner), grandchild of the lawyer, the lawyer's grandparent, or any other relative permanently residing in the lawyer's household or with whom the lawyer permanently resides.

- (a) When a member of the lawyer's immediate family dies, a lawyer:
  - (i) shall be entitled to a bereavement period of five (5) consecutive calendar days which must include the day of the funeral. During such period the lawyer shall be paid for those days which are not regularly scheduled days of rest for that lawyer.
  - (ii) In addition, the lawyer may be granted up to three (3) days' leave with pay for the purpose of travel related to the death.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*

(b) It is recognized by the parties that the circumstances which call for leave in respect of bereavement are based on individual circumstances. On request, the deputy head of a department may, after considering the particular circumstances involved, grant leave with pay for a period greater and/or in a manner different than that provided for in paragraph 19.02(a).

### **19.03 Maternity Leave Without Pay**

- (a) A lawyer who becomes pregnant shall, upon request, be granted maternity leave without pay for a period beginning before, on or after the termination date of pregnancy and ending not later than eighteen (18) weeks after the termination date of pregnancy.
- (b) Notwithstanding paragraph (a):
- (i) where the lawyer has not yet proceeded on maternity leave without pay and her newborn child is hospitalized,
  - or
  - (ii) where the lawyer has proceeded on maternity leave without pay and then returns to work for all or part of the period during which her newborn child is hospitalized,
- the period of maternity leave without pay defined in paragraph (a) may be extended beyond the date falling eighteen (18) weeks after the date of termination of pregnancy by a period equal to that portion of the period of the child's hospitalization during which the employee was not on maternity leave, to a maximum of eighteen (18) weeks.
- (c) The extension described in paragraph (b) shall end not later than fifty-two (52) weeks after the termination date of pregnancy.
- (d) The Employer may require a lawyer to submit a medical certificate certifying pregnancy.
- (e) A lawyer who has not commenced maternity leave without pay may elect to:
- (i) use earned vacation and compensatory leave credits up to and beyond the date that her pregnancy terminates;
  - (ii) use her sick leave credits up to and beyond the date that her pregnancy terminates, subject to the provisions set out in Article

18, Sick Leave With Pay. For purposes of this subparagraph, the terms “illness” or “injury” used in Article 18, Sick Leave With Pay, shall include medical disability related to pregnancy.

- (f) A lawyer shall inform the Employer in writing of her plans for taking leave with and without pay to cover her absence from work due to the pregnancy at least four (4) weeks in advance of the initial date of continuous leave of absence during which termination of pregnancy is expected to occur unless there is a valid reason why the notice cannot be given.
- (g) Leave granted under this clause shall be counted for the calculation of “continuous employment” for the purpose of calculating severance pay and “service” for the purpose of calculating vacation leave. Time spent on such leave shall be counted for pay increment purposes.

#### **19.04 Maternity Allowance**

- (a) A lawyer who has been granted maternity leave without pay shall be paid a maternity allowance in accordance with the terms of the Supplemental Unemployment Benefit (SUB) Plan described in paragraphs (c) to (i), provided that she:
  - (i) has completed six (6) months of continuous employment before the commencement of her maternity leave without pay,
  - (ii) provides the Employer with proof that she has applied for and is in receipt of maternity benefits under the Employment Insurance or the Québec Parental Insurance Plan in respect of insurable employment with the Employer,

and

  - (iii) has signed an agreement with the Employer stating that:
    - (A) she will return to work on the expiry date of her maternity leave without pay unless the return to work date is modified by the approval of another form of leave;
    - (B) following her return to work, as described in section (A), she will work for a period equal to the period she was in receipt of maternity allowance;

- (C) should she fail to return to work in accordance with section (A), or should she return to work but fail to work for the total period specified in section (B), for reasons other than death, lay-off, early termination due to lack of work or discontinuance of a function of a specified period of employment that would have been sufficient to meet the obligations specified in section (B), or having become disabled as defined in the *Public Service Superannuation Act*, she will be indebted to the Employer for an amount determined as follows:

(allowance X (remaining period to be worked received) following her return to work)

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□total period to be worked  
as specified in (B)□

however, a lawyer whose specified period of employment expired and who is rehired in any portion of the Core Public Administration as specified in the *Public Service Labour Relations Act* within a period of ninety (90) days or less is not indebted for the amount if her new period of employment is sufficient to meet the obligations specified in section (B).

- (b) For the purpose of sections (a)(iii)(B), and (C), periods of leave with pay shall count as time worked. Periods of leave without pay during the lawyer's return to work will not be counted as time worked but shall interrupt the period referred to in section (a)(iii)(B), without activating the recovery provisions described in section (a)(iii)(C).
- (c) Maternity allowance payments made in accordance with the SUB Plan will consist of the following:
- (i) where a lawyer is subject to a waiting period of two (2) weeks before receiving Employment Insurance maternity benefits, ninety-three per cent (93%) of her weekly rate of pay for each week of the waiting period, less any other monies earned during this period,

and

- (ii) for each week that the lawyer receives a maternity benefit under the Employment Insurance or the Québec Parental Insurance Plan, she is eligible to receive the difference between ninety-three per cent (93%) of her weekly rate of pay and the maternity benefit, less any other monies earned during this period which may result in a decrease in her maternity benefit to which she would have been eligible if no extra monies had been earned during this period.
- (d) At the lawyer's request, the payment referred to in subparagraph 19.04(c)(i) will be estimated and advanced to the employee. Adjustments will be made once the employee provides proof of receipt of Employment Insurance or Québec Parental Insurance Plan maternity benefits.
- (e) The maternity allowance to which a lawyer is entitled is limited to that provided in paragraph (c) and an employee will not be reimbursed for any amount that she may be required to repay pursuant to the *Employment Insurance Act* or the *Parental Insurance Act* in Québec.
- (f) The weekly rate of pay referred to in paragraph (c) shall be:
  - (i) for a full-time lawyer, the lawyer's weekly rate of pay on the day immediately preceding the commencement of maternity leave without pay,
  - (ii) for a lawyer who has been employed on a part-time or on a combined full-time and part-time basis during the six (6) month period preceding the commencement of maternity leave, the rate obtained by multiplying the weekly rate of pay in subparagraph (i) by the fraction obtained by dividing the lawyer's straight time earnings by the straight time earnings the employee would have earned working full-time during such period.
- (g) The weekly rate of pay referred to in paragraph (f) shall be the rate to which the employee is entitled for her substantive level to which she is appointed.
- (h) Notwithstanding paragraph (g), and subject to subparagraph (f)(ii), if on the day immediately preceding the commencement of maternity leave without pay a lawyer has been on an acting assignment for at least four (4) months, the weekly rate shall be the rate she was being paid on that day.



- (i) Where a lawyer becomes eligible for a pay increment or pay revision while in receipt of the maternity allowance, the allowance shall be adjusted accordingly.
- (j) Maternity allowance payments made under the SUB Plan will neither reduce nor increase a lawyer's deferred remuneration or severance pay.

**19.05 Special Maternity Allowance for Totally Disabled Lawyers (a)**

A lawyer who:

- (i) fails to satisfy the eligibility requirement specified in subparagraph 19.04(a)(ii) solely because a concurrent entitlement to benefits under the Disability Insurance (DI) Plan, the Long-Term Disability (LTD) Insurance portion of the Public Service Management Insurance Plan (PSMIP) or the *Government Employees Compensation Act* prevents her from receiving Employment Insurance or Québec Parental Insurance Plan maternity benefits;

and

- (ii) has satisfied all of the other eligibility criteria specified in paragraph 19.04(a), other than those specified in sections (A) and (B) of subparagraph 19.04(a)(iii);

shall be paid, in respect of each week of maternity allowance not received for the reason described in subparagraph 19.05(a)(i), the difference between ninety-three per cent (93%) of her weekly rate of pay, and the gross amount of her weekly disability benefit under the DI Plan, the LTD Plan or via the *Government Employees Compensation Act*.

- (b) A lawyer shall be paid an allowance under this clause and under clause 19.04 for a combined period of no more than the number of weeks during which she would have been eligible for maternity benefits under the Employment Insurance or the Québec Parental Insurance Plan had she not been disqualified from Employment Insurance or Québec Parental Insurance Plan maternity benefits for the reasons described in subparagraph 19.05(a)(i).

**19.06 Parental Leave Without Pay**

- (a) Where a lawyer has or will have the actual care and custody of a new-born child (including the new-born child of a common-law partner), the

lawyer shall, upon request, 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 the day on which the child is born or the day on which the child comes into the lawyer's care.

- (b) Where an lawyer commences legal proceedings under the laws of a province to adopt a child or obtains an order under the laws of a province for the adoption of a child, the lawyer shall, upon request, be granted parental leave without pay for a single period of up to thirty-seven (37) consecutive weeks in the fifty-two week (52) period beginning on the day on which the child comes into the lawyer's care.
- (c) Notwithstanding paragraphs (a) and (b) above, at the request of a lawyer and at the discretion of the Employer, the leave referred to in the paragraphs (a) and (b) above may be taken in two (2) periods.
- (d) Notwithstanding paragraphs (a) and (b):
  - (i) where the lawyer's child is hospitalized within the period defined in the above paragraphs, and the lawyer has not yet proceeded on parental leave without pay,
  - or
  - (ii) where the lawyer has proceeded on parental leave without pay and then returns to work for all or part of the period during which his or her child is hospitalized,

the period of parental leave without pay specified in the original leave request may be extended by a period equal to that portion of the period of the child's hospitalization during which the lawyer was not on parental leave. However, the extension shall end not later than one hundred and four (104) weeks after the day on which the child comes into the employee's care.
- (e) A lawyer who intends to request parental leave without pay shall notify the Employer at least four (4) weeks in advance of the commencement date of such leave.
- (f) The Employer may:
  - (i) defer the commencement of parental leave without pay at the request of the lawyer;

- (ii) grant the lawyer parental leave without pay with less than four (4) weeks' notice;
  - (iii) require a lawyer to submit a birth certificate or proof of adoption of the child.
- (g) Leave granted under this clause shall count for the calculation of "continuous employment" for the purpose of calculating severance pay and "service" for the purpose of calculating vacation leave. Time spent on such leave shall count for pay increment purposes.

#### **19.07 Parental Allowance**

- (a) A lawyer who has been granted parental leave without pay, shall be paid a parental allowance in accordance with the terms of the Supplemental Unemployment Benefit (SUB) Plan described in paragraphs (c) to (i), providing he or she:
- (i) has completed six (6) months of continuous employment before the commencement of parental leave without pay,
  - (ii) provides the Employer with proof that he or she has applied for and is in receipt of parental, paternity or adoption benefits under the Employment Insurance or the Québec Parental Insurance Plan in respect of insurable employment with the Employer, and
  - (iii) has signed an agreement with the Employer stating that:
    - (A) the lawyer will return to work on the expiry date of his/her parental leave without pay, unless the return to work date is modified by the approval of another form of leave;
    - (B) following his or her return to work, as described in section (A), the lawyer will work for a period equal to the period the employee was in receipt of the parental allowance, in addition to the period of time referred to in section 19.04(a)(iii)(B), if applicable;
    - (C) should he or she fail to return to work in accordance with section (A) or should he or she return to work but fail to work the total period specified in section (B), for reasons other than death, lay-off, early termination due to lack of work or discontinuance of a function of a specified period of employment that would have been sufficient to

meet the obligations specified in section (B), or having become disabled as defined in the *Public Service Superannuation Act*, he or she will be indebted to the Employer for an amount determined as follows:

(allowance X (remaining period to be worked received) following his/her return to work)

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□total period to be worked  
as specified in (B)□

however, a lawyer whose specified period of employment expired and who is rehired in any portion of the Core Public Administration as specified in the *Public Service Labour Relations Act* within a period of ninety (90) days or less is not indebted for the amount if his or her new period of employment is sufficient to meet the obligations specified in section (B).

- (b) For the purpose of sections (a)(iii)(B) and (C), periods of leave with pay shall count as time worked. Periods of leave without pay during the lawyer's return to work will not be counted as time worked but shall interrupt the period referred to in section (a)(iii)(B), without activating the recovery provisions described in section (a)(iii)(C).
- (c) Parental Allowance payments made in accordance with the SUB Plan will consist of the following:
  - (i) where a lawyer is subject to a waiting period of two (2) weeks before receiving Employment Insurance parental benefits, ninety-three per cent (93%) of his/her weekly rate of pay, for each week of the waiting period, less any other monies earned during this period;
  - (ii) for each week the lawyer receives parental, adoption or paternity benefits under the Employment Insurance or the Québec Parental Insurance Plan, he or she is eligible to receive the difference between ninety-three per cent (93%) of his or her weekly rate of pay and the parental, adoption or paternity benefit, less any other monies earned during this period which may result in a decrease in his/her parental, adoption or paternity benefit to which he or she would have been eligible if no extra monies had been earned during this period;

- (iii) where a lawyer has received the full eighteen (18) weeks of maternity benefit and the full thirty-two (32) weeks of parental benefit under the Québec Parental Insurance Plan and thereafter remains on parental leave without pay, she is eligible to receive a further parental allowance for a period of two (2) weeks, ninety-three per cent (93%) of her weekly rate of pay for each week, less any other monies earned during this period.
- (d) At the lawyer's request, the payment referred to in subparagraph 19.07(c)(i) will be estimated and advanced to the lawyer. Adjustments will be made once the lawyer provides proof of receipt of Employment Insurance or Québec Parental Insurance Plan parental benefits.
- (e) The parental allowance to which an employee is entitled is limited to that provided in paragraph (c) and a lawyer will not be reimbursed for any amount that he or she is required to repay pursuant to the *Employment Insurance Act* or the *Parental Insurance Act* in Québec.
- (f) The weekly rate of pay referred to in paragraph (c) shall be:
  - (i) for a full-time lawyer, the lawyer's weekly rate of pay on the day immediately preceding the commencement of maternity or parental leave without pay;
  - (ii) for an lawyer who has been employed on a part-time or on a combined full-time and part-time basis during the six (6) month period preceding the commencement of maternity or parental leave without pay, the rate obtained by multiplying the weekly rate of pay in subparagraph (i) by the fraction obtained by dividing the lawyer's straight time earnings by the straight time earnings the employee would have earned working full-time during such period.
- (g) The weekly rate of pay referred to in paragraph (f) shall be the rate to which the lawyer is entitled for the substantive level to which she or he is appointed.
- (h) Notwithstanding paragraph (g), and subject to subparagraph (f)(ii), if on the day immediately preceding the commencement of parental leave without pay a lawyer is performing an acting assignment for at least four (4) months, the weekly rate shall be the rate the lawyer was being paid on that day.

- (i) Where a lawyer becomes eligible for a pay increment or pay revision while in receipt of parental allowance, the allowance shall be adjusted accordingly.
- (j) Parental allowance payments made under the SUB Plan will neither reduce nor increase a lawyer's deferred remuneration or severance pay.
- (k) The maximum combined maternity and parental allowances payable under this collective agreement shall not exceed fifty-two (52) weeks for each combined maternity and parental leave without pay.

**19.08 Special Parental Allowance for Totally Disabled Lawyers (a)**

A lawyer who:

- (i) fails to satisfy the eligibility requirement specified in subparagraph 19.07(a)(ii) solely because a concurrent entitlement to benefits under the Disability Insurance (DI) Plan, the Long-Term Disability (LTD) Insurance portion of the Public Service Management Insurance Plan (PSMIP) or via the *Government Employees Compensation Act* prevents the lawyer from receiving Employment Insurance or Québec Parental Insurance Plan benefits;

and

- (ii) has satisfied all of the other eligibility criteria specified in paragraph 19.07(a), other than those specified in sections (A) and (B) of subparagraph 19.07(a)(iii);

shall be paid, in respect of each week of benefits under the parental allowance not received for the reason described in subparagraph 19.08(a)(i), the difference between ninety-three per cent (93%) of the lawyer's rate of pay, and the gross amount of his or her weekly disability benefit under the DI Plan, the LTD Plan or via the *Government Employees Compensation Act*.

- (b) A lawyer shall be paid an allowance under this clause and under clause 19.07 for a combined period of no more than the number of weeks during which the lawyers would have been eligible for parental, paternity or adoption benefits under the Employment Insurance or the Québec Parental Insurance Plan, had the lawyer not been disqualified from Employment Insurance or Québec Parental Insurance Plan benefits for the reasons described in subparagraph 19.08(a)(i).

### **19.09 Medical Appointment for Pregnant Lawyers**

- (a) Up to three decimal seven five (3.75) hours of reasonable time off with pay will be granted to pregnant lawyers for the purpose of attending routine medical appointments.
- (b) Where a series of continuing appointments are necessary for the treatment of a particular condition relating to the pregnancy, absences shall be charged to sick leave.

### **19.10 Leave Without Pay for the Care of Immediate Family**

#### **Transitional Provisions**

A lawyer who becomes a member of the bargaining unit on or after the date of signature of this agreement and who is on Leave Without Pay for the Care and Nurturing of the lawyer's Pre-School Age Children or on Leave Without Pay for the Long-Term Care of a Parent under the terms of another agreement, continues on that leave for the approved duration or until the lawyer's return to work, if the lawyer returns to work before the end of the approved leave.

All leave granted under Leave Without Pay for the Care and Nurturing of the lawyer's Pre-School Age Children or under Leave Without Pay for the Long-Term Care of a Parent under the terms of agreements other than the present agreement will not count towards the calculation of the maximum amount of time allowed for Care of Immediate Family during a lawyer's total period of employment in the public service.

This article is also applicable to lawyers who have been granted Leave Without Pay for the Care and Nurturing of the lawyer's Pre-School Age Children or Leave Without Pay for the Long-Term Care of a Parent before the signature of the present agreement and have proceeded on leave on or after the date of signature of this agreement.

Subject to operational requirements, a lawyer shall be granted leave without pay for the care of immediate family in accordance with the following conditions:

- (a) for the purpose of this clause, family is defined as spouse (or common-law partner resident with the lawyer), children (including foster children or children of spouse or common-law partner) parents (including step-parents or foster parent) or any relative permanently residing in the lawyer's household or with whom the lawyer permanently resides.

- (b) a lawyer shall notify the Employer in writing as far in advance as possible but not less than four (4) weeks in advance of the commencement date of such leave, unless such notice cannot be given, because of an urgent or unforeseeable circumstance;
- (c) leave granted under this clause shall be for a minimum period of three (3) weeks;
- (d) the total leave granted under this clause shall not exceed five (5) years during a lawyer's total period of employment in the public service.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*

### **19.11 Leave Without Pay for Personal Needs**

Leave without pay will be granted for personal needs, in the following manner:

- (a) Subject to operational requirements, leave without pay for a period of up to three (3) months will be granted to a lawyer for personal needs.
- (b) Subject to operational requirements, leave without pay of more than three (3) months but not exceeding one (1) year will be granted to a lawyer for personal needs.
- (c) A lawyer is entitled to leave without pay for personal needs only once under each of paragraphs (a) and (b) of this clause during his total period of employment in the public service. Leave without pay granted under this clause may not be used in combination with maternity, paternity or adoption leave without the consent of the Employer.
- (d) Leave granted under paragraph (a) of this clause shall be counted for the calculation of "continuous employment" for the purpose of calculating severance pay and "service" for the purpose of calculating vacation leave. Time spent on such leave shall be counted for pay increment purposes.
- (e) Leave without pay granted under paragraph (b) of this clause shall be deducted from the calculation of "continuous employment" for the purpose of calculating severance pay and "service" for the purpose of calculating vacation leave for the lawyer involved. Time spent on such leave shall not be counted for pay increment purposes.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*



**19.12 Leave Without Pay for Relocation of Spouse**

- (a) At the request of a lawyer, leave without pay for a period of up to one (1) year shall be granted to a lawyer whose spouse is permanently relocated and up to five (5) years to a lawyer whose spouse is temporarily relocated.
- (b) Leave without pay granted under this clause shall be deducted from the calculation of “continuous employment” for the purpose of calculating severance pay and “service” for the purpose of calculating vacation leave for the lawyer involved except where the period of such leave is less than three (3) months. Time spent on such leave which is for a period of more than three (3) months shall not be counted for pay increment purposes.

**19.13 Leave With Pay for Family-Related Responsibilities**

- (a) For the purpose of this clause, family is defined as spouse (or common-law partner resident with the lawyer), children (including foster children, children of legal or common-law partner), parents (including stepparents or foster parents), or any relative permanently residing in the lawyer’s household or with whom the lawyer permanently resides.
- (b) The Employer shall grant leave with pay under the following circumstances:
  - (i) a lawyer is expected to make every reasonable effort to schedule medical or dental appointments for family members to minimize or preclude his absence from work, however, when alternate arrangements are not possible a lawyer shall be granted up to one (1) day for a medical or dental appointment when the family member is incapable of attending the appointment by himself, or for appointments with appropriate authorities in schools or adoption agencies. A lawyer requesting leave under this provision must notify his supervisor of the appointment as far in advance as possible;
  - (ii) leave with pay to provide for the immediate and temporary care of a sick or elderly member of the lawyer’s family and to provide a lawyer with time to make alternate care arrangements where the illness is of a longer duration;
  - (iii) leave with pay for needs directly related to the birth or to the adoption of the lawyer’s child.

- (c) The total leave with pay which may be granted under subparagraph (b)(i), (ii) and (iii) shall not exceed thirty-seven decimal five (37.5) hours in a fiscal year.

#### **19.14 Volunteer Leave**

Subject to operational requirements as determined by the Employer and with an advance notice of at least five (5) working days, the lawyer shall be granted, in each fiscal year, a single period of up to seven decimal five (7.5) hours of leave with pay to work as a volunteer for a charitable or community organisation or activity, other than for activities related to the Government of Canada Workplace Charitable Campaign;

The leave will be scheduled at a time convenient both to the lawyer and the Employer. Nevertheless, the Employer shall make every reasonable effort to grant the leave at such a time as the lawyer may request.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*

#### **19.15 Court Leave With Pay**

Leave with pay shall be given to every lawyer, other than a lawyer already on leave without pay, on education leave, or under suspension who is required:

- (a) to be available for jury selection;
- (b) to serve on a jury;
- or
- (c) by subpoena or summons to attend as a witness in any proceeding held:
  - (i) in or under the authority of a court of justice or before a grand jury,
  - (ii) before a court, judge, justice, magistrate or coroner,
  - (iii) before the Senate or House of Commons of Canada or a committee of the Senate or House of Commons otherwise than in the performance of the duties of his position,
  - (iv) before a legislative council, legislative assembly or house of assembly, or any committee thereof that is authorized by law to compel the attendance of witnesses before it,

or

- (v) before an arbitrator or umpire or a person or body of persons authorized by law to make an inquiry and to compel the attendance of witnesses before it.

#### **19.16 Personnel Selection Leave With Pay**

Where a lawyer participates in a personnel selection process, including the appeal process where applicable, for a position in the public service, as defined in the *Public Service Labour Relations Act*, the lawyer is entitled to leave with pay for the period during which the lawyer's presence is required for purposes of the selection process, and for such further period as the Employer considers reasonable for the lawyer to travel to and from the place where his presence is so required. This clause applies equally in respect of the personnel selection processes related to deployment.

#### **19.17 Injury-on-duty Leave With Pay**

A lawyer shall be granted injury-on-duty leave with pay for such reasonable period as may be determined by the Employer where it is determined by a Provincial Worker's Compensation Board that he is unable to perform his duties because of:

- (a) personal injury accidentally received in the performance of his duties and not caused by the lawyer's wilful misconduct, (b) sickness resulting from the nature of his employment,

or

- (c) exposure to hazardous conditions in the course of his employment,

if the lawyer agrees to pay to the Receiver General of Canada any amount received by him for loss of wages in settlement of any claim he may have in respect of such injury, sickness or exposure, providing, however, that such amount does not stem from a personal disability policy for which the Employer or the lawyer's agent paid the premium.

#### **19.18 Religious Observance**

- (a) The Employer shall make every reasonable effort to accommodate a lawyer who requests time off to fulfil his or her religious obligations.

- (b) Lawyers may, in accordance with the provisions of this Agreement, request annual leave, compensatory leave, leave without pay for other reasons in order to fulfil their religious obligations.
- (c) Notwithstanding paragraph 19.18(b), at the request of the lawyer and at the discretion of the Employer, time off with pay may be granted to the lawyer in order to fulfil his or her religious obligations. The number of hours with pay so granted must be made up hour for hour within a period of six (6) months, at times agreed to by the Employer. Hours worked as a result of time off granted under this clause shall not be compensated nor should they result in any additional payments by the Employer.
- (d) A lawyer who intends to request leave or time off under this Article must give notice to the Employer as far in advance as possible but no later than four (4) weeks before the requested period of absence.

#### **19.19 Other Leave With or Without Pay At**

its discretion, the Employer may grant:

- (a) leave with pay when circumstances not directly attributable to the lawyer prevent his or her reporting for duty;
- (b) leave with or without pay for purposes other than those specified in this Agreement;
- (c) **Personal Leave**

Subject to operational requirements as determined by the Employer and with an advance notice of at least five (5) working days, the lawyer shall be granted, in each fiscal year, a single period of up to seven decimal five (7.5) hours of leave with pay for reasons of a personal nature.

The leave will be scheduled at a time convenient to both the lawyer and the Employer. Nevertheless, the Employer shall make every reasonable effort to grant the leave at such a time as the lawyer may request.

#### **19.20 Maternity–Related Reassignment or Leave**

- (a) A lawyer who is pregnant or nursing may, during the period from the beginning of pregnancy to the end of the twenty-fourth (24th) week following the birth, request the Employer to modify her job functions or reassign her to another job if, by reason of the pregnancy or nursing, continuing any of her current functions may pose a risk to her health or

that of the foetus or child. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*).

- (b) A lawyer's request under paragraph (a) must be accompanied or followed as soon as possible by a medical certificate indicating the expected duration of the potential risk and the activities or conditions to avoid in order to eliminate the risk. Dependent upon the particular circumstances of the request, the Employer may obtain a medical opinion from Health Canada or its authorized agent. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*).
- (c) A lawyer who has made a request under paragraph 19.20(a) is entitled to continue in her current job while the Employer examines her request, but, if the risk posed by continuing any of her job functions so requires, she is entitled to be immediately assigned alternative duties until such time as the Employer:
  - (i) modifies her job functions or reassigns her,
  - or
  - (ii) informs her in writing that it is not reasonably practicable to modify her job functions or reassign her.
- (d) Where reasonably practicable, the Employer shall modify the lawyer's job functions or reassign her.
- (e) Where the Employer concludes that a modification of job functions or a reassignment that would avoid the activities or conditions indicated in the medical certificate is not reasonably practicable, the Employer shall so inform the lawyer in writing and shall grant leave of absence without pay to the lawyer for the duration of the risk as indicated in the medical certificate. However, such leave shall end no later than twenty-four (24) weeks after the birth.
- (f) A lawyer whose job functions have been modified, who has been reassigned or who is on leave of absence shall give at least two (2) weeks notice in writing to the Employer of any change in duration of the risk or the inability as indicated in the medical certificate, unless there is a valid reason why that notice cannot be given. Such notice must be accompanied by a new medical certificate.

## ARTICLE 20

## CAREER DEVELOPMENT

### 20.01 General

The parties recognize that in order to maintain and enhance professional expertise, lawyers, from time to time, need to have an opportunity to attend or participate in career development activities described in this Article. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*).

### 20.02 Education Leave

- (a) A lawyer may be granted education leave without pay for varying periods up to one (1) year, which can be renewed by mutual agreement, to attend a recognized institution for additional or special studies in some field of education in which special preparation is needed to enable him to fill his present role more adequately, or to undertake studies in some field in order to provide a service which the Employer requires or is planning to provide.
- (b) A lawyer on Education Leave without pay under this clause shall receive an allowance in lieu of salary up to one hundred per cent (100%) of his basic salary. The percentage of the allowance is at the discretion of the Employer. Where the lawyer receives a grant, bursary or scholarship, the education leave allowance may be reduced. In such cases, the amount of the reduction shall not exceed the amount of the grant, bursary or scholarship.
- (c) Allowances already being received by the lawyer may, at the discretion of the Employer, be continued during the period of the education leave. The lawyer shall be notified when the leave is approved whether such allowances are to be continued in whole or in part.
- (d) As a condition to the granting of education leave, a lawyer shall, if required, give a written undertaking prior to the commencement of the leave to return to the service of the Employer for a period of not less than the period of the leave granted. If the lawyer, except with the permission of the Employer:
  - (i) fails to complete the course,
  - (ii) does not resume employment with the Employer on completion of the course,or

- (iii) ceases to be employed, except by reason of death or lay-off, before termination of the period he has undertaken to serve after completion of the course,

he shall repay the Employer all allowances paid to him under this clause during the education leave or such lesser sum as shall be determined by the Employer.

### **20.03 Attendance at Conferences and Conventions**

- (a) The parties to this Agreement recognize that attendance or participation at conferences, conventions, symposia, workshops and other gatherings of a similar nature contributes to the maintenance of high professional standards.
- (b) In order to benefit from an exchange of knowledge and experience, a lawyer shall have the opportunity on occasion to attend conferences and conventions which are related to his field of specialization.
- (c) The Employer may grant leave with pay and reasonable expenses including registration fees to attend such gatherings.
- (d) A lawyer who attends a conference or convention at the request of the Employer to represent the interests of the Employer shall be deemed to be on duty and, as required, in travel status. The Employer shall pay the registration fees of the convention or conference the lawyer is required to attend.
- (e) A lawyer invited to participate in a conference or convention in an official capacity, such as to present a formal address or to give a course related to his field of employment, may be granted leave with pay for this purpose and may, in addition, be reimbursed for his payment of convention or conference registration fees and reasonable travel expenses.
- (f) A lawyer shall not be entitled to any compensation under Article 14, Travelling Time, in respect of hours he is in attendance at or travelling to or from a conference or convention under the provisions of this clause, except as provided by paragraph (d).

### **20.04 Professional Development**

- (a) The parties to this Agreement share a desire to improve professional standards by giving the lawyers the opportunity on occasion:

- (i) to participate in workshops, short courses or similar out-service programs to keep up to date with knowledge and skills in their respective fields,
  - (ii) to conduct research or perform work related to their normal research programs in institutions or locations other than those of the Employer,
  - (iii) to carry out research in the lawyer's field of specialization not specifically related to his assigned work projects when in the opinion of the Employer such research is needed to enable the lawyer to fill his present role more adequately.
- (b) Subject to the Employer's approval a lawyer shall receive leave with pay in order to participate in the activities described in paragraph 20.04(a).
  - (c) A lawyer may apply at any time for professional development under this clause, and the Employer may select a lawyer at any time for such professional development.
  - (d) When a lawyer is selected by the Employer for professional development under this clause the Employer will consult with the lawyer before determining the location and duration of the program of work or studies to be undertaken.
  - (e) A lawyer selected for professional development under this clause shall continue to receive his normal compensation including any increase for which he may become eligible. The lawyer shall not be entitled to any compensation under Article 13, Hours of Work and Article 14, Travelling Time, while on professional development under this clause. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*).
  - (f) A lawyer on professional development under this clause may be reimbursed for reasonable travel expenses and such other additional expenses as the Employer deems appropriate. (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*).

#### **20.05 Selection Criteria**

- (a) After consultation with the Association, the Employer shall establish Selection Criteria taking into consideration budgetary and operational constraints for granting leave under clauses 20.02, 20.03 and 20.04. Upon request, a copy of these criteria will be provided to a lawyer and/or the Association Representative.



- (b) The parties to this Collective Agreement acknowledge the mutual benefits to be derived from consultation on Career Development. To this effect, the Employer, upon request, will consult with the Association as prescribed in Article 25, Joint Consultation.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009).*

#### **20.06 Examination Leave With Pay**

Leave with pay may be granted to a lawyer for the purpose of writing an examination which will require the lawyer's absence during his normal hours of work. Such leave will be granted only where in the opinion of the Employer the course of study is directly related to the lawyer's duties or will improve his qualifications.

### **ARTICLE 21**

#### **LEAVE - GENERAL**

##### **21.01**

- (a) When a lawyer becomes subject to this Agreement, his or her earned daily leave credits shall be converted into hours. When a lawyer ceases to be subject to this Agreement, his or her earned hourly leave credits shall be reconverted into days, with one day being equal to seven decimal five (7.5) hours.
- (b) When leave is granted, it will be granted on an hourly basis and the number of hours debited for each day of leave being equal to the number of hours of work scheduled for the lawyer for the day in question.
- (c) Notwithstanding the above, in clause 19.02, Bereavement Leave with Pay, a "day" will mean a calendar day.

**21.02** When the employment of a lawyer who has been granted more vacation or sick leave with pay than he has earned is terminated by death or lay-off, the lawyer is considered to have earned the amount of leave with pay granted to him.

**21.03** The balance of leave with pay credited to a lawyer by the Employer at the time when this Agreement is signed, or at a time when he becomes subject to this Agreement, shall be retained by the lawyer.

**21.04** A lawyer is not entitled to leave with pay during periods he is on leave without pay, on educational leave or under suspension.

**21.05** A lawyer shall not be granted two (2) different types of leave with pay in respect of the same period of time.

**21.06** Except as otherwise specified in this Agreement, where leave without pay for a period in excess of three (3) months is granted to a lawyer, the total period of leave granted shall be deducted from "continuous employment" for the purpose of calculating severance pay and from "service" for the purpose of calculating vacation leave; time spent on such leave which is for a period of more than three (3) months shall not be counted for pay increment purposes.

## **ARTICLE 22**

### **SEVERANCE PAY**

**22.01** Under the following circumstances and subject to clause 22.02 a lawyer shall receive severance benefits calculated on the basis of his weekly rate of pay:

**(a) Lay-Off**

- (i) On the first (1st) lay-off after November 28, 1969, two (2) weeks' pay for the first (1st) complete year of continuous employment and one (1) week's pay for each additional complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365).
- (ii) On second (2nd) or subsequent lay-off after November 28, 1969, one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), less any period in respect of which he was granted Severance Pay under subparagraph 22.01(a)(i) above.

**(b) Resignation**

On resignation, subject to paragraph 22.01(c) and with ten (10) or more years of continuous employment, one-half (1/2) week's pay for each

complete year of continuous employment up to a maximum of twenty-six (26) years with a maximum benefit of thirteen (13) weeks" pay.

**(c) Retirement**

On retirement, when a lawyer is entitled to an immediate annuity or to an immediate annual allowance under the *Public Service Superannuation Act*, one (1) week"s pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week"s pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks" pay.

**(d) Death**

If a lawyer dies, there shall be paid to the lawyer"s estate, one (1) week"s pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week"s pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks" pay, regardless of any other benefit payable.

**(e) Termination for Cause for Reasons of Incapacity or Incompetence**

(i) When a lawyer has completed more than one (1) year of continuous employment and ceases to be employed by reason of termination for cause for reasons of incapacity, pursuant to section 12(1)(e) of the *Financial Administration Act*, one (1) week"s pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week"s pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of twenty-eight (28) weeks.

(ii) When a lawyer has completed more than ten (10) years of continuous employment and ceases to be employed by reason of termination for cause for reasons of incompetence, pursuant to the provisions of section 12(1)(d) of the *Financial Administration Act*, one (1) week"s pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week"s pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of twenty-eight (28) weeks.

**22.02** The period of continuous employment used in the calculation of severance benefits payable to a lawyer under this Article shall be reduced by any period of continuous employment in respect of which the lawyer was already granted severance pay, retiring leave or a cash gratuity in lieu of retiring leave. Under no circumstances shall the maximum severance pay provided under clause 22.01 be pyramided.

**22.03** The weekly rate of pay referred to in the above clauses shall be the weekly rate of pay to which the lawyer is entitled for the classification prescribed in his certificate of appointment, immediately prior to the termination of his employment.

## **ARTICLE 23**

### **LAWYER PERFORMANCE REVIEW AND LAWYER FILES**

**23.01** For the purpose of this Article;

- (a) a formal assessment and/or appraisal of a lawyer's performance means any written assessment and/or appraisal by any supervisor of how well the lawyer has performed his assigned tasks during a specified period in the past;
- (b) formal assessment and/or appraisals of lawyer performance shall be recorded on a form prescribed by the Employer for this purpose.

**23.02**

- (a) When a formal assessment of a lawyer's performance is made, the lawyer concerned must be given an opportunity to sign the assessment form in question upon its completion to indicate that its contents have been read. A lawyer's signature on his assessment form shall be considered to be an indication only that its contents have been read and shall not indicate his concurrence with the statements contained on the form.

A copy of the lawyer's assessment form shall be provided to him at the time the assessment is signed by the lawyer.

- (b) The Employer's representative(s) who assesses a lawyer's performance must have observed or been aware of the lawyer's performance for at least one-half (1/2) of the period for which the lawyer's performance is evaluated.

**23.03** When a lawyer disagrees with the assessment and/or appraisal of his work he shall have the right to present written counter arguments to the manager(s) or committee(s) responsible for the assessment and/or appraisal decision.

**23.04** When a report pertaining to a lawyer's performance or conduct is placed on that lawyer's personnel file, the lawyer concerned shall be given an opportunity to sign the report in question to indicate that its contents have been read.

## **ARTICLE 24**

### **GRIEVANCE PROCEDURE**

**24.01** In cases of alleged misinterpretation or misapplication arising out of agreements concluded by the National Joint Council (NJC) of the public service on items which may be included in a collective agreement and which the parties to this agreement have endorsed, the grievance procedure will be in accordance with section 15.0 of the NJC By-Laws.

**24.02** The parties recognize the value of informal discussion between lawyers and their supervisors to the end that problems might be resolved without recourse to a formal grievance. When the parties agree in writing to avail themselves of an informal conflict management system established pursuant to section 207 of the PSLRA, the time limits prescribed in the Article 24, Grievance Procedure, are suspended until either party gives the other notice in writing to the contrary.

**24.03** In determining the time within which any action is to be taken as prescribed in this procedure, Saturdays, Sundays and designated holidays shall be excluded.

**24.04** The time limits stipulated in this procedure may be extended by mutual agreement between the Employer and the lawyer and, where appropriate, the Association Representative.

**24.05** Where the provisions of clauses 24.07, 24.24 or 24.38 cannot be complied with and it is necessary to present a grievance by mail, the grievance shall be deemed to have been presented on the day on which it is postmarked and it shall be deemed to have been received by the Employer on the day it is delivered to the appropriate office of the department or agency concerned. Similarly the Employer shall be deemed to have delivered a reply at any level on the date on which the letter

containing the reply is postmarked, but the time limit within which the grievor may present his grievance at the next higher level shall be calculated from the date on which the Employer's reply was delivered to the address shown on the grievance form.

**24.06** A grievance shall not be deemed to be invalid by reason only of the fact that it is not in accordance with the form supplied by the Employer.

#### **24.07 Individual Grievances**

A lawyer who wishes to present a grievance at any prescribed level in the grievance procedure, shall transmit this grievance to the lawyer's immediate supervisor or local officer-in-charge who shall forthwith:

- (a) forward the grievance to the representative of the Employer authorised to deal with grievances at the appropriate level,
- and
- (b) provide the lawyer with a receipt stating the date on which the grievance was received by him.

#### **24.08 Presentation of Grievance**

- (a) Subject to paragraphs (b) to (g), a lawyer is entitled to present an individual grievance if he or she feels aggrieved
  - (i) by the interpretation or application, in respect of the lawyer, of
    - (A) a provision of a statute or regulation, or of a direction or other instrument made or issued by the employer, that deals with terms and conditions of employment, or
    - (B) a provision of a collective agreement or an arbitral award;
  - or
  - (ii) as a result of any occurrence or matter affecting his or her terms and conditions of employment.
- (b) A lawyer may not present an individual grievance in respect of which an administrative procedure for redress is provided under any Act of Parliament, other than the *Canadian Human Rights Act*.

- (c) Despite paragraph (b), a lawyer may not present an individual grievance in respect of the right to equal pay for work of equal value.
- (d) A lawyer may not present an individual grievance relating to the interpretation or application, in respect of the lawyer, of a provision of a collective agreement or an arbitral award unless the lawyer has the approval of and is represented by the Association.
- (e) A lawyer who, in respect of any matter, avails himself or herself of a complaint procedure established by a policy of the employer may not present an individual grievance in respect of that matter if the policy expressly provides that a lawyer who avails himself or herself of the complaint procedure is precluded from presenting an individual grievance under this Article.
- (f) A lawyer may not present an individual grievance relating to any action taken under any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.
- (g) For the purposes of paragraph (f), an order made by the Governor in Council is conclusive proof of the matters stated in the order in relation to the giving or making of an instruction, a direction or a regulation by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

**24.09** There shall be a maximum of three (3) levels in the grievance procedure. These levels shall be as follows:

- (a) Level 1 - first (1st) level of management;
- (b) Level 2 intermediate level;
- (c) Final level: the Deputy Minister (or his equivalent) or his delegated representative.

#### **24.10 Representatives**

- (a) The Employer shall designate a representative at each level in the grievance procedure and shall inform each lawyer to whom the procedure applies of the title of the person so designated together with the title and address of the immediate supervisor or local officer-in-charge to whom a grievance is to be presented.

- (b) This information shall be communicated to lawyers by means of notices posted by the Employer in places where such notices are most likely to come to the attention of the lawyers to whom the grievance procedure applies, or otherwise as determined by agreement between the Employer and the Association.

**24.11** A lawyer may be assisted and/or represented by the Association when presenting a grievance at any level. The Association shall have the right to consult with the Employer with respect to a grievance at each or any level of the grievance procedure.

**24.12** A lawyer may present a grievance to the first (1st) level of the procedure in the manner prescribed in clause 24.07, not later than the twenty-fifth (25th) day after the earlier of the day on which the grievor received notification and the day on which the grievor had knowledge of the alleged violation or misinterpretation or any occurrence or matter affecting the grievor's terms and condition of employment.

**24.13** A lawyer may present a grievance at each succeeding level in the grievance procedure beyond the first (1st) level either:

- (a) where the decision is not satisfactory to the lawyer, within ten (10) days after that decision or offer for settlement has been conveyed in writing to the lawyer by the Employer,
- or
- (b) where the Employer has not conveyed a decision to the lawyer within the time prescribed in clause 24.14, within thirty (30) days after he presented the grievance at the previous level.

**24.14** The Employer shall reply to a lawyer's grievance at any level of the grievance procedure, except the final level, within fifteen (15) days after the grievance is presented, and within thirty (30) days when the grievance is presented at the final level.

**24.15** Where a lawyer has been represented by the Association in the presentation of his grievance, the Employer will provide the Association with a copy of the Employer's decision at each level of the grievance procedure at the same time that the Employer's decision is conveyed to the lawyer.

**24.16** Where a grievance has been presented up to and including the final level in the grievance process, and the grievance is not one that may be



referred to adjudication, the decision on the grievance taken at the final level in the grievance process is final and binding and no further action may be taken under the *Public Service Labour Relations Act*.

**24.17** Where it appears that the nature of the grievance is such that a decision cannot be given below a particular level of authority, any or all the levels except the final level may be eliminated by agreement of the Employer and the lawyer, and, where applicable, the Association.

**24.18** Where the Employer demotes or terminates a lawyer pursuant to paragraph 12(1)(c),(d) or (e) of the *Financial Administration Act*, the grievance procedure set forth in this Agreement shall apply, except that grievance may be presented at the final level only.

**24.19** A lawyer may by written notice to his immediate supervisor or officer-in-charge withdraw a grievance.

**24.20** Any lawyer who fails to present a grievance to the next higher level within the prescribed time limits shall be deemed to have abandoned the grievance unless, due to circumstances beyond his control, he was unable to comply with the prescribed time limits.

**24.21** No person shall seek by intimidation, by threat of dismissal or by any other kind of threat to cause a lawyer to abandon his grievance or refrain from exercising his right to present a grievance, as provided in this Collective Agreement.

#### **24.22 Reference to Adjudication**

- (a) A lawyer may within thirty (30) days refer to adjudication an individual grievance that has been presented up to and including the final level in the grievance process and that has not been dealt with to the lawyer's satisfaction if the grievance is related to:
  - (i) the interpretation or application in respect of the lawyer of a provision of a collective agreement or an arbitral award;
  - (ii) a disciplinary action resulting in termination, demotion, suspension or financial penalty;
  - (iii) demotion or termination under paragraph 12(1)(d) of the *Financial Administration Act* for unsatisfactory performance or under paragraph 12(1)(e) of that Act for any other reason that does not relate to a breach of discipline or misconduct;

- (iv) deployment under the *Public Service Employment Act* without the lawyer's consent where consent is required.
- (b) When an individual grievance has been referred to adjudication and a party to the grievance raises an issue involving the interpretation or application of the *Canadian Human Rights Act*, that party must, in accordance with the regulations, give notice of the issue to the Canadian Human Rights Commission.
- (c) The Canadian Human Rights Commission has standing in adjudication proceedings for the purpose of making submissions regarding an issue referred to in paragraph (b).
- (d) Nothing in paragraph (a) above is to be construed or applied as permitting the referral to adjudication of an individual grievance with respect to:
  - (i) any termination of employment under the *Public Service Employment Act*;
  - or
  - (ii) any deployment under the *Public Service Employment Act*, other than the deployment of the lawyer who presented the grievance.

**24.23** Before referring an individual grievance related to matters referred to in subparagraph 24.22(a)(i), the lawyer must obtain the approval of the Association.

#### **24.24 Group Grievances**

The Association may present a grievance at any prescribed level in the grievance procedure, and shall transmit this grievance to the officer-in-charge who shall forthwith:

- (a) forward the grievance to the representative of the Employer authorized to deal with grievances at the appropriate level,
- and
- (b) provide the Association with a receipt stating the date on which the grievance was received by him.

#### **24.25 Presentation of Group Grievance**

- (a) The Association may present to the employer a group grievance on behalf of lawyers in the bargaining unit who feel aggrieved by the interpretation

or application, common in respect of those lawyers, of a provision of a collective agreement or an arbitral award.

- (b) In order to present the grievance, the Association must first obtain the consent of each of the lawyers concerned in the form provided for by the regulations. The consent of a lawyer is valid only in respect of the particular group grievance for which it is obtained.
- (c) The group grievance must relate to lawyers in a single portion of the federal public administration.
- (d) The Association may not present a group grievance in respect of which an administrative procedure for redress is provided under any Act of Parliament, other than the *Canadian Human Rights Act*.
- (e) Despite paragraph (d), the Association may not present a group grievance in respect of the right to equal pay for work of equal value.
- (f) If a lawyer has, in respect of any matter, availed himself or herself of a complaint procedure established by a policy of the Employer, the Association may not include that lawyer as one on whose behalf it presents a group grievance in respect of that matter if the policy expressly provides that a lawyer who avails himself or herself of the complaint procedure is precluded from participating in a group grievance under this Article.
- (g) The Association may not present a group grievance relating to any action taken under any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.
- (h) For the purposes of paragraph (g), an order made by the Governor in Council is conclusive proof of the matters stated in the order in relation to the giving or making of an instruction, a direction or a regulation by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

**24.26** There shall be a maximum of three (3) levels in the grievance procedure. These levels shall be as follows:

- (a) Level 1 - first (1st) level of management;
- (b) Level 2 - intermediate level;

- (c) Final level: the Deputy Minister (or his equivalent) or his delegated representative.

**24.27** The Employer shall designate a representative at each level in the grievance procedure and shall inform the Association of the title of the person so designated together with the title and address of the officer-in-charge to whom a grievance is to be presented.

**24.28** The Association shall have the right to consult with the Employer with respect to a grievance at each or any level of the grievance procedure.

**24.29** The Association may present a grievance to the first (1st) level of the procedure in the manner prescribed in clause 24.24, no later than the twenty-fifth (25th) day after the earlier of the day on which the aggrieved lawyers received notification and the day on which they had knowledge of any act, omission or other matter giving rise to the group grievance.

**24.30** The Association may present a grievance at each succeeding level in the grievance procedure beyond the first (1st) level either:

- (a) where the decision or offer for settlement is not satisfactory to the Association, within ten (10) days after that decision or offer for settlement has been conveyed in writing to the Association by the Employer,

or

- (b) where the Employer has not conveyed a decision to the Association within the time prescribed in clause 24.31, within thirty (30) days after the Association presented the grievance at the previous level.

**24.31** The Employer shall reply to the Association's grievance at any level of the grievance procedure, except the final level, within twenty (20) days after the grievance is presented, and within thirty (30) days when the grievance is presented at the final level.

**24.32** Where it appears that the nature of the grievance is such that a decision cannot be given below a particular level of authority, any or all the levels except the final level may be eliminated by agreement of the Employer and the Association.

**24.33** The Association may by written notice to the officer-in-charge withdraw a grievance.

**24.34 Opting out of a Group Grievance**

- (a) A lawyer in respect of whom a group grievance has been presented may, at any time before a final decision is made in respect of the grievance, notify the Association that the lawyer no longer wishes to be involved in the group grievance.
- (b) The Association shall provide to the representatives of the Employer authorized to deal with the grievance, a copy of the notice received pursuant to paragraph (a) above.
- (c) After receiving the notice, the Association may not pursue the grievance in respect of the lawyer.

**24.35** The Association failing to present a grievance to the next higher level within the prescribed time limits shall be deemed to have abandoned the grievance unless, due to circumstances beyond its control, it was unable to comply with the prescribed time limits.

**24.36** No person shall seek by intimidation, by threat of dismissal or by any other kind of threat to cause the Association to abandon the grievance or refrain from exercising the right to present a grievance, as provided in this Collective Agreement.

**24.37 Reference to Adjudication**

- (a) The Association may within thirty (30) days refer to adjudication any group grievance that has been presented up to and including the final level in the grievance process and that has not been dealt with to its satisfaction.
- (b) When a group grievance has been referred to adjudication and a party to the grievance raises an issue involving the interpretation or application of the *Canadian Human Rights Act*, that party must, in accordance with the regulations, give notice of the issue to the Canadian Human Rights Commission.
- (c) The Canadian Human Rights Commission has standing in adjudication proceedings for the purpose of making submissions regarding an issue referred to in paragraph (b).

**24.38 Policy Grievances**

The Employer and the Association may present a grievance at the prescribed level in the grievance procedure, and forward the grievance to the representative of the Association or the Employer, as the case may be, authorized to deal with the grievance. The party who receives the grievance shall provide the other party with a receipt stating the date on which the grievance was received by him.

**24.39 Presentation of Policy Grievance**

- (a) The Employer and the Association may present a policy grievance to the other in respect of the interpretation or application of the collective agreement or arbitral award as it relates to either of them or to the bargaining unit generally.
- (b) Neither the Employer nor the Association may present a policy grievance in respect of which an administrative procedure for redress is provided under any other Act of Parliament, other than the *Canadian Human Rights Act*.
- (c) Despite paragraph (b), neither the Employer nor the Association may present a policy grievance in respect of the right to equal pay for work of equal value.
- (d) The Association may not present a policy grievance relating to any action taken under any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.
- (e) For the purposes of paragraph (d), an order made by the Governor in Council is conclusive proof of the matters stated in the order in relation to the giving or making of an instruction, a direction or a regulation by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

**24.40** There shall be no more than one (1) level in the grievance procedure.

**24.41** The Employer and the Association shall designate a representative and shall notify each other of the title of the person so designated together with the title and address of the officer-in charge to whom a grievance is to be presented.

- 24.42** The Employer and the Association may present a grievance in the manner prescribed in clause 24.38, no later than the twenty-fifth (25th) day after the earlier of the day on which it received notification and the day on which it had knowledge of any act, omission or other matter giving rise to the policy grievance.
- 24.43** The Employer and the Association shall reply to the grievance within fifteen (15) days when the grievance is presented.
- 24.44** The Employer or the Association, as the case may be, may by written notice to officer-in-charge withdraw a grievance.
- 24.45** No person shall seek by intimidation, by threat of dismissal or by any other kind of threat to cause the Employer or the Association to abandon the grievance or refrain from exercising the right to present a grievance, as provided in this Collective Agreement.

**24.46 Reference to Adjudication**

- (a) A party that presents a policy grievance may within thirty (30) days refer it to adjudication.
- (b) When a policy grievance has been referred to adjudication and a party to the grievance raises an issue involving the interpretation or application of the *Canadian Human Rights Act*, that party must, in accordance with the regulations, give notice of the issue to the Canadian Human Rights Commission.
- (c) The Canadian Human Rights Commission has standing in adjudication proceedings for the purpose of making submissions regarding an issue referred to in paragraph (b).

**24.47 Expedited Adjudication**

The parties agree that any adjudicable grievance may be referred to the following expedited adjudication process:

- (a) At the request of either party, a grievance that has been referred to adjudication may be dealt with through the Expedited Adjudication process with the consent of both parties.
- (b) When the parties agree that a particular grievance will proceed through Expedited Adjudication, the Association will submit to the PSLRB the consent form signed by the grievor or the bargaining agent.

- (c) The parties may proceed with or without an Agreed Statement of Facts. When the parties arrive at an Agreed Statement of Facts it will be submitted to the PSLRB or to the Adjudicator at the hearing.
- (d) No witnesses will testify.
- (e) The Adjudicator will be appointed by the PSLRB from among its members who have had at least three (3) years experience as a member of the Board.
- (f) Each Expedited Adjudication session will take place in Ottawa, unless the parties and the PSLRB agree otherwise. The cases will be scheduled jointly by the parties and the PSLRB, and will appear on the PSLRB schedule.
- (g) The Adjudicator will make an oral determination at the hearing, which will be recorded and initialled by the representatives of the parties. This will be confirmed in a written determination to be issued by the Adjudicator within five (5) days of the hearing. The parties may, at the request of the Adjudicator, vary the above conditions in a particular case.
- (h) The Adjudicator's determination will be final and binding on all the parties, but will not constitute a precedent. The parties agree not to refer the determination to the Federal Court.

## **ARTICLE 25**

### **JOINT CONSULTATION**

**25.01** The parties acknowledge the mutual benefits to be derived from Joint Consultation and will consult on matters of common interest.

**25.02** The subjects that may be determined as appropriate for Joint Consultation will be by mutual agreement of the parties.

**25.03** Wherever possible, the Employer shall consult with representatives of the Association at the appropriate level about contemplated changes in conditions of employment or working conditions not governed by this Agreement.

#### **25.04 Joint Consultation Committee Meetings**

The Consultation Committees shall be composed of mutually agreeable numbers of lawyers and Employer representatives who shall meet at mutually satisfactory



times. Committee meetings shall normally be held on the Employer's premises during working hours.

**25.05** Lawyers forming the continuing membership of the Consultation Committees shall be protected against any loss of normal pay by reason of attendance at such meetings with management, including reasonable travel time where applicable.

**25.06** Joint Consultation Committees are prohibited from agreeing to items which would alter any provision of this collective agreement.

## **ARTICLE 26**

### **SAFETY AND HEALTH**

**26.01** The Employer shall continue to make all reasonable provisions for the occupational safety and health of lawyers. The Employer will welcome suggestions on the subject from the Association and the parties undertake to consult with a view to adopting and expeditiously carrying out reasonable procedures and techniques designed or intended to prevent or reduce the risk of employment injury.

## **ARTICLE 27**

### **EMPLOYMENT REFERENCES**

**27.01** On application by a lawyer, the Employer shall provide personal references to the prospective employer of such lawyer, indicating length of service, principal duties and responsibilities and performance of such duties.

## **ARTICLE 28**

### **REGISTRATION FEES**

**28.01** The Employer shall reimburse a lawyer for his payment of membership or other fees to a professional organization or organizations when the payment of such fees is necessary to maintain a professional qualification required by the Employer for the performance of any duties and/or responsibilities assigned.

## **ARTICLE 29**

## **COURT CLOTHING**

**29.01** Where court clothing is required on a regular basis in order for a lawyer to carry out his or her duties, the lawyer will be entitled to be reimbursed for the cost of obtaining one complete set of court clothing, in an amount not to exceed twelve hundred dollars (\$1200), provided the Employer has not paid the lawyer for these items within the preceding five (5) years. Replacement items will be reimbursed where existing items are no longer serviceable. Lawyers will be responsible for the replacement of lost clothing. In addition, lawyers are entitled to be reimbursed, up to one hundred dollars (\$100), for the cost of one new shirt each year. Where individual circumstances justify, and with the approval of the Employer, a lawyer will also be entitled to be reimbursed for the cost of additional court clothing which he or she reasonably requires, including shirts. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

### **ARTICLE 30**

#### **AGREEMENT RE-OPENER**

**30.01** This Agreement may be amended by mutual consent. If either party wishes to amend or vary this Agreement, it shall give to the other party notice of any amendment proposed and the parties shall meet and discuss such proposal not later than one (1) calendar month after receipt of such notice.

### **ARTICLE 31**

#### **NATIONAL JOINT COUNCIL AGREEMENTS**

**31.01** Agreements concluded by the National Joint Council (NJC) of the public service on items which may be included in a collective agreement, and which the parties to this agreement have endorsed after December 6, 1978, will form part of this collective agreement, subject to the *Public Service Labour Relations Act* (PSLRA) and any legislation by Parliament that has been or may be, as the case may be, established pursuant to any Act specified in section 113 of the PSLRA.

**31.02** NJC items which may be included in a collective agreement are those items which parties to the NJC agreements have designated as such or upon which the Chairman of the Public Service Labour Relations Board has made a ruling pursuant to (c) of the NJC Memorandum of Understanding which became effective on December 6, 1978.

**31.03** The following directives, policies or regulations, as amended from time to time by National Joint Council recommendation and which have been approved by the Treasury Board of Canada, form part of this collective agreement:

- (1) Foreign Service Directives
- (2) Travel Directive
- (3) Isolated Posts and Government Housing Directive
- (4) Memorandum of Understanding on Definition of Spouse
- (5) NJC Relocation Directive
- (6) Commuting Assistance Directive
- (7) Bilingualism Bonus Directive
- (8) Public Service Health Care Plan Directive
- (9) Workforce Adjustment Directive
- (10) Motor Vehicle Operations Directive
- (11) Pesticides Directive
- (12) Occupational Health and Safety Directive

During the term of this Collective Agreement, other directives, policies or regulations may be added to the above noted list.

Grievances in regard to the above directives, policies or regulations shall be filed in accordance with clause 24.01 of the Article on grievance procedure in this Collective Agreement.

## **ARTICLE 32**

### **PART-TIME LAWYERS**

#### **32.01 Definition**

Part-time lawyer means a person whose normal scheduled hours of work on average are less than thirty-seven decimal five (37.5) hours per week, but not less than those prescribed in the *Public Service Labour Relations Act*.

**32.02 General**

Part-time lawyers shall be entitled to the benefits provided under this Agreement in the same proportion as their normal scheduled weekly hours of work compared with the normal weekly hours of work of full-time lawyers unless otherwise specified in this Agreement.

**32.03** Part-time lawyers shall be paid at the hourly rate of pay for all work performed up to thirty-seven decimal five (37.5) hours in a week.

**32.04** Leave will only be provided:

- (a) during those periods in which lawyers are scheduled to perform their duties;
- or
- (b) where it may displace other leave as prescribed by this Agreement.

**32.05 Designated Holidays**

A part-time lawyer shall not be paid for the designated holidays but shall, instead be paid a premium of four per cent (4%) for all straight-time hours worked during the period of part-time employment.

**32.06** Subject to Article 13, Hours of Work, when a part-time lawyer is required to work on a day which is prescribed as a designated paid holiday for a full-time lawyer in clause 16.01 of this Agreement, the lawyer shall be paid the straight time hourly rate of pay for all hours worked on the holiday.

**32.07 Overtime**

Notwithstanding clause 32.02, part-time lawyers at the LA-1 and LA-2A levels are entitled to overtime compensation in accordance with the provisions of clause 13.01, Hours of Work.

Part-time lawyers at the LA-2B and LA-3 levels are not entitled to overtime compensation in accordance with Article 13, Hours of Work.

**32.08 Vacation Leave**

A part-time lawyer shall earn vacation leave credits for each month in which the lawyer receives pay for at least twice (2) the number of hours in the lawyer's normal work week, at the rate for years of employment established in clause 17.01, prorated and calculated as follows:

- (a) when the entitlement is nine decimal three seven five (9.375) hours a month, .250 multiplied by the number of hours in the lawyer's work week per month;
- (b) when the entitlement is twelve decimal five (12.5) hours a month, .333 multiplied by the number of the hours in the lawyer's work week per month;
- (c) when the entitlement is thirteen decimal seven five (13.75) hours a month, .367 multiplied by the number of hours in the lawyer's work week per month;
- (d) when the entitlement is fourteen decimal three seven five (14.375) hours a month, .383 multiplied by the number of hours in the lawyer's work week per month;
- (e) when the entitlement is fifteen decimal six two five (15.625) hours a month, .417 multiplied by the number of hours in lawyer's work week per month;
- (f) when the entitlement is sixteen decimal eight seven five (16.875) hours a month, .450 multiplied by the number of hours in the lawyer's workweek per month;
- (g) when the entitlement is eighteen decimal seven five (18.75) hours a month, .500 multiplied by the number of hours in the lawyer's workweek per month.

### **32.09 Sick Leave**

A part-time lawyer shall earn sick leave credits at the rate of one-quarter (1/4) of the number of hours in a lawyer's normal work week for each calendar month in which the lawyer has received pay for at least twice (2) the number of hours in the lawyer's normal work week.

### **32.10 Vacation and Sick Leave Administration**

- (a) For the purposes of administration of clauses 32.08 and 32.09, where a lawyer does not work the same number of hours each week, the normal work week shall be the weekly average calculated on a monthly basis.
- (b) A lawyer whose employment in any month is a combination of both full-time and part-time employment shall not earn vacation or sick leave credits in excess of the entitlement of a full-time lawyer.

**32.11 Severance Pay**

Notwithstanding the provisions of Article 22, Severance Pay, where the period of continuous employment in respect of which a severance benefit is to be paid consists of both full-and part-time employment or varying levels of part-time employment, the benefit shall be calculated as follows: the period of continuous employment eligible for severance pay shall be established and the part-time portions shall be consolidated to equivalent full-time. The equivalent full-time period in years shall be multiplied by the full-time weekly pay rate for the appropriate group and level to produce the severance pay benefit.

**32.12** The weekly rate of pay referred to in clause 32.11 shall be the weekly rate of pay to which the lawyer is entitled for the classification prescribed in his certificate of appointment, immediately prior to the termination of his employment.

**ARTICLE 33****STATEMENT OF DUTIES**

**33.01** Upon written request, a lawyer shall be entitled to a complete and current statement of the duties and responsibilities of his position including the position's classification level and point rating allotted by factor where applicable, and an organization chart depicting the position's place in the organization.

**ARTICLE 34****JOB SECURITY**

**34.01** Subject to the willingness and capacity of individual lawyers to accept relocation and retraining, the Employer will make every reasonable effort to ensure that any reduction in the work force will be accomplished through attrition.

**ARTICLE 35****STANDARDS OF DISCIPLINE**

**35.01** Where written departmental standards of discipline are developed, the Employer agrees to supply sufficient information on the standards of discipline to each lawyer and the Association.

**35.02** When a lawyer is required to attend a meeting, the purpose of which is to conduct a disciplinary hearing concerning him or her or to render a disciplinary decision concerning him or her, the lawyer is entitled to have, at his or her request, a representative of the Association attend the meeting. Where practicable, the lawyer shall receive a minimum of one (1) day's notice of such a meeting.

*(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

**35.03** Any disciplinary notation placed on any file relating to a lawyer will be removed and will no longer be relied upon for any purpose after two (2) years have elapsed since the disciplinary action was taken, provided that no other related disciplinary action has been taken during this period. Furthermore, the employer agrees not to rely upon any adverse document or notation concerning the conduct or performance of a lawyer which was not communicated in writing to the lawyer at the time. *(Arbitral award dated October 23, 2009, provision effective November 1, 2009)*

## **ARTICLE 36**

### **NO DISCRIMINATION**

**36.01** There shall be no discrimination, interference, restriction, coercion, harassment, intimidation, or any disciplinary action exercised or practiced with respect to a lawyer by reason of age, race, creed, colour, national or ethnic origin, religious affiliation, sex, sexual orientation, family status, mental or physical disability, membership or activity in the Association, marital status or a conviction for which a pardon has been granted.

**36.02** By mutual agreement, the parties may use a mediator in an attempt to settle a grievance dealing with discrimination. The selection of the mediator will be by mutual agreement.

## **ARTICLE 37**

### **BENEFITS**

**37.01** Lawyers shall be provided with the following insurance coverage and benefits:

**(a) Supplementary Health Insurance**

All lawyers shall be covered under the Public Service Health Care Plan as set out in the Public Service Health Care Plan Directive.

Lawyers at the LA-2B and LA-3 levels are entitled to full Employer-paid coverage under the family Hospital Provision Level III of the Public Service Health Care Plan.

**(b) Dental Insurance**

All lawyers shall be covered under the Public Service Dental Care Plan for Employees of the Public Service Departments and Eligible Agencies (the NJC Plan).

**(c) Life Insurance**

For Lawyers at the LA-1 and LA-2A levels:

Basic life insurance (annual salary rounded to nearest one thousand dollars (\$1000)) and Supplementary life insurance (additional one (1) year's salary rounded to nearest one thousand dollars (\$1000)) on the same terms as the Public Service Management Insurance Plan (PSMIP) – Main Plan. Premiums will be payable by the lawyer at the same rate as the PSMIP-Main Plan.

For Lawyers at the LA-2B and LA-3 levels:

- (i) Basic life insurance (two (2) times annual salary rounded to the nearest one thousand dollars (\$1000)) on same terms as PSMIP – Executive Plan. Premiums to be paid by the Employer.
  - (ii) Supplementary life insurance (additional one (1) year's salary rounded to nearest one thousand dollars (\$1000)) on same terms as PSMIP – Executive Plan. Premiums will be paid by the lawyer as the same rate as the PSMIP Executive Plan.
  - (iii) Post-retirement life insurance of one year's salary (adjusted to next highest multiple of two hundred and fifty dollars (\$250)) at date of retirement on same terms as PSMIP – Executive Plan. Premiums will be paid by the Employer.
- (d) Accidental Death & Dismemberment Insurance (AD&D)** For lawyers at the LA-1 and LA-2A levels:



Up to two hundred and fifty thousand dollars (\$250,000) coverage in units of twenty five thousand dollars (\$25,000) on same terms as PSMIP Main Plan.

Premiums to be paid by the lawyer at the same rate as PSMIP-Main Plan  
For lawyers at the LA-2B and LA-3 levels:

Two hundred and fifty thousand (\$250,000) on same terms as PSMIP Executive Plan.

Premiums to be paid by the Employer.

**(e) Dependents' Insurance**

For lawyers at the LA-1 and LA-2A levels:

Life insurance and AD & D insurance for dependents as set out in PSMIP – Main Plan.

Premiums to be paid by the lawyer at the same rate as the PSMIP – Executive – Main Plan

For lawyers at the LA-2B and LA-3 levels:

Life insurance and AD & D insurance for dependents as set out in PSMIP – Executive Plan.

Premiums to be paid by the Employer.

**(f) Long-Term Disability Insurance**

All lawyers shall be covered under the Disability Insurance Plan.

Lawyers at the LA-1 and LA-2A levels shall pay fifteen per cent (15%), and the Employer shall pay eighty-five per cent (85%), of the required premiums.

For lawyers at the LA-2B and LA-3 levels, the required premiums shall be paid by the Employer.

**(g) Parking**

For lawyers at the LA-2B and LA-3 levels, the employer shall pay fifty percent (50%) of either:

- (i) the monthly parking rate charged for Crown parking facilities;
- or
- (ii) the monthly rate charged for commercial facilities, limited to a maximum of the amount payable in (i)

At locations where, as of April 28, 2006, this benefit was provided to lawyers at the LA-1 or LA-2A level, it shall continue to be provided to such lawyers on a “present incumbents only” basis. *(Arbitral award dated October 23, 2009, provisions of paragraphs 37.01(a) to 37.01 (g) effective November 1, 2009)*

## **ARTICLE 38**

### **DURATION**

**38.01** The duration of this Collective Agreement shall be from the date it is signed to May 9, 2011.

Unless otherwise expressly stipulated the provisions of this Agreement shall become effective on the date that it is signed.

SIGNED AT OTTAWA, this            day of the month of            , 2010.

THE TREASURY BOARD  
OF  
CANADA

THE ASSOCIATION OF JUSTICE  
COUNSEL

---

Hélène Laurendeau

---

Marco Mendicino

---

Marc Thibodeau

---

Sid Restall

---

James Butler

---

Margaret McCabe

---

John Park

---

Natasha LeClerc

---

Marc Lacroix

---

Chris Nelligan

---

Lyne Côté

---

Nick Devlin

---

Colleen Laframboise

---

Eric C. Marinacci

---

Terrance McAuley

THE TREASURY BOARD

THE ASSOCIATION OF JUSTICE

OF  
CANADA

COUNSEL

---

Pamela McCurry

---

Robert A. Prior

---

Kathleen Roussel

---

Colin Wetter

**APPENDIX "A" LA - LAW GROUP (BUD 21402)**

**ANNUAL RATES OF PAY**

(in dollars)

X) Effective May 10, 2006 - Pay Restructure A) Effective May 10,  
2006 B) Effective May 10, 2007 C) Effective May 10, 2008 D)  
Effective May 10, 2009 Y) Arbitral Award Effective November 1, 2009 - Pay  
Restructure E) Effective May 10, 2010

**LA-1**

From:	\$	54585	57087	59586	62087	64587	68828	71581
To:	X	54580	57087	59586	62087	64587	68828	71581
A	55945	58514	61076	63639	66202	70549	73371	
B	57232	59860	62481	65103	67725	72172	75059	
C	58090	60758	63418	66080	68741	73255	76185	
D	58961	61669	64369	67071	69772	74354	77328	
	Y	58961	to	84119				
	E	59845	to	85381				

From: \$ 74443 77868  
 To: X 74443 77868  
 A 76304 79815  
 B 78059 81651  
 C 79230 82876  
 D 80418 84119

**LA-2(I)**

From: \$ 75622 79602 83582 87563 91544 95520 99500  
 To: X 75622 79602 83582 87563 91544 95520 99500  
 A 77513 81592 85672 89752 93833 97908 101988  
 B 79296 83469 87642 91816 95991 100160 104334  
 C 80485 84721 88957 93193 97431 101662 105899  
 D 81692 85992 90291 94591 98892 103187 107487  
 Y 81692 to 117236  
 E 82917 to 118995

From: \$ 103481 108241  
 To: X 103481 108525  
 A 106068 111238  
 B 108508 113796  
 C 110136 115503  
 D 111788 117236

**LA-2(II)**

From: \$ 94097 97855 101615 105881 110149 114693 119968  
 To: X 94097 97855 101615 105881 110149 114693 119975  
 A 96449 100301 104155 108528 112903 117560 122974  
 B 98667 102608 106551 111024 115500 120264 125802  
 C 100147 104147 108149 112689 117233 122068 127689  
 D 101649 105709 109771 114379 118991 123899 129604  
 Y 101649 to 129604  
 E 103174 to 131548

**Lock Step Structure (BUD 21402) PAY INCREMENT ADMINISTRATION**

- (1) The pay increment shall be to the next higher rate in the scale of rates.

- (2) Until October 31, 2009, the pay increment period for all lawyers paid in the LA-1 scale is six (6) months.
- (3) Until October 31, 2009, the pay increment period is twelve (12) months for all lawyers paid in the LA-2(I) and LA-2(II) scales. Thereafter, the in-range movement will be governed by the relevant performance pay regime.

#### **PAY ADJUSTMENT ADMINISTRATION**

- (1) Effective May 10, 2006, prior to any other pay revision which occurs on that date, a lawyer shall be paid in the "X" line at the rate of pay which is immediately below the lawyer's rate of pay as of May 9, 2006.
- (2) Effective May 10, 2006, a lawyer shall be paid in the "A" scale of rates at the rate of pay which is immediately below the lawyer's rate in the "X" scale of rates.
- (3) Effective May 10, 2007, a lawyer shall be paid in the "B" scale of rates at the rate of pay which is immediately below the lawyer's rate in the "A" scale of rates.
- (4) Effective May 10, 2008, a lawyer shall be paid in the "C" scale of rates at the rate of pay which is immediately below the lawyer's rate in the "B" scale of rates.
- (5) Effective May 10, 2009, a lawyer shall be paid in the "D" scale of rates at the rate of pay which is immediately below the lawyer's rate in the "C" scale of rates.
- (6) Effective November 1, 2009 a lawyer shall be moved from the lock step pay structure in "D" scale to the pay range structure in "Y" range, with the move resulting in no change to the lawyer's rate of pay.
- (7) Effective May 10, 2010 a lawyer shall be paid in the "E" range at a rate of pay one point five per cent (1.5%) higher than in "Y" range, rounded to the nearest one dollar, subject to the range limits shown on line "E".
- (8) No lawyer shall be paid less than the minimum of his/her respective salary range, unless that lawyer's performance is assessed as "unsatisfactory" in which case the lawyer will remain at his/her current rate of pay which could be less than the minimum of the range.

**APPENDIX "A" LA - LAW GROUP (BUD 21400 and 21401)**

**ANNUAL RATES OF PAY**

(in dollars)

**X) Effective May 10, 2006 - Pay Restructure A) Effective May 10, 2006 B) Effective May 10, 2007 C) Effective May 10, 2008 D) Effective May 10, 2009 E) Effective May 10, 2010 (Arbitral Award - October 23, 2009)**

**I - All regions except Toronto (21400)**

**LA-DEV**

From:	\$	27410	to	62155
To:	X	27410	to	62155
	A	28095	to	63709
	B	28741	to	65174
	C	29172	to	66152
	D	29610	to	67144
	E	30054	to	68151

**LA-1**

From:	\$	54580	to	77865
To:	X	54580	to	77868
	A	55945	to	79815
	B	57232	to	81651
	C	58090	to	82876
	D	58961	to	84119
	E	59845	to	85381

	\$		to	
	X		to	
	A		to	
<b>LA-2A</b>				
From:		75630		108525
To:		75622		108525
		77513		111238
	B	79296	to	113796
	C	80485	to	115503
	D	81692	to	117236
	E	82917	to	118995
<b>LA-2B</b>				
From:	\$	94100	to	119975
To:	X	94097	to	119975
	A	96449	to	122974
	B	98667	to	125802
	C	100147	to	127689
	D	101649	to	129604
	E	103174	to	131548
<b>LA-3A</b>				
From:	\$	107300	to	136300
To:	X	107300	to	136300
	A	109983	to	139708
	B	112513	to	142921
	C	114201	to	145065
	D	115914	to	147241
	E	117653	to	149450



	\$		to	
	X		to	
	A		to	

**LA-3B**

From:	\$	124400	to	152200
To:	X	124400	to	152200
	A	127510	to	156005
	B	130443	to	159593
	C	132400	to	161987
	D	134386	to	164417
	E	136402	to	166883

**LA-3C**

From:		141700		172800
To:		141700		172800
		145243		177120
	B	148584	to	181194
	C	150813	to	183912
	D	153075	to	186671
	E	155371	to	189471

**II - Toronto (21401)**

**LA-DEV**

From:	\$	27410	to	62155
To:	X	27410	to	62155
	A	28095	to	63709
	B	28741	to	65174
	C	29172	to	66152
	D	29610	to	67144

	\$		to	
	X		to	
	A		to	
	E	30054	to	68151

**LA-1**

From:	\$	54580	to	77865
To:	X	54585	to	77868
	A	55950	to	79815
	B	57237	to	81651
	C	58096	to	82876
	D	58967	to	84119
	E	59852	to	85381

**LA-2A**

From:	\$	75630	to	124940
To:	X	75630	to	124940
	A	77521	to	128064
	B	79304	to	131009
	C	80494	to	132974
	D	81701	to	134969
	E	82927	to	136994

**LA-2B**

From:		98840		138075
To:		98840		138075
		101311		141527
	B	103641	to	144782
	C	105196	to	146954
	D	106774	to	149158

	\$		to	
	X		to	
	A		to	
	E	108376	to	151395

**LA-3A**

From:	\$	113600	to	148100
To:	X	113600	to	148100
	A	116440	to	151803
	B	119118	to	155294
	C	120905	to	157623
	D	122719	to	159987
	E	124560	to	162387

**LA-3B**

From:	\$	124400	to	152200
To:	X	124400	to	152200
	A	127510	to	156005
	B	130443	to	159593
	C	132400	to	161987
	D	134386	to	164417
	E	136402	to	166883

**LA-3C**

From:	\$	141700	to	172800
To:	X	141700	to	172800
	A	145243	to	177120
	B	148584	to	181194
	C	150813	to	183912

\$		to	
X		to	
A		to	
D	153075	to	186671
E	155371	to	189471

### Pay Range Structure – (BUD 21400 and 21401) Pay Notes

- (1) Effective May 10, 2006, prior to any other pay revision which occurs on that date, a lawyer shall be paid in the “X” line at the rate of pay which is immediately below the lawyer’s rate of pay as of May 9, 2006, with the move resulting in no change to the lawyer’s rate of pay.
- (2) Effective May 10, 2006, lawyers at the LA-DEV to LA-3C levels (either National or Toronto rates) shall be paid at a rate of pay two point five per cent (2.5%) higher than in “X” range, rounded to the nearest one (1) dollar, subject to the range limits shown on line “A”.
- (3) Effective May 10, 2007, lawyers at the LA-DEV to LA-3C levels (either National or Toronto rates) shall be paid at a rate of pay two point three per cent (2.3%) higher than in “A” range, rounded to the nearest one (1) dollar, subject to the range limits shown on line “B”.
- (4) Effective May 10, 2008, lawyers at the LA-DEV to LA-3C levels (either National or Toronto rates) shall be paid at a rate of pay one point five per cent (1.5%) higher than in “B” range, rounded to the nearest one (1) dollar, subject to the range limits shown on line “C”.
- (5) Effective May 10, 2009, lawyers at the LA-DEV to LA-3C levels (either National or Toronto rates) shall be paid at a rate of pay one point five per cent (1.5%) higher than in “C” range, rounded to the nearest one (1) dollar, subject to the range limits shown on line “D”.
- (6) Effective May 10, 2010, lawyers at the LA-DEV to LA-3C levels (either National or Toronto rates) shall be paid at a rate of pay one point five per cent (1.5%) higher than in “D” range, rounded to the nearest one (1) dollar, subject to the range limits shown on line “E”.
- (7) Rates of pay for Articling Students are to be administered in accordance with the LA-DEV rates shown for the applicable effective date.

For the purpose of the LA-DEV rates, the term *articling student* means a person who has a Bachelor in Common Law (LL.B), a Bachelor in Civil Law (LL.L), or a *Juris Doctor* (J.D.) designation, is eligible for membership at the Bar of one of the Provinces or Territories of Canada upon completion of licensing requirements which traditionally includes articling, Bar Admission course, and licensing exams; and has been

appointed for a specified period under the *Public Service Employment Act*.

The Employer will recover a partial or full amount of the salary paid to the employee while attending a bar admission program if the employee:

- subsequently resigns prior to the completion of the licensing requirements;
- upon being called to the Bar, declines an offer of employment with the Department and accepts employment elsewhere, or
- upon being called to the Bar and offered a position post-articles, fails to work a minimum amount of time equivalent to the time paid to attend Bar Admission course and licensing exams.

- (8) No lawyer shall be paid less than the minimum of his/her respective salary range, unless that lawyer's performance is assessed as "unsatisfactory" in which case the lawyer will remain at his/her current rate of pay which could be less than the minimum of the range.

**APPENDIX “B”****PERFORMANCE PAY PLAN FOR LAWYERS AT THE LA-1, LA-2A  
AND LA-2B LEVELS**

The following performance pay plan in effect on May 9, 2006 applies to lawyers at the LA-1, LA-2A and LA-2B levels, for the duration of the Law group arbitral award, as issued on October 23, 2009 (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)

**PART 1****1.0 Policy objective**

**1.1** To ensure the accurate and consistent administration of performance pay for certain non-Management Category senior excluded employees, including incentives to recognize and reward individuals in relation to their peers and subordinates.

**2.0 Policy statement**

**2.1** It is government policy to pay certain senior excluded non-Management Category employees according to their assessed level of performance. This policy provides the means to achieve this. Its chief provisions are the following:

**2.1.1** individuals may progress through the salary range by a series of variable increases related to the employee’s assessed level of performance;

**2.1.2** performance awards may be awarded to those whose salaries have reached the job rate and whose performance is fully satisfactory, superior or outstanding in a given year;

**2.1.3** expenditures on salary administration must be controlled through a departmental performance increase budget.

**3.0 Application**

**3.1** This policy applies to the core public administration and other sections of the federal public administration as defined in Schedules I and IV of the *Financial Administration Act*.

<b>Group</b>	<b>Level</b>
Administrative Services	AS-7 & 8
Economics	ES-8
Financial Administration	FI-4
Information Services	IS-6
Law Group	LA-1 & 2A & 2B
Personnel Administration	PE-6
Program Administration	PM-MCO 1 to 4
Purchasing and Supply	PG-6
Translation	TR-4 & 5
Welfare Programmes	WP-7

#### **4.0 Exclusions**

**4.1** Employees affected by the Regulations respecting pay on reclassification or conversion whose salary is protected at a group and level not mentioned above are not subject to this plan. The relevant terms and conditions of employment apply to determine their appropriate salaries.

**4.2** Employees absent on leave without pay are eligible for in-range performance increases or performance awards under this plan.

#### **5.0 Policy requirements**

**5.1** Deputy Ministers/Deputy Heads must implement and adhere to the performance pay administration plan in their departments.

**5.2** They must:

**5.2.1** ensure that performance pay is administered according to the plan, based upon each employee's performance review and appraisal report;

**5.2.2** provide all information, training, advice and guidance required to implement and administer the plan.

#### **6.0 Monitoring**

**6.1** The following performance indicators will be used to evaluate departments' adherence to the plan:

**6.1.1** performance awards are granted only to employees who have attained the job rate and are rated fully satisfactory, superior or outstanding;



**6.1.2** in-range increases and performance awards do not exceed the percentage guidelines for each level of performance; and

**6.1.3** performance increase expenditure does not exceed the approved target of five per cent (5%).

## **7.0 References**

**7.1** *Financial Administration Act*, Section 11(2)(d).

## **8.0 Enquiries**

**8.1** Enquiries about this policy should be referred to the responsible officers in departmental headquarters who in turn may direct questions regarding policy interpretations to:

Excluded Groups Compensation Directorate  
Compensation and Labour Relations  
Treasury Board Secretariat

## **PART 2 Performance Pay Administration Plan for Certain Non-Management Category Senior Excluded Levels**

### **1.0 Purpose**

**1.1** This appendix presents guidelines for the consistent application of the performance pay administration plan throughout the public service.

### **2.0 Definitions**

**2.1** “**Acting pay**” (*rémunération d’intérim*) means the rate that an employee should be paid for a temporary assignment to a higher classification level position.

**2.2** “**In-range increase**” (*augmentation à l’intérieur de l’échelle*) means an increase in salary based on assessed level of performance, that results in an upward positioning in the range (not exceeding the job rate).

**2.3** “**job rate**” (*taux normal*) means the maximum rate of pay available to a qualified employee whose performance in the job is at least fully satisfactory.

**2.4** “**payroll**” (*masse salariale*) means the sum of salaries paid to employees subject to this plan, in a particular department or agency.

**2.5** “**performance award**” (*prime de rendement*) means a bonus payable to an employee whose salary has reached the job rate of the applicable salary range and whose assessed level of performance is fully satisfactory, superior or outstanding. It is payable in a lump sum and must be re-earned each year.

**2.6** “**retroactive period**” (*période de rétroactivité*) means the period commencing on the effective date of the retroactive upward revision in remuneration and ending on the day approval is given.

**3.0 Performance Pay Administration**

**3.1** In-range increases and performance awards are to be administered on April 1 of each year or on a date prescribed by the Treasury Board.

**3.2** Expenditures on in-range increases and performance awards are controlled by a departmental budget, which may not be exceeded.

**4.0 In-range increases**

**4.1** As a general guide, in-range increases up to the job rate, as a percentage of the employee’s salary, may be granted annually for assessed performance as follows:

Outstanding	up to 10%
Superior	up to 7%
Fully Satisfactory	up to 5%
Satisfactory	0%
Unsatisfactory	0%
Unable to assess	0%

**4.2** Under no circumstances should an in-range performance increase be authorised for an employee whose performance has been assessed as “unsatisfactory”.

**4.3** Global performance ratings should be used to assist in the decision process for the determination of individual awards.

**4.4** The Departmental performance pay budget is limited to five per cent (5%) of the departmental group payroll as at March 31. Only members of the group on strength March 31 and on April 1 in a position listed in paragraph 3.1 of this policy are eligible for the purposes of this exercise. Members of the group on leave without pay or on a maternity leave / paternal leave who would

not normally be considered to be on strength, are, for purposes of this policy, deemed to be eligible.

**4.5** Performance awards are limited to a maximum of ten per cent (10%) of an individual's salary (including a combination of in-range salary increase and lump sum payments). Performance must be at least fully satisfactory to be eligible for any lump sum award.

**4.6** Performance awards for those paid below the job rate are to be applied as base salary increases within the current salary ranges. When the calculation of a performance award results in a salary that would exceed the current job rate, the difference is to be paid as a one-time lump sum.

**4.7** Employees on full-time language training are deemed to be on strength and are eligible for payment under this plan.

**4.8** Small departments, that is, those with fewer than twenty (20) eligible employees, must apply the following limitations to their budget calculations:

**No. of employees Performance budget (%)**

1	10.0
2	7.0
3	6.0
4	6.3
5	5.8
6	5.5
7	5.7
8	5.5
9	5.3
10	5.2
11	5.4
12	5.3
13	5.2
14	5.3
15	5.2
16	5.1
17	5.2
18	5.2
19	5.1

**Note:** These figures represent a percentage of the total senior excluded non-Management Category employees’ payroll on March 31 of each year.

**5.0 Performance awards**

**5.1** A performance award (bonus) may be granted to an employee whose performance has been assessed as fully satisfactory, superior or outstanding, and whose salary is already at the job rate or has just reached the job rate by the application of an in-range increase, and who is on strength on March 31st and April 1st. These lump sums must be re-earned each year.

**5.2** Increases are to be limited to:

- Outstanding performance up to 10% of salary
- Superior

performance up to 7% of salary

Fully Satisfactory performance up to 5% of salary

**5.3** The maximum permissible amount for the awards should not be automatically granted. Consideration must be given to factors such as the salary relationship with immediate supervisors or subordinates and, the number of consecutive years of above fully satisfactory performance.

**6.0 Exceptions 6.1 Law Group (LA-1)**

**6.1.1** At the discretion of the Deputy Minister, the performance of legal officers at the LA-1 level may be reviewed on a semi-annual basis and in-range increase for performance granted consistent with the rates set out below. Performance awards (lump sum payments) are only paid out once a year.

**7.0 Combined application of in-range increase and performance award**

**7.1** Some employees assessed as fully satisfactory, superior or outstanding will reach their job rate with in-range increases which are less than the amounts permissible under the guidelines. In these cases, deputy heads may grant a performance award in addition to the in-range increase. The combination of the two (2) amounts may not exceed the amounts permissible under the guidelines ten per cent (10%) of salary for outstanding performance, seven per cent (7%) of salary for superior performance and five per cent (5%) of salary for fully satisfactory performance.

**8.0 Performance Pay for Employees on Leave without Pay**

**8.1** Employees who have been absent on leave without pay for the full fiscal year and have not returned to work by March 31 of that fiscal year are not eligible for any performance increase. They are not to be included in the calculation of the budget.

**8.2** Employees who have been on leave without pay for a part of the fiscal year may be eligible for a performance increase if they have been on strength for long enough to permit a meaningful evaluation of performance. Any performance pay should be prorated for the time they have been back on payroll.

## **9.0 Performance pay while receiving acting pay**

**9.1** An employee who is receiving acting pay for a temporary assignment to a group and level covered by this plan is eligible for performance pay at the higher level when the following criteria are met:

**9.1.1** The substantive rate of pay has reached the range maximum and the employee is no longer eligible for increments or in-range performance increases in the substantive level; **or** an increment or in-range performance increase in the substantive level does not result in a change to the acting rate of pay **and** performance of the higher level duties is assessed as fully satisfactory or better;

**9.1.2** An employee on strength and in an acting situation on March 31st and in a position listed in paragraph 3.1 of this policy on April 1, is eligible for the purposes of this exercise. Members of the group on leave without pay or on a maternity leave / paternal leave who would not normally be considered to be on strength, are, for purposes of this policy, deemed to be eligible.

**9.1.3** There are sufficient funds in the performance budget to award a performance increase.

**9.2** The commencement date of the acting assignment will not affect an employee's eligibility for performance pay when these conditions are met. Prorating the performance increase, based on the length of time in the acting assignment, is an option.

**9.3** Employees in acting status who are eligible for performance pay are to be included in the calculation of the department's budget.

## **10.0 Ineligible employees**

**10.1** If within the review period an increment or an in-range performance increase in the substantive rate of pay results in a salary increase on recalculation of the acting pay, the employee **is not eligible for performance pay** under this plan, and should not be included in the calculation of the budget.

## **11.0 Limitations**

**11.1** Under no circumstances are the in-range increases and performance awards paid under this plan to exceed the maxima available for the evaluated level of performance. Likewise, departments may not exceed their aggregate exceptional performance budget.

**12.0 Salary-related benefits**

**12.1** A performance award will be included as part of salary for the period in respect of which it was paid. Any such award paid in the year of retirement, but related to the year prior to retirement, will be fully counted in the calculation of the five-year average salary for pension purposes. However, it will not be reflected in the level of coverage under salary-related benefits such as Supplementary death benefit and insurances.

**12.2** Performance awards will also not be considered part of salary for the purposes of termination benefits such as severance pay and cash-out of vacation leave, or for salary calculations related to promotion or transfer.

**13.0 Authorization**

**13.1** The Deputy Minister / Deputy Head is authorized to determine increases in salary and to make performance awards within the guidelines prescribed in this plan unless otherwise directed by the Treasury Board Secretariat.

**13.2** On those occasions when the circumstances of an individual case are so exceptional that a department believes the salary administration plan guidelines should be exceeded, the Deputy Minister must obtain prior written approval from the Treasury Board Secretariat.

**14.0 Confidentiality**

**14.1** As a matter of government policy, disclosure is restricted to information on the salary ranges. The specific salary paid to an individual in a performance pay plan may be disclosed only to those public servants whose work requires access to such information.

**APPENDIX "C"**

**PERFORMANCE PAY PLAN FOR LAWYERS AT THE LA-3 LEVELS**

The following performance pay plan in effect on May 9, 2006 applies to lawyers at the LA-3 levels, for the duration of the Law group arbitral award, as issued on October 23, 2009 (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)



**Directives for the Performance Management Program (PMP) for  
the Executive Group**

**Effective April 1, 2004**

**Table of Contents**

PREAMBLE .....	96
EFFECTIVE DATE .....	98
APPLICATION .....	98
PROGRAM OBJECTIVES.....	98
GUIDING PRINCIPLES FOR THE PMP.....	98
REQUIRED ELEMENTS OF THE PMP.....	99
SIGNED PERFORMANCE AGREEMENTS .....	99
ONGOING COMMITMENTS .....	100
KEY COMMITMENTS .....	101
PERFORMANCE MEASURES .....	101
FORMAT .....	102
REVIEW OF PERFORMANCE AND PERFORMANCE AGREEMENTS .....	103
DEPUTY HEAD ATTESTATION .....	103
ASSESSMENT AND ASSESSMENT CRITERIA.....	104
PERFORMANCE DESCRIPTIONS.....	104
Level 4 (former Exceeded, Surpassed) .....	104
Level 3 (former Met All, Succeeded, Met).....	105
Level 2 (former Met Most) .....	105
Level 1 Did Not Meet.....	105

Level 0 Unable to Assess..... 106

COMPENSATION EFFECTS OF PERFORMANCE ASSESSMENT ..... 107

BASE SALARY AND IN-RANGE MOVEMENT ..... 107

AT-RISK PAY AND BONUSES ..... 107

BUDGET ..... 108

REPORTING..... 109

PERFORMANCE CYCLE..... 109

CONSEQUENCES FOR NON-COMPLIANCE WITH REQUIREMENTS..... 109

ACCOUNTABILITIES AND ROLES ..... 109

ENQUIRIES ..... 113

ANNEX A: SAMPLE TEMPLATE ..... 113

ANNEX B: SAMPLE LETTER OF ATTESTATION ..... 115

ANNEX C: ANNUAL PMP REPORT ..... 116

**PREAMBLE**

**Note: Instructions for the administration of Performance Awards are found in the Salary Administration Policy for the Executive Group.**

In its 1998 report the *Advisory* Committee on Senior Level Retention and Compensation recommended the implementation of a Performance Management Program for the Executive (EX) Group both as a management tool to support the achievement of business results and as the tool to be used in determining changes in the compensation of executives.

Performance management is the process of planning, managing, improving, developing, supporting, assessing and rewarding performance; it is linked to other key Human Resources initiatives that take place in departments and agencies,

such as: human resources planning (including succession planning), career management and training and development.

The PMP is:

- A key component of an effective human resource strategy for the attraction, retention and compensation of senior managers in the federal public service;
- A key management tool to:
  - Link individual accountability at all levels to the strategies and business priorities of the government;
  - Communicate expectations and priorities related to business planning and the application of leadership competencies;
  - Ensure that executives follow through on commitments and accountabilities;
  - Support organizational results-based planning and performance measurement, reporting and accountability;
  - Ensure that executives understand corporate priorities and how they are expected to contribute to the achievement of these priorities;
  - Support individual development in public service leadership competencies; and,
  - Support horizontal initiatives within departments as well as between departments and agencies, jurisdictions, and levels of government or external stakeholders through recognition of such teamwork in the performance agreements of individual executives.
- A critical component of total compensation for the EX Group, recognizing that compensation given to members of the Executive Group should reflect their performance.

**EFFECTIVE DATE**

The effective date of these directives is April 1, 2004.

**APPLICATION**

These Directives apply to public service organizations employing members of the occupational groups and levels identified in the Salary Administration Policy for Executives.

**PROGRAM OBJECTIVES**

The objectives of the Performance Management Program (PMP) for the Executive Group are to:

- Support a management regime that is based on values and ethics and clearly defined leadership competencies;
- Encourage excellence in performance by recognizing and rewarding the achievement of results that are linked to business plans and/or corporate priorities and the demonstration of public service leadership competencies, values and ethics; and,
- Provide a framework within which a consistent and equitable approach to managing performance can be applied.

**GUIDING PRINCIPLES FOR THE PMP**

The principles of respect and fairness govern the exercise of authority in managing the performance of executives. These principles mean that it is recognized and respected that employees are entitled to:

- A clear idea of what is expected of them;
- Regular feedback concerning their performance; and,
- Learning and development opportunities to help them improve their performance.

The PMP for Executives is a tool for a consistent and equitable approach to performance management and assessment and is designed to support objective evaluation and differentiation of levels of performance across the EX Group.

## REQUIRED ELEMENTS of the PMP

### Signed Performance Agreements

The Performance Management Program requires that every person in the organization who is being paid as an EX have a written performance agreement.

The performance agreement:

- Demonstrates the link between an organization's business plans and priorities and an individual's commitments. The process to develop performance agreements must be integrated with the annual departmental business planning cycle; and,
- Documents the mutual understanding between the executive and his/her supervisor of the *what* (results) and the *how* (leadership competencies) that will be used to assess the performance of the executive for the performance cycle.

The starting points for deciding what commitments should be included in performance agreements each year are:

- Priorities of the government;
- Priorities of the Clerk of the Privy Council as Head of the public service;
- Priorities and plans of individual departments and agencies; and,
- Individual development needs, which may include the development of leadership competencies.

Assistant Deputy Head performance agreements, as the main linkage between individual executives and the business plans of each organization, should demonstrate alignment with corporate plans, and include uniformity in certain ongoing commitments, defining what might be called the broad executive management agenda for the organization.

The performance agreements for each successive level of executive should demonstrate cascading of commitments – that is, each commitment is an operationalization of the supervisor's commitments, within the realm of each executive's responsibilities.

The performance agreement between the executive and his/her supervisor must include the following mandatory components to be considered valid:

1. Ongoing Commitments\*
2. Key Commitments\*
3. Performance measures of successful achievement of the commitments and leadership competencies
4. A written assessment of actual results achieved during the performance cycle and the level of leadership competency demonstrated
5. The signatures of the executive and the supervisor when the commitments are approved.

\* In situations where the job consists solely of a special project or assignment, there are normally only Ongoing Commitments. Exceptions could be considered when the assignment is of such scope and complexity to warrant the development of Key Commitments as well.

Performance agreements are subject to revision throughout the performance cycle, dictated by such factors as changed priorities and feedback. An executive may have several performance agreements throughout a performance cycle, for example, if the executive changes jobs or takes on a new assignment or if the supervisor changes. Each revision or new agreement must be signed.

It is a best practice that each performance agreement include a personal learning plan that identifies training and development commitments along with the resources that will be provided to support the learning plan.

### **Ongoing Commitments**

- Ongoing Commitments are the principal results that the executive is expected to accomplish so that the department can achieve its business mandate. They are linked to the departmental business plans and/or priorities, and are reflective of the position description.
- Ongoing Commitments are part of the continuing responsibilities of the position that do not normally change from year to year. They should reflect a balanced representation of core accountabilities such as: financial

management (budget), human resources management, business planning, policy development and operational program delivery and, self-development.

- Ongoing Commitments should be Specific (clearly stated), Measurable, Achievable (through influence and control), Results-based and Timely (SMART). Within the performance cycle the executive undertakes to achieve specified results for each Ongoing Commitment.
- Executives may document a personal learning plan, which may include the development of leadership competencies, in their performance agreements as an Ongoing Commitment.
- A minimum of four (4) and a maximum of seven (7) Ongoing Commitments should be established per performance cycle.

### **Key Commitments**

- Key Commitments are areas of focus over and above ongoing commitments for the performance cycle. They may reflect change initiatives linked to business plans, corporate departmental priorities or public service priorities identified by the Clerk of the Privy Council as Head of the public service. They are intended to be challenging but achievable with effort.
- Normally Key Commitments change from year to year.
- At least one (1) Key Commitment and a maximum of three (3) Key Commitments should be established per performance cycle.

### **Performance Measures**

- Performance measures describe how an observer would know that the results have been achieved within the performance cycle and define standards for expected level of achievement of these results.
- The first step in defining performance measures is the establishment of SMART (Specific (clearly stated), Measurable, Achievable (through influence and control), Results-based and Timely) commitments.
- The choice of a performance measure implies that quantifiable data/information indicating performance achievement will be available and that efforts will be made to obtain the information defined in the measure.

- If feasible, performance measures should also describe what characterizes levels of performance that are above expectations.
- Performance measures should be established at the start of the performance cycle when commitments are established and can be adjusted during the performance cycle. There should be 1-3 measures per Ongoing and Key Commitment.
- Performance measures should be assessed to ensure they are measuring the right results.

### **Format**

There is no set format requirement for the performance agreement; departments and agencies have the flexibility to develop an agreement template or system that best suits the organization's business planning and results reporting requirements. Minimum requirements of a performance agreement include:

- Parties involved
- Signature block
- Date of performance cycle
- Ongoing Commitments and performance measures
- Key Commitments and performance measures
- Results achieved (completed at the end of the performance cycle)
- Narrative assessment (completed at the end of the performance cycle)
- A statement about Privacy of Information
- In addition, to clearly identify linkages to corporate priorities and the Clerk's priorities, a simple checklist is recommended

Annex A to these Directives shows a sample performance agreement that meets the minimum requirements.



## **Review of Performance and Performance Agreements**

Performance agreements should be periodically reviewed by the executive and his/her supervisor and adjusted as required. In the event of significant changes, commitments and the related performance measures can be adjusted.

At the end of the performance cycle each individual is assessed on the “Results Achieved” based on the measures set for commitments. The results are documented on the performance agreement with the appropriate Summary Ratings for ongoing commitments and key commitments. The demonstration of leadership competencies in the achievement of all commitments should be taken into consideration when applying the assessment rating. Finally, an overall narrative assessment of performance with suggested career development action plans should also be documented.

The Performance Management Program also requires that the deputy head have in place in the organization a review mechanism or mechanisms, such as a review committee, to ensure equity and consistency in performance assessment ratings of all executives across the organization for the performance cycle.

### **Deputy Head Attestation**

Prior to authorizing the issuing of payments for a performance cycle, the deputy head must, prior to June 30, send a letter to the Office of the Chief Human Resources Officer for Canada (the Employer) personally attesting that:

- Each employee subject to the PMP has a signed performance agreement; and,
- The department has a review mechanism to review the performance of each executive for equity and consistency.

The letter of attestation should also provide information about the overall expenditure for lump sum payments, as a percentage of executive payroll. A sample letter of attestation, which may be sent to the Employer by FAX is in Annex B.

The Employer will authorize payment when all of the above requirements have been met.

## **ASSESSMENT AND ASSESSMENT CRITERIA**

Each department and agency is responsible for developing performance assessment standards that respond to the organization's specific needs. Deputy heads are responsible for communicating these standards, including clear information on what makes some commitments more challenging, or important or critical to the organization's mission than others.

Assessment must include, at a minimum:

- An assessment of each individual's performance against commitments, including assessment of *how* the results were achieved, based on the leadership competencies;
- One-on-one performance discussions with each executive, including constructive feedback and identification of, and support for development and learning opportunities; and,
- Vertical and horizontal cross-organization review of performance assessments to ensure consistency and fairness.

## **PERFORMANCE DESCRIPTIONS**

The performance level descriptions below are to be used to assess performance against commitments. Levels 2 to 4 may be further sub-divided, provided that definitions are developed to describe the expected level of performance and communicated to executives. Other titles may be substituted provided they are cross-referenced to the four levels for reporting purposes.

Note that for 2004-2005 fiscal, leadership competencies that must be considered in assessing performance refer to those related to valuing and managing people. In 2005-2006 the revised leadership competencies all refer to valuing and managing people.

### **Level 4 (former Exceeded, Surpassed)**

This performance level and results achieved can be characterized by the following statements:

- Delivered on all commitments and exceeded expectations in the delivery of major commitments

- Consistently delivers results that provide exceptional value to stakeholders and the organization
- In delivering commitments, is seen as an organizational role model in demonstrating the departmental/leadership competencies.

**Level 3 (former Met All, Succeeded, Met)**

This performance level and results achieved can be characterized by the following statements:

- Delivered on all commitments
- A strong contributor to stakeholder and organizational successes
- In delivering commitments, clearly demonstrated the departmental/leadership competencies.

**Level 2 (former Met Most)**

This performance level and results achieved can be characterized by the following statements:

- Delivered on the most important commitments but not necessarily on all commitments
- Performance results indicate a need for development in some areas
- In delivering commitments, demonstrated a need to show improvement in the departmental/leadership competencies.

**Level 1 Did Not Meet**

This performance level and results achieved can be characterized by one or more of the following statements:

- Delivered on some but did not deliver on one or more of the most important commitments

or

- Performance results fall below expected standards

or

- In delivering commitments, had ongoing difficulty in demonstrating the departmental/leadership competencies.

Note: Individuals who receive a „Did Not Meet“ assessment should receive appropriate follow-up that addresses performance issues.

### **Level 0 Unable to Assess**

Individuals who are „Unable to Assess“ are eligible for salary range increases, but no in-range movement or lump sum performance pay.

An individual is considered „Unable to Assess“ when there has been insufficient opportunity (e.g. fewer than three (3) months) to allow for the achievement of performance commitments. This does not mean that the individual has not established a performance agreement, just that there has been insufficient opportunity for achievement against the commitments. There are 4 situations where **Unable to Assess** could apply for both Ongoing and Key Commitments:

1. New to the public service
2. Newly appointed to the group from another occupational group
3. Non-EX acting in an EX position for fewer than three months
4. Employee absent from the job for a significant period of the performance cycle, e.g. leave without pay or sick leave.

There are two situations where executives might be considered **Unable to Assess** for Key Commitments only:

1. Executives on language training have only one Ongoing Commitment for the duration of the language training – attendance at language training in order to meet the language requirements of the position, and must be considered to have met ongoing commitments. Since there are no Key Commitments for the period of training, they receive an **Unable to Assess** rating for Key Commitments in that period.
2. Situations where no Key Commitments were established for the performance cycle, for example, an employee whose job consists of a single project or assignment to accomplish for the performance cycle.

Note on distribution of assessment levels: It is recognized that a normal distribution would result in five per cent (5%) of the population assessed at level 1.

### **COMPENSATION EFFECTS OF PERFORMANCE ASSESSMENT**

The performance assessment and resulting compensation effects should take place within sixty days of the end of the performance cycle.

Performance awards include in-range movement and lump sums.

No performance award may be authorized in the absence of a signed performance agreement.

Deputy heads have flexibility to provide performance awards that are appropriate to their organizational priorities and requirements provided these awards are within the PMP Directives.

In determining the percentage of in-range movement and lump sums, deputy heads should take into account the importance and impact of results achieved. The focus should be equally on what was accomplished and how it was done.

### **Base Salary and In-Range Movement**

The executive earns a base salary for the accomplishment of Ongoing Commitments.

The achievement of Ongoing Commitments and how the results were achieved (demonstration of leadership competencies) affect progression through the salary range for the position (in-range movement) which should vary with assessed performance.

### **At-Risk Pay and Bonuses**

Over and above the base salary, executives have opportunities to earn at-risk pay and bonuses based on the achievement of key commitments.

A prerequisite for access to at-risk pay and bonuses is that expectations for the achievement of ongoing commitments have been met.

The achievement of Key Commitments and *how* the results were achieved (demonstration of leadership competencies) affect the amount of lump sum performance awards, defined as *at-risk pay* and *bonuses*.

*At-risk pay* is defined as any lump sum performance award for:

- EX-1 to EX-3 – up to seven per cent (7%) of base salary
  - EX-4 and EX-5 – up to ten per cent (10%) of base salary
- A *bonus* is defined as any lump sum performance award for:
- EX-1 to EX-3 – up to an additional three per cent (3%) of base salary
  - EX-4 and EX-5 – up to an additional five per cent (5%) of base salary

Only those who receive full seven per cent (7%) (EX-1 to EX-3) or ten per cent (10%) (EX-4 and EX-5) are eligible for a bonus.

At-risk pay and bonuses must be re-earned each year, and do not increase an individual's base salary.

**BUDGET**

The budget for at-risk pay and bonuses is part of the annual departmental reference levels, totaling seven percent (7 %) of the March 31<sup>st</sup> payroll for members of the occupational groups and levels to which the provisions of the PMP apply.

Departments may exceed the budget where results warrant, and when the excess can be found from existing reference levels.

Organizations with fewer than ten executives should follow the budget guidelines below:

Number of Executives	Number of Surpassed Ratings	Budget for at-risk pay and bonuses as a % of March 31 Payroll
1	1	10.0%
2	1	8.5%
3	1	8.0%
4	1	7.7%

5	1	7.6%
6	1	7.5%
7	2	7.4%
8	2	7.3%
9	2	7.3%
10	2	7.0%

## REPORTING

Annually, departments and agencies must submit to the PSHRMAC:

1. PMP Report: The Requirements of this report are in Annex C.
2. Monitoring and Evaluation Framework Scorecard: the requirements consist of annual and triennial reports in a scorecard format. Triennial elements are reported on a rotating schedule so that in any year, one-third of departments and agencies are reporting. The Employer will advise departments and agencies as to the timing of these reports and provide training and support. This reporting requirement begins with the 2005 – 2006 fiscal year.
3. Quality Review of Performance Agreements: upon request, departments and agencies must submit copies of performance agreements for review.

## PERFORMANCE CYCLE

The PMP performance cycle is the fiscal year from April 1st to March 31st.

## CONSEQUENCES FOR NON-COMPLIANCE WITH REQUIREMENTS

Non-compliance with the required elements of the Performance Management Program may result in a citing of the department or agency in the President of PSHRMAC's annual report to Parliament on human resources management. In some cases, the consequences may be a modification or withdrawal of delegation of authority and/or recovery of amounts paid.

## ACCOUNTABILITIES AND ROLES

The following table highlights some of the roles of key players accountable for the PMP for executives.

Who	What
Clerk of the Privy Council	<ul style="list-style-type: none"> <li>• Establishes broad public service corporate priorities in consultation with Deputy Ministers.</li> <li>• Establishes personal performance agreements with Deputy Ministers.</li> <li>• With the Committee of Senior Officials and the Deputy Minister community, champions the leadership competencies for the Public Service of Canada and ensures their alignment with the current and future needs of the public service.</li> </ul>
Office of the Chief Human Resources Officer of Canada (the Employer)	<ul style="list-style-type: none"> <li>• Establishes the PMP Directives.</li> <li>• Provides instructions for the administration of compensation and the requirements for departmental reports on the PMP.</li> <li>• Develops an integrated implementation strategy for the public service leadership competencies.</li> <li>• Annually gives approval, to each deputy head who has attested that the PMP program requirements have been met, to pay performance awards to employees subject to the PMP.</li> <li>• Develops and delivers PMP learning sessions in consultation with departments.</li> <li>• Monitors and evaluates the health and effectiveness of the PMP.</li> </ul>

Who	What
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<p>Deputy Head</p>	<ul style="list-style-type: none"> <li>• Plans, manages, and accounts for the performance of each executive.</li> <li>• Develops and communicates performance assessment criteria and standards that respond to the department or agency's specific needs.</li> <li>• Establishes performance agreements with direct reports based on public service corporate priorities and departmental business plans and public service leadership competencies.</li> <li>• Assesses the actual results achieved by direct reports at the completion of the assignment or business cycle and provides feedback.</li> <li>• Implements the annual departmental performance management program within the PMP description and directives.</li> <li>• Implements effective and efficient processes to meet the requirement to ensure equity and consistency in the application of the PMP. Such processes <b>must</b> include a review mechanism and may include:             <ul style="list-style-type: none"> <li>• Simplified and streamlined planning and assessment processes</li> <li>• A format for performance agreements that supports departmental business planning requirements</li> <li>• Implements effective performance assessment programs and processes.</li> </ul> </li> <li>• Periodically and when required by the Employer evaluates the administration of the PMP to ensure the organization complies with the PMP Directives.</li> <li>• Annually submits a letter to the Employer personally attesting that the PMP program requirements have been met for that performance cycle in order to receive authorization to pay inrange salary movement, at-risk pay and bonuses to those subject to the PMP.</li> <li>• Submits a report to the Employer on the application of inrange salary movement, at-risk pay and bonuses by June 30 annually.</li> <li>• Keeps copies of signed performance agreements for the purpose of audit by the Employer.</li> </ul>
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The following describes roles for other players that reflect expectations for the effective management of the program.

<b>Who</b>	<b>What</b>
Assistant Deputy Minister (ADM)	<ul style="list-style-type: none"> <li>• Develops business plan for area of responsibility.</li> <li>• Establishes ongoing/key commitments, performance measures and interdependencies with deputy head.</li> <li>• Signs his or her own performance agreement.</li> <li>• Establishes and signs individual performance agreements with direct reports.</li> <li>• Assesses the actual results achieved by direct reports at the completion of the assignment or business cycle, and provides feedback.</li> <li>• Communicates priorities with direct reports.</li> </ul>
Director General / Director	<ul style="list-style-type: none"> <li>• Develops business plan for area of responsibility.</li> <li>• Develops Establishes ongoing/key commitments, performance measures and interdependencies with supervisor.</li> <li>• Signs the performance agreement.</li> <li>• Establishes individual performance agreements with direct reports.</li> <li>• Assesses the actual results achieved by direct reports at the completion of the assignment or business cycle, and provides feedback.business plan for area of responsibility.</li> <li>• Communicates priorities with direct reports.</li> </ul>
<b>Who</b>	<b>What</b>

Head of Human Resources / Head of Departmental Business Planning	<ul style="list-style-type: none"> <li>• Advises senior management on the PMP framework/business planning process and performance management process requirements.</li> <li>• Provides advice and guidance to senior management on the leadership competencies and their uses.</li> <li>• Develops and implements the departmental performance management training strategy for executives and incorporates PMP training into departmental EX orientation/ training.</li> <li>• Implements the Salary Administration Policy for the Executive Group and these Directives.</li> </ul>
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**ENQUIRIES**

Comments and questions related to these directives should be referred to responsible officers in departmental headquarters who in turn may direct question to the Office of the Chief Human Resources Officer.

**ANNEX A SAMPLE TEMPLATE**

Performance Agreement  <b>(year – year)</b>  Between: _____  And: _____  Signature: _____ Date: _____	Reviews of this agreement were conducted on the following dates:  Mid-term: _____  Change of Supervisor: _____  Change of Assignment: _____
<b>Checklist for Alignment</b>	<b>Ongoing Commitments (4 to 7 commitments)</b>

Priorities of the Clerk of the Privy Council	Corporate Priorities <i>(May be sub-divided)</i>	Commitment	Performance Measures (1 to 3 per commitment)	Results Achieved (for each commitment)
		Human Resources Management:		
		Financial Management:		
		Business accountabilities of the position: 1 2 3 4		

Checklist or Alignment		Key Commitments (1 to 3)		
Priorities of the Clerk of the Privy Council	Corporate Priorities <i>(May be sub-divided)</i>	Commitment	Performance Measures (1 to 3 per commitment)	Results Achieved (for each commitment)

<p>Evaluation</p> <p>Narrative Assessment:</p>          <p>Ongoing Commitments Rating: _____</p> <p>Key Commitments Rating: _____</p>	<p>I have read this assessment:</p>          <p>Signatures:</p> <p>Executive: _____ Date _____</p> <p>Supervisor: _____ Date _____</p>
<p><b><i>Personal information will be protected under the provisions of the <u>Privacy Act</u> and will be stored in Standard Bank, Performance Reviews and Employee Appraisals PSE 912. This document may be used by the Employer for audit or program evaluation purposes.</i></b></p>	

**ANNEX B SAMPLE LETTER OF ATTESTATION**

**FAX this letter to (613) 943-5205**

*(Date)*

Office of the Chief Human Resources Officer

C/O Executive Management Policies Directorate Ottawa,  
Ontario

Dear Ms. Chartrand,

This letter is to attest that all requirements of the Performance Management Program for Executives for (name of the Department or Agency) for (fiscal year) have been met: all executives have signed performance agreements and our organization has in place a review mechanism to ensure equity and consistency in the performance assessment of all executives.

Our planned expenditure for at-risk pay and bonuses as a percentage of the executive payroll is ( % ).

As all requirements of the PMP have been met, I request your authorization to proceed with payments to executives.

Yours sincerely,

Signature

*(Please provide a fax number for the Agency's reply)*

**ANNEX C ANNUAL PMP REPORT**

This report must be submitted annually, by June 30, for all groups and levels covered by the Salary Administration Policy for the Executive group. An EXCEL spreadsheet in electronic format is preferred.

The PMP Report should be sent, under PROTECTED status, to:

Office of the Chief Human Resources Officer  
C/O Executive Management Policies Directorate Ottawa  
ON K1A 0R5

The data requirements for the Annual PMP Report are as follows:

Field name	Width	Contents
DEPT	3	Department

PRI	8	Personal Record Identifier
FNAME	20	Employee family name
INIT	3	Employee Initials
GENDER	1	1 Male 2 Female
LOC	1	Geographic Location of the position: 1 Headquarters (HQ) 2 Location other than HQ
CLASS	6	Employee Group and Level (Acting status should be shown by placing an A/ in front the Group and Level, e.g. A/EX01)
JRATE	6	March 31 job rate (range maximum)
MARCH 31 SALARY	6	Employee's salary at March 31
OGC LEVEL	1	Ongoing Commitments Assessment Level: 4 3 2 1 0
BASE SALARY INCREASE	6	Dollar amount of base salary increase (in-range movement)
<b>Field name</b>	<b>Width</b>	<b>Contents</b>
REVISED SALARY	6	Revised base salary after in-range movement
FINAL SALARY APRIL 1	6	Revised base salary after in-range movement and any rounding
KC LEVEL * The Unable to Assess rating <b>MUST</b> be used if the rating for Ongoing Commitments was Unable to Assess	1	Key Commitments Assessment Level: 4 3 2 1 0

KC LUMP SUM	6	Dollar amount of lump sum in relation to Key Commitments
UTA REASON	1	Reason for the Unable to Assess Rating 1 New EX in PS 2 New EX from another PS group 3 Non-EX acting as EX less than 3 months 4 EX absent from position for a significant period of the cycle, e.g. language training, on LWOP or sick leave 5 Unable to Assess for Key Commitments Only: EX on language training for the entire cycle (must be combined with Met All for Ongoing Commitments) 6 Other Unable to Assess for Key Commitments Only: No Key Commitments were established
PERFORMANCE PAY CATEGORY (New for 2004-2005)	1	1 No At-Risk Pay 2 At-Risk Pay 3 Bonus
COMMENTS		As appropriate

## APPENDIX "D"

### OFFICE SPACE

The parties will consult, at the national level or such other level as they may agree, on the subject of appropriate office accommodation, having regard (i) to the responsibilities assigned to the members of the bargaining unit, particularly their professional obligation to maintain confidentiality and to protect solicitor/client privilege, and (ii) to the context of the federal public service.

They will meet within one hundred and fifty (150) days of the issuing of this Award to begin the discussions (*Arbitral award dated October 23, 2009, provision effective November 1, 2009*)