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Canada

Term Employment Policy

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Term Employment Policy

Disclaimer

Modification Notice on Term Employment Policy - November 15, 2011

1. Effective Date

Subject to sub-section 8.1, this policy will come into force in each department or agency at such date as determined by the deputy head based on operational requirements, commencing April 1, 2003, but not later than April 1, 2004.

At the time that this policy comes into force in each department or agency, it will replace the Long Term Specified Period Employment Policy (1999).

The Treasury Board Secretariat in consultation with departments/agencies and bargaining agents will review this policy no later than 2006.

2. Principles of Term Employment

- Term employment is one option to meet temporary business needs.
- There are valid requirements for using term employment, such as backfilling temporary vacancies resulting from indeterminate employees on leave and acting/developmental assignments, short-term projects and fluctuating workloads.
- Merit is the fundamental principle of hiring all employees, including term employees, into the Public Service.
- Decisions requiring the use of term employment should form part of the longer-term internal staffing, recruitment and retention strategies that are integrated with departmental business planning at corporate, regional and local levels.
- Management of sunset funding should be linked to human resources plans to minimize the use of term employees.
- Term employment should not be used as a substitute probationary period for indeterminate staffing.
- Term employees should be treated fairly and responsibly (i.e. reasonable renewal/ non-renewal notice, performance feedback, appointments/re-appointments that truly reflect the expected duration of the work, and orientation upon initial appointment).

3. Policy Objective

To balance the fair treatment of term employees with the need for operational flexibility.

4. Policy Statement

There are valid operational requirements that call for the use of the term employment option. This option should be used, however, only in situations where a need clearly exists for a limited time and is not anticipated to become a permanent ongoing need.

5. Application

This policy applies to term employees for whom the Treasury Board is the employer, and who have been appointed under the *Public Service Employment Act* (PSEA) or any exclusion approval order made there under.

6. Delegation, Accountability and Expected Results

Departments/agencies have the delegated authority to give effect to this policy and are accountable for the results.

Departments/agencies are expected, through improved human resources planning and integration with business planning, to move from a short- to a longer-term focus in their hiring strategies.

Departments/agencies are accountable for results based on the following indicators:

- a. The frequency with which departments/agencies are required to make appointments in accordance with the regulation created pursuant to PSEA 10(2);
- b. The nature and frequency of complaints brought to the attention of the Treasury Board Secretariat or the Public Service Commission through existing mechanisms where the practices of a department/agency are found at fault concerning:
 - i. the non-renewal of term employees near the three-year mark where there is a continuing function and where the qualifications for the job remain the same; or
 - ii. the withholding of indeterminate status; or
 - iii. insufficient notice of renewal and of non-renewal.

The Treasury Board Secretariat will monitor this policy to ensure its success in meeting its intended objective.

7. Policy Requirements

1. Subject to section 7.2, where a person who has been employed in the same department/agency as a term employee for a cumulative working period (see definition in [Appendix A](#)) of **three (3) years** without a break in service longer than sixty (60) consecutive calendar days, the department/agency must appoint the employee indeterminately at the level of his/her substantive position. This appointment must be made in accordance with merit as provided for in the *Public Service Employment Regulations* established by the Public Service Commission. The "same department" includes functions that have been transferred from another department/agency by an act of Parliament or order-in-council.
2. Departments/agencies, in determining whether a period of term employment in the same department/agency will count as part of the cumulative working period, must take the following into consideration:
 - a. a period of leave of absence without pay longer than 60 consecutive calendar days does not constitute a break in service and will not be included in the calculation of the cumulative working period for appointment to indeterminate status under this policy unless:
 - I. The employee was on such leave on or after June 20, 2008 **and**
 - II. The failure to include it would result in discrimination on a prohibited ground set out in the *Canadian Human Rights Act*.
 - b. a period of part-time employment for term employees hired under the *Public Service Employment Act* is equal to an equivalent period of full-time employment (not pro-rated);
 - c. periods of employment as a part-time worker (persons not ordinarily required to work more than one-third of the normal work week) shall not count as part of the cumulative working period;
 - d. periods of casual employment, as defined in the *Public Service Employment Act*, shall not count as part of the cumulative working period. Casual employment following term employment is considered as a break in service in the calculation of the 60 consecutive calendar days; and
 - e. periods worked through student employment programs established by Treasury Board (e.g., FSWEF, COOP) shall not count as part of the cumulative working period. Work in a student employment program following term employment is considered as a break in service in the calculation of the 60 consecutive calendar days.

Periods of term employment where the source of funding for salary dollars is from external sources and for a limited duration (sunset funding) shall not count as part of the cumulative working period. Departments/agencies must identify a program, project, or initiative as being sunset funded for the purposes of this policy. Term employees must be advised in writing, at the time that they are offered employment or re-appointed in such programs/projects/initiatives, that their period of employment will not count in the calculation of the cumulative working period for indeterminate appointment. However, periods of term employment immediately before and after such employment shall count as part of the cumulative working period where no break in service longer than 60 consecutive calendar days has occurred.

In circumstances where a department/agency has given notice to the employer that, in reviewing its financial situation over the planning horizon (2-3 years), it can establish that the indeterminate appointment of term employees would result in workforce adjustment situations in the department overall, the department will advise affected employees employed on a term basis, in writing, that any further time spent in their current position will not count in the calculation of the cumulative working period for indeterminate appointment.

In the latter two situations departments/agencies must inform their bargaining agents.

3. In making indeterminate appointments pursuant to the *Public Service Employment Regulations*, departments/agencies must ensure term employees meet the standard of competence for their position, including the Official Language requirements.
4. Where a person employed as a term employee will be renewed, will not be renewed, or will be laid off before the originally specified end of term, departments/agencies are required to provide one month written notification to the employee.
5. In circumstances where it would not be advantageous for a term employee to be appointed indeterminately as a result of the requirements of this policy, the term employee may make a written request to his/her manager not to proceed with an indeterminate appointment. With the written agreement of both parties no action will be taken to appoint indeterminately.

8. Transitional Provisions

1. The department/agency will provide for a temporary review mechanism for a term employee who believes he/she is not being renewed for the purpose of not being made indeterminate. This temporary review mechanism is to be determined by the deputy head in consultation with the applicable departmental bargaining agents, and will cover the period up to the date of the coming into force of this policy in each department or agency, from April 1, 2003 but not later than April 1, 2004.
2. Time accumulated under the Long Term Specified Period Employment Policy (1999) will continue to count towards the calculation of the cumulative working period on the coming into force of this policy.

9. References

- *Financial Administration Act*, section 11(2)(a)
- *Public Service Employment Act*, subsection 10(2)
- *Public Service Employment Regulations* 5 (2)(c)
- *Public Service Staff Relations Act*

10. Enquiries

Enquiries relating to this policy should be referred to the responsible officer designated in departmental/organizational headquarters who, in turn, may direct questions regarding interpretation to the Human Resources Management Office of the Treasury Board of Canada Secretariat.

Appendix A - Definitions

Break in service (*Interruption de service*)

A break between periods of employment, pursuant to the PSEA, of more than sixty (60) consecutive calendar days. (This definition is only applicable to this policy.)

Cumulative working period (*Période de travail cumulative*)

The period of time counted in the same department to determine whether or not a term employee meets the requirement for indeterminate appointment

Sunset-funding exception-external sources (*Exception du financement temporarisé-sources externes*)

Funding of a limited duration that the department receives from external sources, either from the private sector or another public service organization. (This includes shared agreements for whole or partial funding with a provincial government, or funds received from TB or another department to carry out a program/project/activity of a limited duration.) Reallocation of monies within a department to carry out a specific project/activity would not meet the definition of external sources.

Part-time employee (*Employé à temps partiel*)

A person employed to work less than the normal daily or weekly hours of work established for a full-time employee of the same occupational group and level, and is an employee as defined in the *Public Service Staff Relations Act* or the *Public Service Employment Act*.

Part-time worker (*Travailleur à temps partiel*)

A person who is not ordinarily required to work more than one-third of the normal work week and who is not an employee as defined in the *Public Service Staff Relations Act* or the *Public Service Employment Act*.