

CONFIDENTIAL: Not for release  
before tabling during the 8th Session  
of the 11th Legislative Assembly.

CONFIDENTIEL : Ne pas rendre  
public avant le dépôt à la 8<sup>e</sup> session  
de la 11<sup>e</sup> Assemblée législative.

EIGHTH SESSION,  
ELEVENTH LEGISLATIVE ASSEMBLY  
OF THE NORTHWEST TERRITORIES

HUITIÈME SESSION,  
ONZIÈME ASSEMBLÉE LÉGISLATIVE  
DES TERRITOIRES DU NORD-OUEST

PROPOSED BILL

AVANT-PROJET DE LOI

AN ACT TO AMEND THE PUBLIC  
SERVICE ACT

LOI MODIFIANT LA LOI  
SUR LA FONCTION PUBLIQUE

Statement of Purpose

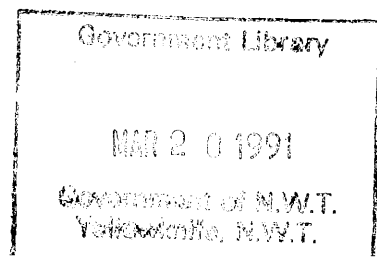
Exposé des motifs

The purpose of this proposed Bill is to amend the *Public Service Act* to add definitions including "deputy head"; to clarify the definition "public service"; to set out powers and duties of deputy heads and Deputy Ministers; to require the Minister to report annually to the legislature; to remove provisions respecting procedures for classification of positions, determination of pay, development of positions in a department or other portion of the public service and laying-off of employees and to add regulation-making powers respecting such procedures; to provide that the Commissioner in Executive Council, on the recommendation of the Government Leader, may appoint Deputy Ministers; to provide for varying probation periods and that rejection of employees on probation need be in good faith; to reduce the amount of time an employee may be suspended; to allow a deputy head to suspend or demote an employee; to provide that an employee may be paid during a suspension pending an investigation; and to provide a mediation procedure for resolving disputes respecting a collective agreement.

L'avant-projet de loi vise à modifier la *Public Service Act* (Loi sur la fonction publique) afin d'y inclure des définitions dont celle de «deputy head»; à clarifier la définition de «public service»; à établir les pouvoirs et fonctions des administrateurs généraux et des sous-ministres; à prévoir l'obligation pour le ministre de présenter chaque année un rapport à l'Assemblée législative; à enlever les dispositions relatives à la procédure de classement des postes, à la fixation des taux de traitement, aux fluctuations de l'effectif au sein d'un ministère ou d'une autre partie de la fonction publique, à la mise en disponibilité des fonctionnaires et, à inclure des pouvoirs réglementaires relatifs à ces procédures; à permettre au commissaire en Conseil exécutif, sur la recommandation du chef du gouvernement, de nommer des sous-ministres; à prévoir différentes périodes de stage ainsi qu'un renvoi de bonne foi, le cas échéant; à réduire la période durant laquelle un fonctionnaire peut être suspendu; à permettre à l'administrateur général de suspendre ou de rétrograder un fonctionnaire; à prévoir la possibilité pour un fonctionnaire d'être rémunéré pour la période durant laquelle il est suspendu, lorsqu'une enquête est en cours; à prévoir une procédure de médiation pour le règlement des différends qui surviennent au sujet d'une convention collective.

Important: This Bill is being tabled for information purposes only.

N.B. : Ce projet de loi n'est déposé qu'à titre de renseignements.



PROPOSED BILL

AN ACT TO AMEND THE  
PUBLIC SERVICE ACT

The Commissioner of the Northwest Territories,  
by and with the advice and consent of the Legislative  
Assembly, enacts as follows:

- 1. The *Public Service Act* is amended by this Act.
- 2. (1) Paragraphs 2(1)(a) to (f) are repealed and the following is substituted:

"demote"

"(b.1) "demote" means a transfer of an employee to a position with a maximum rate of pay lower than that for the position he or she held immediately prior to the transfer;

"department"

(c) "department" means a division of the public service continued or established by statute or designated as a department by the Commissioner in Executive Council, on the recommendation of the Government Leader;

"deputy head"

(d) "deputy head" means,  
(i) in relation to a department, the Deputy Minister of that department, and  
(ii) in relation to any other portion of the public service, the chief executive officer of that portion or, if there is no chief executive officer, such person as the Minister may designate as deputy head for the purposes of this Act;

"Deputy Minister"

(d.1) "Deputy Minister" means the non-elected head of a department of the Government of the Northwest Territories and where the position is vacant or the Deputy Minister absent or unable to act, includes the person designated by the Minister to act as Deputy Minister;

"employee"

(e) "employee" means a person employed in the public service;"

(2) Subsection 2(1) is amended by adding the following after paragraph (h):

AVANT-PROJET DE LOI

LOI MODIFIANT LA LOI SUR  
LA FONCTION PUBLIQUE

Le commissaire des Territoires du Nord-Ouest,  
sur l'avis et avec le consentement de l'Assemblée  
législative, édicte :

- 1. La présente loi modifie la version anglaise de la *Public Service Act* (Loi sur la fonction publique).
- 2. (1) Les alinéas 2(1)a) à f) sont abrogés et remplacés par ce qui suit :

«(b.1) "demote" means a transfer of an employee to a position with a maximum rate of pay lower than that for the position he or she held immediately prior to the transfer;

(c) "department" means a division of the public service continued or established by statute or designated as a department by the Commissioner in Executive Council, on the recommendation of the Government Leader;

(d) "deputy head" means,  
(i) in relation to a department, the Deputy Minister of that department, and

(ii) in relation to any other portion of the public service, the chief executive officer of that portion or, if there is no chief executive officer, such person as the Minister may designate as deputy head for the purposes of this Act;

(d.1) "Deputy Minister" means the non-elected head of a department of the Government of the Northwest Territories and where the position is vacant or the Deputy Minister absent or unable to act, includes the person designated by the Minister to act as Deputy Minister;

(e) "employee" means a person employed in the public service;».

(2) Le paragraphe 2(1) est modifié par insertion, après l'alinéa h), de ce qui suit :

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EXPLANATORY NOTES

NOTES EXPLICATIVES

Clause 2(1)

Paragraphs 2(1)(a) to (f) now read:

Article 2(1)

Texte actuel des alinéas 2(1)a) à f) :

- |  |   |
|--|---|
| <p>2. (1) In this <sup>Act</sup> Ordinance</p> <p>(a) "allowance" means compensation payable</p> <p style="padding-left: 20px;">(i) in respect of a position, or in respect of some of the positions in a class, by reason of duties of a special nature, or</p> <p style="padding-left: 20px;">(ii) for duties that an employee is required to perform in addition to the duties of his position;</p> <p>(b) "classify" in relation to a position means to assign a class and grade to a position;</p> <p>(c) "department" means a division of the public service designated as a department by the Government Leader, upon the recommendation of the Executive Council;</p> <p>(d) "Department Head" means the non-elected head of a department, whether the title for the position is "deputy head", "deputy minister", "director" or a similar description and, where the position is vacant or the Department Head is absent or unable to act, includes the person designated by the Minister responsible for the department to act as Department Head;</p> <p>(e) "employee" means a person employed in the public service but does not include a person excluded under paragraph 2(1)(j);</p> <p>(f) "establishment" means the positions in a department to which appointments may be made by the Minister;</p> | <p>Definitions</p> <p>"allowance"</p> <p>"department"</p> <p>"Department Head"</p> <p>"employee"</p> <p>"establishment"</p> |
|--|---|

Clause 2(2)

Paragraph 2(1)(h.1) is new.

Article 2(2)

l'alinéa 2(1)h.1) est nouveau.



Clause 2(5)

Subsection 2(2) now reads:

Authorization  
of Minister

(2) The Minister may authorize an employee responsible for the administration of a region of the Northwest Territories to exercise any of the powers or perform any of the duties or functions of a Department Head under this Act.

Article 2(5)

Texte actuel du paragraphe 2(2) :

Clause 2(6)

Subsections 2(3) to (5) now read:

Delegation by  
Department Head

(3) A Department Head may authorize any person employed in his department to exercise any of the powers or perform any of the duties or functions of the Department Head under this Act.

Reference to  
Department Head

(4) Unless the context otherwise requires, a reference in this Act to a Department Head in relation to an employee shall be construed as a reference to the Department Head of the department in which the employee is employed.

Exemption

(5) The Minister may, by order, exempt any person or persons from the operation of subparagraphs 2(1)(j)(A), (B), (B.1), (B.2), (C), or (D) and such exemption may be given retroactive effect.

	<p>head of the department or the deputy head in relation to the portion of the public service, as the case may be, in which the employee is employed; and</p> <p>(b) a reference in this Act to a deputy head in relation to a department or other portion of the public service shall be construed as a reference to the deputy head of that department or the deputy head in relation to that portion of the public service, as the case may be, to which the context extends.</p>	<p>head of the department or the deputy head in relation to the portion of the public service, as the case may be, in which the employee is employed; and</p> <p>(b) a reference in this Act to a deputy head in relation to a department or other portion of the public service shall be construed as a reference to the deputy head of that department or the deputy head in relation to that portion of the public service, as the case may be, to which the context extends.</p>	5
Inclusion of persons in Schedule B	<p>(5) The Minister may, by order, deem any individual referred to in Schedule B a member of the public service and such order may be given retroactive effect."</p>	<p>(5) The Minister may, by order, deem any individual referred to in Schedule B a member of the public service and such order may be given retroactive effect.».</p>	Inclusion of persons in Schedule B 15
	<p>3. Section 3 is renumbered as subsection 3(1) and is amended by adding the following:</p>	<p>3. L'article 3 devient le paragraphe 3(1) et est modifié par adjonction de ce qui suit :</p>	20
Report to Legislature	<p>"(2) The Minister shall report annually to the Legislative Assembly on the management and direction of the public service."</p>	<p>«(2) The Minister shall report annually to the Legislative Assembly on the management and direction of the public service.».</p>	Report to Legislature 25
	<p>4. (1) Paragraph 4(b) is repealed and the following is substituted:</p>	<p>4. (1) L'alinéa 4b) est abrogé et remplacé par ce qui suit :</p>	30
	<p>"(b) in respect of a portion of the public service other than a department, an individual who holds the position prescribed for that portion of the public service,".</p>	<p>«(b) in respect of a portion of the public service other than a department, an individual who holds the position prescribed for that portion of the public service.».</p>	35
	<p>(2) Section 4 is further amended by striking out "sections 28 and 32" and substituting "section 28".</p>	<p>(2) L'article 4 est de nouveau modifié par suppression des mots «sections 28 and 32» et par substitution de «section 28».</p>	40
	<p>5. The following is added after section 4:</p>	<p>5. La même loi est modifiée par insertion, après l'article 4, de ce qui suit :</p>	
Powers of Deputy Ministers	<p>"4.1. Subject to the general direction of the Minister, a deputy head shall oversee and control the conduct of work of persons under the jurisdiction of the deputy head."</p>	<p>«4.1. Subject to the general direction of the Minister, a deputy head shall oversee and control the conduct of work of persons under the jurisdiction of the deputy head.».</p>	Powers of Deputy Ministers 45
	<p>6. The headings "Organization of the Public Service" and "Classification" preceding section 5 and section 5 are repealed.</p>	<p>6. Les intertitres «Organization of the Public Service» et «Classification» qui précèdent l'article 5, ainsi que l'article 5 sont abrogés.</p>	50
	<p>7. The heading "Pay and Allowances" preceding section 6 and sections 6 to 10 are repealed.</p>	<p>7. L'intertitre «Pay and Allowances» qui précède l'article 6, ainsi que les articles 6 à 10 sont abrogés.</p>	55

Clause 3  
Subsection 3(2) is new.

Article 3  
Le paragraphe 3(2) est nouveau.

Clause 4  
Section 4 now reads:

Article 4  
Texte actuel de l'article 4 :

Delegation of  
authority

4. The Minister may authorize  
(a) an employee, or

(b) either an employee or the presiding member of a public agency, as defined in the Financial Administration Act, or other statutory body in respect of members of the public service working for that public agency or statutory body,

to exercise and perform, in such manner and subject to such terms and conditions as the Minister directs, any of the powers, functions and duties of the Minister under this Act, other than the powers, functions and duties of the Minister in relation to appeals under sections 28 and 32. 1971(2), c.16, s. 2; 1985(1), c.4, s.9; 1986(1), c.14, s. 11; 1987(1), c.16, s.157.

Clause 5  
Section 4.1 is new.

Article 5  
L'article 4.1 est nouveau.





Clause 6

The headings preceding section 5 and section 5 now read:

Article 6

Texte actuel de l'intertitre qui précède l'article 5 et l'article 5 :

**ORGANIZATION OF THE PUBLIC SERVICE**

**CLASSIFICATION**

Classes  
and grades

- 5.(1) The Minister shall authorize one or more employees to
- (a) divide the public service into classes of employment;
  - (b) classify each position in each class;
  - (c) subdivide the classes into grades, where appropriate;
  - (d) define each grade, and each class not subdivided into grades, by reference to standards of duties, responsibilities and qualifications;
  - (e) give an appropriate title to each grade, and each class not subdivided into grades; and
  - (f) divide, combine, alter or abolish any class or grade, where appropriate.

Composition  
of grade

(2) Each grade must be composed of all positions in a class having similar duties and responsibilities and requiring similar qualifications.

Titles

(3) The titles given pursuant to paragraph (1)(e) must be observed in all records of the Government of the Northwest Territories.

*1965(2), c. 9, s. 3; 1986(1), c. 14, s. 12.*



Clause 7

The heading preceding section 6 and section 6 to 10 now read:

Article 7

Texte actuel de l'interrite qui précède l'article 6 et l'article 6 :

PAY AND ALLOWANCES

Considerations determining pay rates

6. The Minister shall keep under review the rates of remuneration to employees having regard to

- (a) the requirements of the public service;
- (b) the rates of pay and other terms and conditions of employment prevailing in Canada for similar work outside the public service;
- (c) the relationship of the duties of the various classes within the public service; and
- (d) any other considerations that the Minister considers to be relevant.

Minister to fix pay and allowances

7. The Minister shall establish rates of pay for each grade and establish the allowances that may be paid in addition to pay.

Form of rates

8. The rates of pay for grades shall consist of minimum rates, maximum rates and one or more intermediate rates, or such other rates as may in any special cases be appropriate. 1965(2<sup>nd</sup>), c.9, s.6.

Acting pay

9. Where an employee is required to perform for a temporary period the duties of a higher position than the one held by him, the Minister may, in accordance with the regulations, authorize the payment to him of acting pay during such temporary period and, during the time that the employee is being paid acting pay, he has and may exercise the power and authority of the person holding the higher position. 1965(2), c.9, s.7; 1965(1), c.14, s.15.

No extra remuneration

10. (1) Unless authorized by or under this Ordinance or any other Ordinance, no payment additional to the remuneration authorized by law shall be made to any employee in respect of any service rendered by him.

Exceptions

(2) Nothing in this section shall be construed to prohibit the

- (a) payment to an employee of remuneration in respect of each of two or more positions, if the remuneration in respect of one position is not sufficient to compensate him for his whole time and the total remuneration of the employee does not, in the opinion of the Minister, exceed reasonable remuneration for the duties performed; or
- (b) payment to an employee who is on leave of absence from his position and is performing other duties of remuneration in such amount or at such rate as the Minister may fix. 1965(2), c.9, s.8.

	8. The heading "Establishments" preceding section 11 and sections 11 to 14 are repealed.	8. L'intertitre «Establishments» qui précède l'article 11, ainsi que les articles 11 à 14 sont abrogés.	
	9. Section 15 is repealed and the following is substituted:	9. L'article 15 est abrogé et remplacé par ce qui suit :	5
Power of Minister to appoint	"15. Subject to subsections 16(2) and (3) and subsection 15.1(1), the Minister has the exclusive right and authority to appoint persons to positions in the public service.	«15. Subject to subsections 16(2) and (3) and subsection 15.1(1), the Minister has the exclusive right and authority to appoint persons to positions in the public service.	Power of Minister to appoint 10
Power of Commissioner in Executive Council to appoint	15.1. (1) The Commissioner in Executive Council, on the recommendation of the Government Leader, has the exclusive right and authority to appoint persons to the position of Deputy Minister in the public service and to any other position in the public service where the employee reports directly to a Minister responsible for any department or other portion of the public service.	15.1. (1) The Commissioner in Executive Council, on the recommendation of the Government Leader, has the exclusive right and authority to appoint persons to the position of Deputy Minister in the public service and to any other position in the public service where the employee reports directly to a Minister responsible for any department or other portion of the public service.	Power of Commissioner in Executive Council to appoint 15 20
Non-application of sections 16, 17, 19	(2) Sections 16, 17 and 19 do not apply to a person appointed under subsection (1).	(2) Sections 16, 17 and 19 do not apply to a person appointed under subsection (1).	Non-application of sections 16, 17, 19 25
Excluded from definition of "employee"	(3) In sections 20, 28 and 28.1, "employee" does not include a Deputy Minister or any other person who reports directly to a Minister responsible for any department or other portion of the public service."	(3) In sections 20, 28 and 28.1, "employee" does not include a Deputy Minister or any other person who reports directly to a Minister responsible for any department or other portion of the public service."	Excluded from definition of "employee" 30 35
	10. Subsection 18(1) is amended by striking out "in relation to any position or any class or grade" and substituting "in relation to a position".	10. Le paragraphe 18(1) est modifié par suppression des mots «in relation to any position or any class or grade» et par substitution des mots «in relation to a position».	40
	11. Section 19 is repealed and the following is substituted:	11. L'article 19 est abrogé et remplacé par ce qui suit :	
Probation	"19. (1) Subject to subsection (2), where an employee is not appointed from within the public service, the employee is on probation after he or she has taken up the duties of his or her position for such period as may be established by the Minister for that position.	«19. (1) Subject to subsection (2), where an employee is not appointed from within the public service, the employee is on probation after he or she has taken up the duties of his or her position for such period as may be established by the Minister for that position.	Probation 45 50
Minimum period	(2) The period established as a probationary period under subsection (1) must not be less than six months.	(2) The period established as a probationary period under subsection (1) must not be less than six months.	Minimum period 55

Clause 8

The heading preceding section 11 and sections 11 to 14 now read:

Article 8

Texte actuel de l'intertitre qui précède l'article 11 et les articles 11 à 14 :

**ESTABLISHMENTS**

Organization of department

11. When a department is constituted, the Department Head shall prepare a statement showing

- (a) the number of employees required for the proper conduct of the business of the department;
- (b) the duties and responsibilities of each employee and the qualifications desired; and
- (c) the plan of organization showing the relationship between the persons to be employed in the department.

Classification

12.(1) The Department Head shall refer the statement prepared under section 11 to an employee, authorized by the Minister to classify positions and the employee shall classify the position of each proposed employee.

Establishments

(2) The Department Head shall prepare a list of proposed positions showing the class and grade of each position and the title of each grade and, when approved by the Minister, the positions constitute the establishment for the department.

Pay

(3) The rate of pay applicable to a position as described on an establishment is the rate established by the Minister for the class or grade within which the position is included.

Request for new positions

13.(1) Where a Department Head is of the opinion that the proper functioning of his department requires the addition of a position to the establishment of the department, he may, with the approval of his Minister, submit to the Government Leader a request for the position, including a description of the proposed position setting forth

- (a) the duties to be performed;
- (b) the responsibilities to be assumed; and
- (c) the qualifications desired.

Addition of new positions

(2) The Government Leader, upon the recommendation of the Executive Council, may add the requested position to the establishment of the department and the Minister shall cause the position to be classified.

Establishment review

14. The Government Leader may from time to time review the establishment of departments and may, upon the recommendation of the Executive Council, delete positions from or add positions to the establishment of a department.



Clause 9

Section 15 now reads:

Power of  
Minister to  
appoint

15. Subject to subsections 16(2) and (3), the Minister has the exclusive right and authority to appoint persons to positions in the public service.

Article 9

Texte actuel de l'article 15 :

Section 15.1 is new.

L'article 15.1 est nouveau.

Clause 10

Subsection 18(1) now reads:

Qualifications

18.(1) The Minister may, in relation to any position or any class or grade, establish the qualifications that, in his opinion, are necessary or desirable having regard to the nature of the duties to be performed.

Article 10

Texte actuel du paragraphe 18(1) :

Clause 11

Section 19 now reads:

Probation

19.(1) An employee shall be considered to be on probation for a period of one year after he has taken up the duties of his position or for such longer period as the Minister may establish for any class or grade of the position.

Extension of probationary period

(2) The Minister may, on the recommendation of the Department Head, extend the probationary period of an employee, but the period of extension shall not exceed the period specified in or established in relation to that position under subsection (1).

Reduction of probationary period

(3) Where an appointment is made from within the public service, the probationary period shall be reduced to six months and the Minister may, if he considers it appropriate, further reduce or waive the probationary period.

Article 11

Texte actuel de l'article 19 :

Appointment from within public service	(3) Subject to subsection (4), where an employee is appointed from within the public service, the employee is on probation for six months after he or she has taken up the duties of his or her position.	(3) Subject to subsection (4), where an employee is appointed from within the public service, the employee is on probation for six months after he or she has taken up the duties of his or her position.	Appointment from within public service	5
Period reduced or waived	(4) The Minister may, if he or she considers it appropriate, reduce or waive the probationary period referred to in subsection (3).	(4) The Minister may, if he or she considers it appropriate, reduce or waive the probationary period referred to in subsection (3).	Period reduced or waived	10
Extension of probationary period	(5) The Minister may, in accordance with the regulations, extend the probationary period of an employee that is established under subsection (1) or referred to in subsection (3)."	(5) The Minister may, in accordance with the regulations, extend the probationary period of an employee that is established under subsection (1) or referred to in subsection (3).».	Extension of probationary period	15
	12. Subsection 20(1) is repealed and the following is substituted:	12. Le paragraphe 20(1) est abrogé et remplacé par ce qui suit :		20
Rejection	"20. (1) At any time during the probationary period of an employee, the Minister, on the recommendation of the deputy head, may reject the employee but any such rejection must be made in good faith."	«20. (1) At any time during the probationary period of an employee, the Minister, on the recommendation of the deputy head, may reject the employee but any such rejection must be made in good faith.».	Rejection	25
	13. Sections 26 and 27 are repealed and the following is substituted:	13. Les articles 26 et 27 sont abrogés et remplacés par ce qui suit :		30
Laying-off employees	"26. (1) Where the duties of a position held by an employee are no longer required to be performed, the Minister may lay-off the employee in accordance with the regulations.	«26. (1) Where the duties of a position held by an employee are no longer required to be performed, the Minister may lay-off the employee in accordance with the regulations.	Laying-off employees	35
Cessation of employment	(2) An employee ceases to be an employee when the employee is laid-off under subsection (1).	(2) An employee ceases to be an employee when the employee is laid-off under subsection (1).	Cessation of employment	40
New appointment	(3) Notwithstanding any other provision in this Act, the Minister may, without competition, appoint a lay-off to any position in the public service to which he or she is qualified."	(3) Notwithstanding any other provision in this Act, the Minister may, without competition, appoint a lay-off to any position in the public service to which he or she is qualified.».	New appointment	45
	14. (1) Subsections 28(1) to (4) are repealed and the following is substituted:	14. (1) Les paragraphes 28(1) à (4) sont abrogés et remplacés par ce qui suit :		50
Misconduct or incompetence	"28. (1) Where an employee, in the opinion of the deputy head, is guilty of misconduct or incompetence, the deputy head may by notice in writing (a) suspend the employee for a period not exceeding 30 days; (b) reduce the employee's pay; or (c) demote the employee.	«28. (1) Where an employee, in the opinion of the deputy head, is guilty of misconduct or incompetence, the deputy head may by notice in writing (a) suspend the employee for a period not exceeding 30 days; (b) reduce the employee's pay; or (c) demote the employee.	Misconduct or incompetence	55
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Clause 12

Subsection 20(1) now reads:

Article 12

Texte actuel du paragraphe 20(1) :

Rejection

20.(1) The Minister may, on the recommendation of the Department Head, at any time during the probationary period of an employee, reject that employee for cause.

Clause 13

Sections 26 and 27 now read:

Article 13

Texte actuel des articles 26 et 27 :

Laying off employees

26.(1) Where the duties of a position held by an employee are no longer required to be performed, the Minister may lay off the employee who then ceases to be an employee.

Reappointment

(2) Notwithstanding anything in this Act, the Minister may, without competition, appoint a lay-off to any position in the public service for which he is qualified having the same or lower maximum rates of pay as the position held by him at the time he was laid off.

Competitions

(3) A lay-off is entitled for a period of twelve months, or such longer period not exceeding two years as the Minister may determine, after he was laid off to enter any competition for which he would have been eligible had he not been laid off.

Termination of lay-off status

(4) A person ceases to be a lay-off if he is not appointed to a position in the public service within twelve months from the date on which he became a lay-off or if he is appointed to or if, except for reasons that in the opinion of the minister are sufficient, he declines an appointment to a position in the public service with the same or higher maximum rates of pay. 1965(2), c. 9, s. 23; 1968(1), c. 4, s. 9; 1985(1), c. 4, s. 9; 1986(1), c. 14, s. 30.

Order of laying off

27. Where two or more persons employed in positions of the same grade in any department of the public service are to be laid off, or where one person is to be laid off and there are other persons holding positions of the same grade in the same department, the Minister shall, after considering such material and conducting such examinations, tests, interviews and investigations as he considers necessary, list the persons holding positions of the same grade in order of their merit, and such persons shall be laid off in order beginning with the person lowest on the list.



Clause 14(1)

Subsections 28(1) to (4) now read:

Article 14(1)

Texte actuel des paragraphes 28(1) à (4) :

• Misconduct or  
incompetence

28.(1) Where an employee, in the opinion of the Department Head, has been guilty of misconduct or incompetence, the Department Head may,

(a) by an appropriate notice in writing, suspend the employee for a period not exceeding six months; or

(b) recommend to the Minister that the employee's pay be reduced

(i) to a level not lower than the minimum pay for his position,

(ii) by an appointment to a position in a lower grade in his classification, or

(iii) by an appointment to another position with a lower maximum rate of pay.

• Notice

(2) The Department Head shall give an employee notice in writing of any recommendation made pursuant to paragraph (1)(b).

• Right of  
appeal

(3) Within two weeks after receiving a notice under subsection (1) or (2), the employee may appeal to the Minister against the decision of the Department Head.

• Appeal

(4) If an appeal is taken to the Minister under this section, the Minister shall,

(a) if the appeal is against a recommendation to demote, take such action with regard to the recommendation as he sees fit, and

(b) if the appeal is against a suspension,

(i) confirm the suspension,

(ii) reduce the period of suspension, or

(iii) revoke the suspension as of the day it was imposed,

as he sees fit.

Notice	(2) An employee may, within 14 days after the day the employee receives a notice given under subsection (1), appeal the suspension, reduction of pay or demotion to the Minister.	(2) An employee may, within 14 days after the day the employee receives a notice given under subsection (1), appeal the suspension, reduction of pay or demotion to the Minister.	Notice	5
Appeal	(3) The Minister, on appeal, shall (a) confirm the suspension, reduction of pay or demotion; (b) revoke the suspension, reduction of pay or demotion as of the day it was imposed; or (c) where the appeal is about a suspension, reduce the period of suspension."	(3) The Minister, on appeal, shall (a) confirm the suspension, reduction of pay or demotion; (b) revoke the suspension, reduction of pay or demotion as of the day it was imposed; or (c) where the appeal is about a suspension, reduce the period of suspension.».	Appeal	10
	(2) Section 28 is amended by adding the following after subsection (6):	(2) L'article 28 est modifié par adjonction de ce qui suit :		15
Non-application of sections 15 to 20	"(7) Sections 15 to 20 do not apply to employees demoted under paragraph (1)(c)."	«(7) Sections 15 to 20 do not apply to employees demoted under paragraph (1)(c).».	Non-application of sections 15 to 20	20
	15. The following is added after section 28:	15. La même loi est modifiée par insertion, après l'article 28, de ce qui suit :		25
No remuneration	"28.1. Where an employee is suspended pursuant to paragraph 28(1)(a), the employee is not entitled to any remuneration in respect of the period of suspension."	«28.1. Where an employee is suspended pursuant to paragraph 28(1)(a), the employee is not entitled to any remuneration in respect of the period of suspension.».	No remuneration	30
	16. Sections 29 to 31 are repealed and the following is substituted:	16. Les articles 29 à 31 sont abrogés et remplacés par ce qui suit :		
Suspension where allegation of misconduct or incompetence	"29. (1) In any case where it is alleged that an employee has been guilty of misconduct or incompetence and the Minister considers it desirable to investigate the allegation, the Minister may (a) suspend the employee by an appropriate notice in writing for a period not exceeding 30 days; and (b) investigate the allegation.	«29. (1) In any case where it is alleged that an employee has been guilty of misconduct or incompetence and the Minister considers it desirable to investigate the allegation, the Minister may (a) suspend the employee by an appropriate notice in writing for a period not exceeding 30 days; and (b) investigate the allegation.	Suspension where allegation of misconduct or incompetence	35
Extension of period of suspension	(2) Subject to subsection (3), the Minister may extend the period of suspension of an employee but each extension must not exceed a period of 30 days.	(2) Subject to subsection (3), the Minister may extend the period of suspension of an employee but each extension must not exceed a period of 30 days.	Extension of period of suspension	45
Maximum period of suspension	(3) The maximum period for which an employee may be suspended under this section is 60 days.	(3) The maximum period for which an employee may be suspended under this section is 60 days.	Maximum period of suspension	50
Remuneration during suspension	30. (1) An employee is entitled to remuneration in respect of any period during which he or she is under suspension pursuant to section 29.	30. (1) An employee is entitled to remuneration in respect of any period during which he or she is under suspension pursuant to section 29.	Remuneration during suspension	55
				60

Clause 14(2)  
Subsection 28(7) is new.

Article 14(2)  
Le paragraphe 28(7) est nouveau.

Clause 15  
Section 28.1 is new.

Article 15  
L'article 28.1 est nouveau.

Clause 16  
Sections 29 to 31 now read:

Article 16  
Texte actuel des articles 29 à 31 :

**Suspension**

29. In any case where

- (a) it is alleged that an employee has been guilty of misconduct or incompetence and the Minister considers it desirable to investigate the allegation, or
  - (b) criminal proceedings against an employee are pending,
- the Minister may, by an appropriate notice in writing, suspend the employee for a period not exceeding six months. 1965(2), c.9, s.26; 1984(3), c.7, s.95; 1986(1), s.37.

No remuneration during suspension

30. (1) An employee is not entitled to any remuneration in respect of any period during which he is under suspension.

**Termination**

(2) The Minister may at any time terminate a suspension. 1965(2), c.9, s.27; 1986(1), c.14, s.38

Suspension pending inquiry

31. (1) This section applies where an employee is suspended under section 29.

**Extension**

(2) The Minister may extend the period of suspension for an employee but for not more than six additional months at any one time.

**Proceedings upon completion of inquiry**

(3) Upon completion of the investigation or proceedings, as the case may be, the Minister shall,

(a) if as a result of the investigation or proceedings he is satisfied that the employee has been guilty of misconduct or incompetence,

(i) dismiss or demote the employee, or

(ii) suspend the employee for a further period not exceeding six months; or

(b) if as the result of the investigation or proceedings he is not satisfied that the employee has been guilty of misconduct or incompetence, rescind the suspension retroactively to the time it was first imposed. 1965(2<sup>nd</sup>), c.9, s.28; 1971(2<sup>nd</sup>), c.16, s.4; 1986(1), c.14, s.39, 40.

Termination	(2) The Minister may at any time terminate a suspension made under section 29.	(2) The Minister may at any time terminate a suspension made under section 29.	Termination	
Proceedings on completion of investigation or proceedings	31. (1) On completion of the investigation referred to in section 29, the Minister shall, (a) if as a result of the investigation the Minister is satisfied that the employee has been guilty of misconduct or incompetence, (i) dismiss or demote the employee, (ii) suspend the employee for a period not exceeding 30 days, or (iii) take such other action as the Minister considers appropriate; or (b) if as the result of the investigation the Minister is not satisfied that the employee has been guilty of misconduct or incompetence, terminate the suspension and reinstate the employee.	31. (1) On completion of the investigation referred to in section 29, the Minister shall, (a) if as a result of the investigation the Minister is satisfied that the employee has been guilty of misconduct or incompetence, (i) dismiss or demote the employee, (ii) suspend the employee for a period not exceeding 30 days, or (iii) take such other action as the Minister considers appropriate; or (b) if as the result of the investigation the Minister is not satisfied that the employee has been guilty of misconduct or incompetence, terminate the suspension and reinstate the employee.	Proceedings on completion of investigation or proceedings	5 10 15 20
Remuneration	(2) Where an employee is suspended pursuant to subparagraph (1)(a)(ii), the employee is not entitled to any remuneration in respect of the period of suspension."	(2) Where an employee is suspended pursuant to subparagraph (1)(a)(ii), the employee is not entitled to any remuneration in respect of the period of suspension.»	Remuneration	25
	17. Section 32 is repealed and the following is substituted:	17. L'article 32 est abrogé et remplacé par ce qui suit :		
Notice of dismissal	"32. Where the Minister dismisses an employee, the Minister shall give the employee notice in writing of the dismissal and the reasons for it."	«32. Where the Minister dismisses an employee, the Minister shall give the employee notice in writing of the dismissal and the reasons for it.»	Notice of dismissal	30
	18. (1) Subsections 33(1) and (1.1) are amended by striking out ", including a teacher as defined in the <i>Education Act</i> ," wherever it appears.	18. (1) Les paragraphes 33(1) et (1.1) sont modifiés par suppression des mots «, including a teacher as defined in the <i>Education Act</i> »,.		35
	(2) Subsection 33(2) is amended by striking out "in a restricted classification as designated in the regulations" and substituting "who falls within the prescribed category of restricted employees".	(2) Le paragraphe 33(2) est modifié par suppression des mots «in a restricted classification as designated in the regulations» et par substitution des mots «who falls within the prescribed category of restricted employees».		40
	(3) Paragraph 33(4)(b) is amended by striking out "a restricted employee" and substituting "an employee who falls within the prescribed category of restricted employees".	(3) L'alinéa 33(4)b est modifié par suppression des mots «a restricted employee» et par substitution des mots «an employee who falls within the prescribed category of restricted employees».		45
	(4) Subsection 33(5) is amended by striking out "or a teacher as defined in the <i>Education Act</i> ".	(4) Le paragraphe 33(5) est modifié par suppression des mots «or a teacher as defined in the <i>Education Act</i> ».		50
	(5) Subsection 33(9) is repealed.	(5) Le paragraphe 33(9) est abrogé.		55
	(6) Paragraph 33(10)(f) is repealed.	(6) L'alinéa 33(10)f est abrogé.		

Notice of dismissal

32.(1) Where the Minister has decided that an employee should be dismissed, he shall give to that employee notice in writing of his decision and the reasons for it.

Right to appeal

(2) Within thirty days after receiving a notice under subsection (1), the employee may appeal to the Minister for reconsideration of his dismissal.

Dismissal

(3) If  
(a) no appeal is taken within the period prescribed in subsection (2), or  
(b) an appeal is taken and on reconsideration the Minister has decided to dismiss the employee,  
the Minister shall give to that employee notice in writing of his dismissal and its effective date, which date shall not be earlier than the date of the notice of dismissal.

Arbitration Ordinance A=C

(4) From the notice of dismissal the employee may appeal to an arbitrator pursuant to the Arbitration Ordinance 1965(2<sup>nd</sup>), c.9, s.29; 1985(1), c.4, s.9; 1986(1), c.14, s.41, 42, 43

Clause 18(1)  
Subsections 33(1) and (1.1) now read:

Article 18(1)  
Texte actuel des paragraphes 33(1) et (1.1) :

Political activity

33.(1) Subject to this section, an employee, including a teacher as defined in the Education Act, may engage in political activity, but shall not

- (a) personally solicit funds for a territorial political party or candidate;
- (b) during working hours, engage in any political activity for or on behalf of a territorial or federal political party or a candidate;
- (c) use the premises, air charters, supplies, equipment or services belonging to or in the possession of the Government of the Northwest Territories for the purposes of any political activity, unless the premises are leased residential premises;
- (d) display or distribute federal or territorial campaign literature or other promotional material in any office or premises belonging to or in the possession of the Government of the Northwest Territories, unless the premises are leased residential premises;





- (e) be a candidate in a provincial, territorial or federal election, unless on a leave of absence granted pursuant to subsection (4);
- (f) serve as an official agent for a candidate or as an executive officer of a territorial political party or territorial riding association; or
- (g) intentionally use or attempt to use his position to affect the political activity of any other person.

^Criticism  
of policies

(1.1) Subject to this section, an employee, including a teacher as defined in the Education Act, shall not publicly criticize any policy of the Government of the Northwest Territories

- (a) that the employee acquired information about by virtue of his position, or
- (b) that directly relates to his duties, unless on a leave of absence.

Clause 18(2)

Subsection 33(2) now reads:

Article 18(2)

Texte actuel du paragraphe 33(2) :

Restricted  
employees

(2) In addition to the prohibitions contained in subsection (1), - an employee in a restricted classification as designated in the regulations shall not

- ~~(a) be a candidate in a provincial, territorial or federal election unless he resigns from the Public Service prior to becoming an official candidate;~~ REPEALED
- (b) speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a territorial or federal political party including any criticism of candidates, positions or policies;
- (c) attend any meeting of a territorial or federal political party as a voting delegate;
- (d) serve as executive officer of a federal political party, riding or association; or
- (e) campaign on behalf or otherwise actively work in support of a territorial or federal political party or candidate.



Clause 18(3)

Paragraphe 33(4)(b) now reads:

Article 18(3)

Texte actuel de l'alinéa 33(4)b) :

Leave of absence

(4) Notwithstanding any other Act, where

(b) in the case of a restricted employee, the Minister is satisfied that the employee's absence will not seriously interfere with the operation of the public service, the Minister shall grant to the employee a leave of absence without pay to seek nomination as a candidate and to be a candidate for election for a period ending on the day on which the results of the election are officially declared; or on such earlier day as requested by an employee if he has ceased to be a candidate.

Clause 18(4)

Subsection 33(5) now reads:

Article 18(4)

Texte actuel du paragraphe 33(5) :

Restriction

(5) A leave of absence granted pursuant to subsection (4) must be taken by the employee or a teacher as defined in the Education Ordinance on becoming an official candidate.

Clause 18(5)

Subsection 33(9) now reads:

Article 18(5)

Texte actuel du paragraphe 33(9) :

Regulations

(9) The Commissioner, upon the recommendation of the Minister, may make regulations  
(a) prescribing the classification of employees into restricted or non-restricted categories; and  
(b) concerning any other matter related to this section.

Clause 18(6)

Paragraph 33(10)(f) now reads:

Article 18(6)

Texte actuel de l'alinéa 33(10)f) :

(f) "employee" means an employee as defined in this Act or a teacher as defined in the Education Ordinance of 1965 (2<sup>nd</sup>), c.9, s.30;

	<b>19. Subsection 34(2) is repealed and the following is substituted:</b>	<b>19. Le paragraphe 34(2) est abrogé et remplacé par ce qui suit :</b>	
Compensation for work on holiday	"(2) Any employee required to perform the duties of his or her position on a holiday shall be granted another day of leave with pay or paid compensation for overtime."	«(2) Any employee required to perform the duties of his or her position on a holiday shall be granted another day of leave with pay or paid compensation for overtime.»	Compensation for work on holiday 5
	<b>20. Section 35 is repealed.</b>	<b>20. L'article 35 est abrogé.</b>	10
	<b>21. Section 37 is repealed and the following is substituted:</b>	<b>21. L'article 37 est abrogé et remplacé par ce qui suit :</b>	
Remuneration	"37. Subject to this Act and the regulations, an employee is entitled to be paid, for services rendered, the remuneration applicable to the position held by him or her."	«37. Subject to this Act and the regulations, an employee is entitled to be paid, for services rendered, the remuneration applicable to the position held by him or her.»	Remuneration 15
	<b>22. Sections 38 and 39 are repealed and the following is substituted:</b>	<b>22. Les articles 38 et 39 sont abrogés et remplacés par ce qui suit :</b>	20
Oath	"38. Every employee shall, before any remuneration is paid to the employee, take and subscribe the prescribed oath."	«38. Every employee shall, before any remuneration is paid to the employee, take and subscribe the prescribed oath.»	Oath 25
	<b>23. Section 40 is repealed and the following is substituted:</b>	<b>23. L'article 40 est abrogé et remplacé par ce qui suit :</b>	
Regulations	"40. (1) The Commissioner, on the recommendation of the Minister, may make regulations for carrying the purposes and provisions of this Act into effect and, without restricting the generality of the foregoing, may make regulations	«40. (1) The Commissioner, on the recommendation of the Minister, may make regulations for carrying the purposes and provisions of this Act into effect and, without restricting the generality of the foregoing, may make regulations	Regulations 30
	(a) prescribing the positions in portions of the public service other than departments in respect of which the Minister may authorize the person holding the position to exercise and perform the Minister's powers, functions and duties under paragraph 4(b);	(a) prescribing the positions in portions of the public service other than departments in respect of which the Minister may authorize the person holding the position to exercise and perform the Minister's powers, functions and duties under paragraph 4(b);	35
	(b) respecting procedures or policies to evaluate positions in the public service and to establish groups of positions;	(b) respecting procedures or policies to evaluate positions in the public service and to establish groups of positions;	40
	(c) respecting a procedure to determine, or considerations to be followed in determining, rates of pay and other remuneration that is in addition to pay for positions in the public service;	(c) respecting a procedure to determine, or considerations to be followed in determining, rates of pay and other remuneration that is in addition to pay for positions in the public service;	45
	(d) respecting the payment of acting pay where an employee is required to perform for a temporary period the duties of a person occupying a higher position, the amount of or method of	(d) respecting the payment of acting pay where an employee is required to perform for a temporary period the duties of a person occupying a higher position, the amount of or method of	50
			55

\*When holiday falls on day of rest

(2) The Commissioner, upon the recommendation of the Minister, may make regulations providing for the grant of leaves of absence to employees where a holiday specified in subsection (1) falls on a day when they are not required to perform the duties of their positions. 1965(2), 2.9, S. 31;

35. (1) Subject to this section, every employee, except one who is on retiring leave or on leave of absence without pay, is entitled to annual vacation leave, that is to say, leave of absence with pay as follows:

- (a) where the employee has been employed in the public service for less than two years, three weeks in respect of each fiscal year;
- (b) where the employee has been employed in the public service for two years or more but less than twenty years, four weeks in respect of each fiscal year; and
- (c) where the employee has been employed in the public service for twenty years or more, five weeks in respect of each fiscal year.

(2) The vacation leave to which an employee is entitled in respect of the fiscal year in which he was appointed is such period as may be prescribed by the regulations. In respect of first year

(3) No employee shall be granted vacation leave unless he has been employed in the public service for at least six months. Minimum service

(4) Annual vacation leave shall be taken at such times as the Minister may specify and, subject to the regulations, shall be granted during the fiscal year in respect of which it was earned or during the following fiscal year. \*Times for taking leave

(5) In calculating the period in which an employee has been employed in the public service for the purposes of subsections (1) and (3), there shall be included any continuous period of employment of that employee in the public service of Canada that was immediately prior to his employment in the public service. Calculation of employment in public service

(6) No employee shall be granted the vacation leave described in paragraphs (1)(b) and (c) unless he has been employed in the public service for at least two years. Two years service required for vacation leave

(7) Nothing in subsection (6) shall deprive an employee who had been employed in the public service of Canada immediately prior to his employment in the public service of the four weeks vacation leave to which he was, or would have been entitled had he remained in the employ of the public service of Canada. Exception

(8) Notwithstanding subsection (5), in calculating whether an employee has been employed in the public service for the two years referred to in subsection (6), there shall be included any continuous period of employment of that employee in the public service of Canada that was served Inclusion of northern service

- (a) in the Northwest Territories, or
- (b) in the Province of Manitoba or Quebec or both north of the 55th parallel of north latitude,

immediately prior to his employment in the public service. 1965(2<sup>nd</sup>), c.9, s.32; 1968(1<sup>st</sup>), c.4, s.12; 1969(3<sup>rd</sup>), c.8, s.1; 1986(1), c.14, s.50.



Clause 21  
Section 37 now reads:

Article 21  
Texte actuel de l'article 37 :

Rate of pay on  
appointment

37. (1) Subject to this section, the rate of pay of a person appointed to a position in the public service shall be the minimum rate for the grade of that position.

Appointment at  
higher than  
minimum rate

(2) The Minister may make an appointment to a position or to positions in a class at a rate of pay higher than the minimum rate applicable to that position or class.

Right to  
remuneration

(3) Subject to this <sup>Act</sup> Ordinance, an employee is entitled to be paid for services rendered the remuneration applicable to the position held by him. 1965(2<sup>nd</sup>), c.9, s.34; 1985(1), c.4, s.9; 1986(1), c.14, s.53.

Clause 22  
Sections 38 and 39 now read:

Article 22  
Texte actuel des articles 38 et 39 :

38. Every employee shall, before any remuneration is paid to <sup>Oath of office</sup> him, take and subscribe the oath set out in Schedule A. 1965(2<sup>nd</sup>), c.9, s.35.

39. (1) Subject to this section, an employee holding a position for <sup>Increases</sup> which there is a minimum and a maximum rate of pay may be granted increases in pay until he reaches the maximum rate for the position.

(2) An increase shall not be granted to an <sup>Denial of</sup> employee until the Department Head certifies to <sup>increase</sup> the Minister that the employee is performing the duties of his position satisfactorily. 1965(2), c.1, s.3; 1968(1), c.4, s.13; 1986(1), c.14, s.54

Clause 23  
Section 40 now reads:

Article 23  
Texte actuel de l'article 40 :

40. The Commissioner, upon the recommendation of the Minister, may make regulations for carrying the purposes and provisions of this Act into effect and, without restricting the generality of the foregoing, may make regulations <sup>Regulations</sup>

- (a) providing for the grant of vacation leave in excess of three weeks in respect of any fiscal year in special circumstances, prescribing the vacation leave to which an employee is entitled in respect of the fiscal year in which he was appointed and providing for the grant of vacation leave with the consent of the employee at a time other than as prescribed in section 35;
- (b) providing for the grant to an employee of retiring leave, that is to say, leave of absence with pay terminating with his retirement from the public service or the payment of a gratuity in lieu thereof;

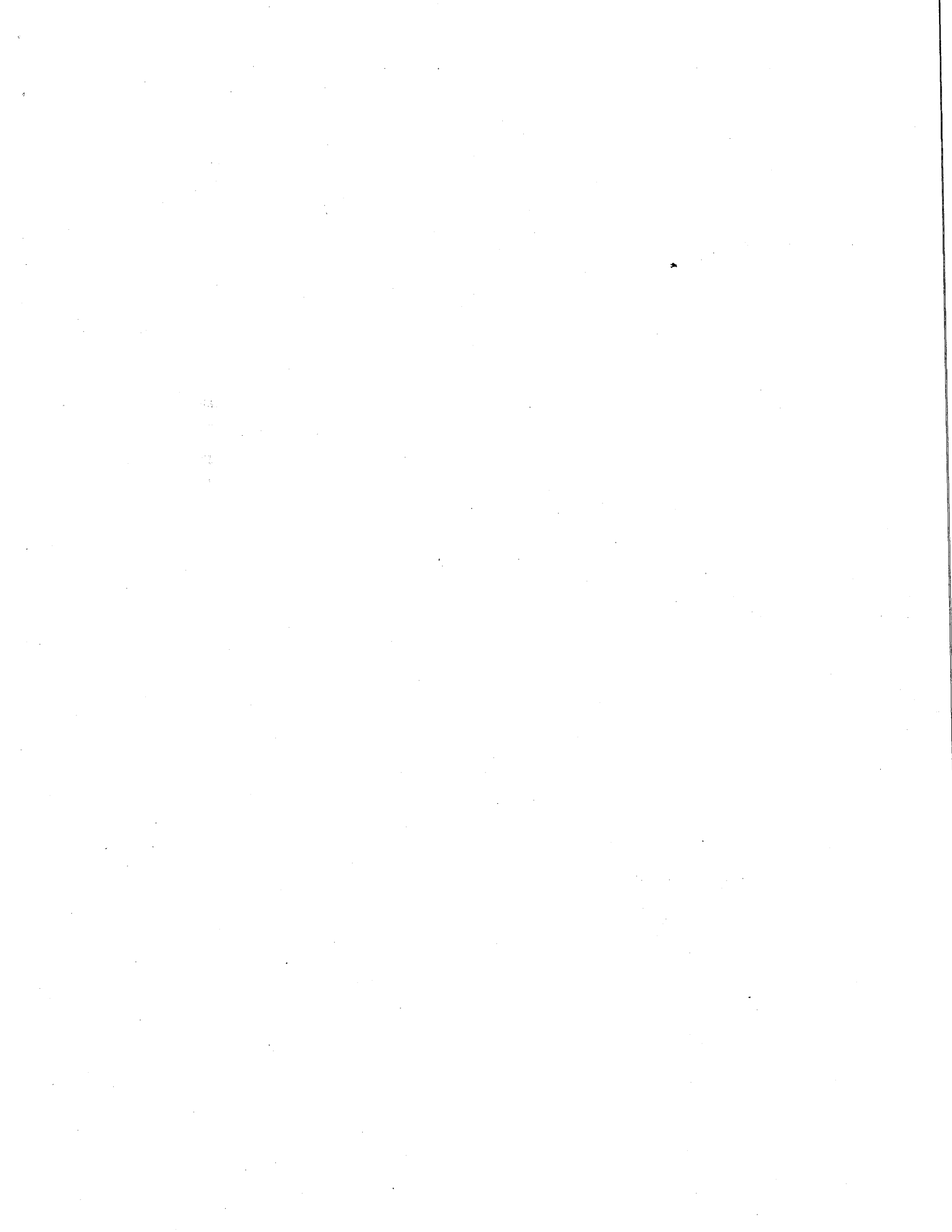




- (c) providing for the grant of leave of absence, other than vacation leave or retiring leave, with or without pay;
- (d) for requiring employees by reason of special circumstances or the nature of their duties to perform the duties of their position on a holiday, but any employee who is so required to perform the duties of his position on a holiday shall be granted another day of leave with pay or shall be paid compensation for overtime in lieu thereof;
- (e) for regulating hours of work, attendance, and other matters relating to the performance of duties;
- (f) authorizing the imposition of minor pecuniary penalties on employees for failure to comply with attendance requirements;
- (g) for authorizing the grant of leave of absence with pay for overtime as defined by the regulations, or the payment of compensation in lieu thereof to the employee or his personal representative;
- (h) prescribing the method of determining the rate of pay upon appointment where a lay-off or a person holding a position in the public service of Canada is appointed to a position in the public service;
- (i) prescribing the effective date of an appointment to the public service and prescribing what constitutes a resignation by an employee;
- (j) providing for the payment of acting pay where an employee is required to perform for a temporary period the duties of a higher position and prescribing the amount of or method of determining such acting pay and the circumstances and conditions under which it may be paid;
- (k) providing for the selection, appointment, conditions of employment and remuneration of employees performing duties of a casual, part-time or seasonal nature notwithstanding anything in this Ordinance;
- (l) prescribing what constitutes continuity of employment for the purposes of this Ordinance;
- (m) for regulating the holding of offices or positions outside the public service by persons employed in the public service;
- \*(n) ~~providing for~~ <sup>respecting</sup> the resolution of disputes arising out of any matter governed by this Act or the regulations, whether by way of grievance, appeal or otherwise;
- \* (o) establishing the "Staffing Appeals Committee"; and
- (p) for any purpose for which regulations are by this Ordinance <sup>etc.</sup> authorized to be made. 1965(2<sup>nd</sup>), c.9, s.37; 1985(1), c.4, s.7; 1986(1), c.14, s.53, 56, 57; 1990, c.35, s.7, 8.

- determining the amount of acting pay and the circumstances and conditions under which it may be paid;
- (e) respecting procedures for establishment and approval of
  - (i) positions in a department or other portion of the public service, and
  - (ii) the addition of positions to or the deletion of positions from a department or other portion of the public service;
- (f) establishing the Staffing Appeals Committee;
- (g) respecting extensions of the probationary periods of employees;
- (h) prescribing a method for determining the effective date of an appointment to the public service;
- (i) respecting resignations of employees;
- (j) respecting the lay-off of employees and the appointment of a lay-off to a position in the public service;
- (k) prescribing the category of restricted employees for the purposes of section 33 and concerning any other matters relating to that section;
- (l) respecting leaves of absence;
- (m) respecting when employees, by reason of special circumstances or the nature of their duties, must perform the duties of their position on a holiday;
- (n) respecting retirement from positions in the public service;
- (o) prescribing the oath referred to in section 38;
- (p) respecting hours of work, attendance and other matters relating to the performance of duties;
- (q) respecting the selection, appointment and conditions of employment of employees and the pay and other remuneration in addition to pay payable to employees;
- (r) respecting the holding of offices or positions outside the public service by persons employed in the public service;
- (s) providing for the resolution of disputes arising out of any matter governed by this Act or the regulations, whether by way of grievance, appeal or otherwise; and
- (t) for any purpose for which regulations are by this Act authorized to be made.

- determining the amount of acting pay and the circumstances and conditions under which it may be paid;
- (e) respecting procedures for establishment and approval of 5
  - (i) positions in a department or other portion of the public service, and
  - (ii) the addition of positions to or the deletion of positions from a department or other portion of the public service; 10
- (f) establishing the Staffing Appeals Committee;
- (g) respecting extensions of the probationary periods of employees; 15
- (h) prescribing a method for determining the effective date of an appointment to the public service;
- (i) respecting resignations of employees;
- (j) respecting the lay-off of employees and the appointment of a lay-off to a position in the public service; 20
- (k) prescribing the category of restricted employees for the purposes of section 33 and concerning any other matters relating to that section; 25
- (l) respecting leaves of absence;
- (m) respecting when employees, by reason of special circumstances or the nature of their duties, must perform the duties of their position on a holiday; 30
- (n) respecting retirement from positions in the public service;
- (o) prescribing the oath referred to in section 38; 35
- (p) respecting hours of work, attendance and other matters relating to the performance of duties;
- (q) respecting the selection, appointment and conditions of employment of employees and the pay and other remuneration in addition to pay payable to employees; 40
- (r) respecting the holding of offices or positions outside the public service by persons employed in the public service; 45
- (s) providing for the resolution of disputes arising out of any matter governed by this Act or the regulations, whether by way of grievance, appeal or otherwise; and 50
- (t) for any purpose for which regulations are by this Act authorized to be made.



(2) Regulations made under subsection (1) do not apply to Deputy Ministers or any other employee who reports directly to a Minister responsible for any department or other portion of the public service, unless the regulations expressly so provide."

24. Subsection 41(1) is amended by striking out "Except as provided by subsection 42(3) this Act" and substituting "This Act".

25. (1) Subsection 42(1) is amended by  
(a) striking out the period at the end of paragraph (b) and substituting a semi-colon; and  
(b) adding the following after paragraph (b):

"Financial Management Board"

"(c) "Financial Management Board" means the committee of the Executive Council known as the Financial Management Board, established by subsection 3(1) of the *Financial Administration Act*."

(2) Subsection 42(2) is amended by striking out "upon the recommendation of the Executive Council" and substituting "on the recommendation of the Financial Management Board".

(3) Subsections 42(3), (4) and (5) are repealed.

26. The following is added after section 42:

Resolution of differences

"42.1. (1) Where the parties to collective bargaining have bargained collectively in good faith with a view to concluding a collective agreement but have been unable to reach agreement on any term or condition of employment, a party may give notice to the other party, in writing,

- (a) setting out the terms and conditions of employment on which the parties have been unable to agree;
- (b) stating that it wishes that the differences be submitted to a mediator; and
- (c) submitting a list of names of persons who are acceptable to it to mediate the differences.

(2) Regulations made under subsection (1) do not apply to Deputy Ministers or any other employee who reports directly to a Minister responsible for any department or other portion of the public service, unless the regulations expressly so provide.».

24. Le paragraphe 41(1) est modifié par suppression des mots «Except as provided by subsection 42(3) this Act» et par substitution des mots «This Act».

25. (1) Le paragraphe 42(1) est modifié :  
a) par suppression du point à la fin de l'alinéa b) et par substitution d'un point-virgule;  
b) par adjonction de ce qui suit :

«(c) "Financial Management Board" means the committee of the Executive Council known as the Financial Management Board, established by subsection 3(1) of the *Financial Administration Act*.».

"Financial Management Board" 20

(2) Le paragraphe 42(2) est modifié par suppression des mots «upon the recommendation of the Executive Council» et par substitution des mots «on the recommendation of the Financial Management Board».

(3) Les paragraphes 42(3), (4) et (5) sont abrogés.

26. La même loi est modifiée par insertion, après l'article 42, de ce qui suit :

Resolution of differences 40

«42.1. (1) Where the parties to collective bargaining have bargained collectively in good faith with a view to concluding a collective agreement but have been unable to reach agreement on any term or condition of employment, a party may give notice to the other party, in writing,

- (a) setting out the terms and conditions of employment on which the parties have been unable to agree;
- (b) stating that it wishes that the differences be submitted to a mediator; and
- (c) submitting a list of names of persons who are acceptable to it to mediate the differences.

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Clause 24  
Subsection 41(1) now reads:

Article 24  
Texte actuel du paragraphe 41(1) :

Application

41. (1) Except as provided by subsection 42(3) this <sup>not</sup> Ordinance applies to all employees whether appointed before or after the coming into force of this Ordinance.

Clause 25(1)  
Paragraph 42(1)(c) is new.

Article 25(1)  
L'alinéa 42(1)c) est nouveau.

Clause 25(2)  
Subsection 42(2) now reads:

Article 25(2)  
Texte actuel du paragraphe 42(2) :

(2) The Minister, upon the recommendation of the Executive Council and on behalf of the Government of the Northwest Territories, may enter into a collective agreement with an employees' association. \* Collective agreement

Clause 25(3)  
Subsections 42(3) to (5) now read:

Article 25(3)  
Texte actuel des paragraphes 42(3) à (5) :

(3) Where the parties to ~~collective bargaining~~ have bargained collectively in good faith with a view to concluding a collective agreement but have been unable to reach agreement on any term or condition of employment, the parties shall agree to submit their differences to arbitration pursuant to the Arbitration Ordinance. Arbitration

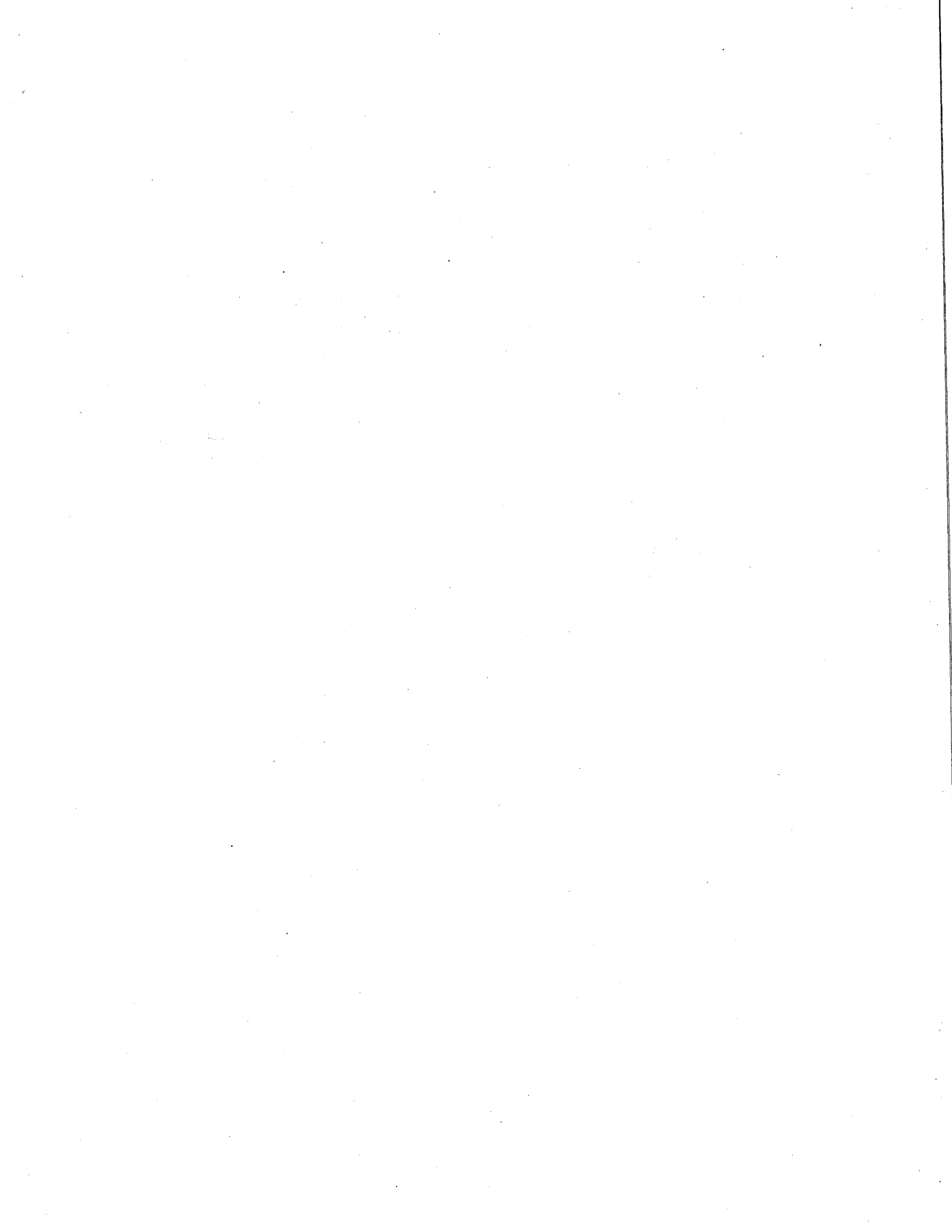
(4) An arbitration award shall deal only with terms and conditions of employment of employees as set out in the submission to arbitration. Award

(5) In the event that the parties submit a dispute to arbitration, each party shall pay its own costs notwithstanding section 32 and 33 of the Arbitration Ordinance, but the costs incurred by persons in the discharge of their duties under the Arbitration Ordinance shall be shared equally by the parties. Costs of arbitration

Clause 26  
Sections 42.1 to 42.5 are new.

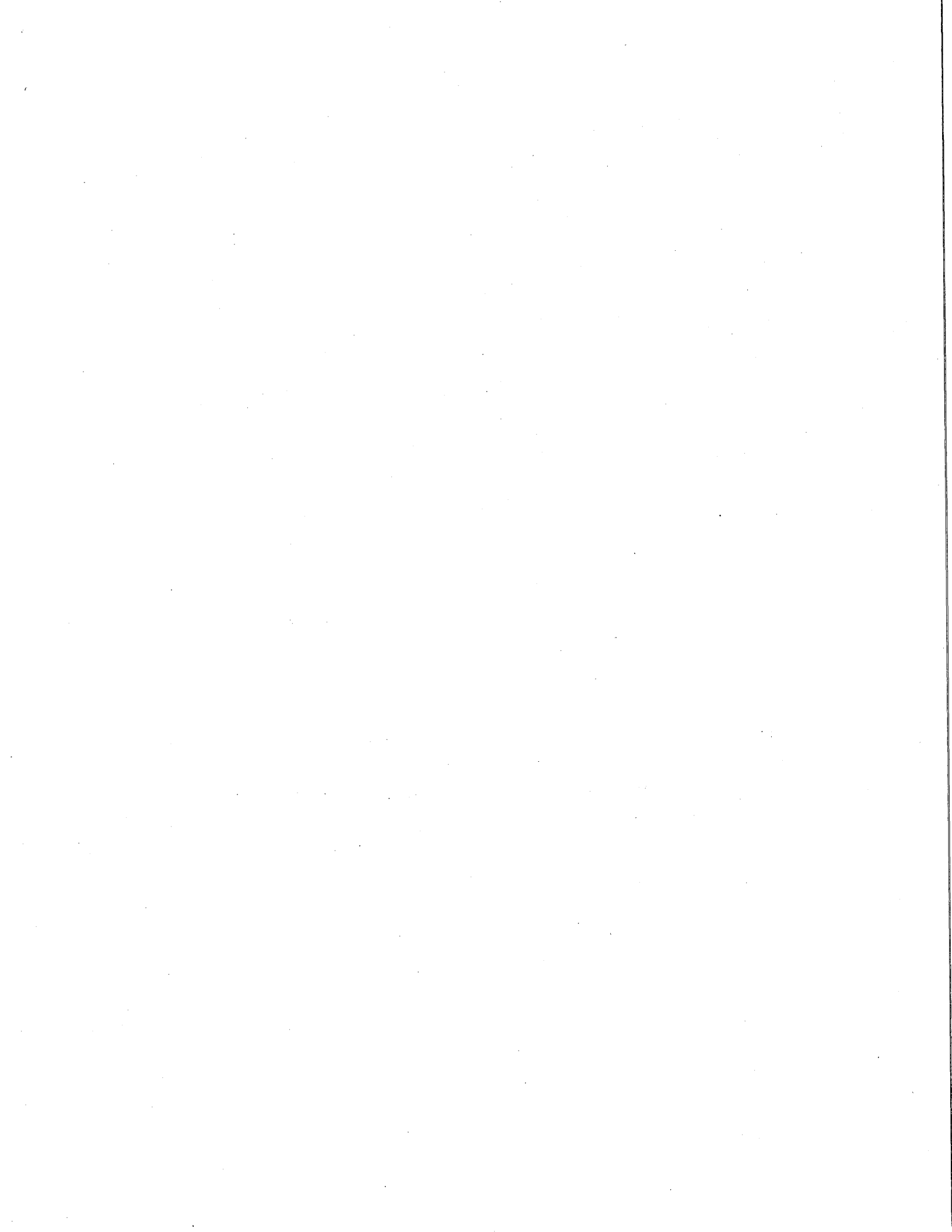
Article 26  
Texte actuel des articles 42.1 à 42.5 sont nouveau

Response to notice	(2) On receipt of a notice given under subsection (1), the other party shall, within seven days, either agree to appoint a person whose name was submitted as mediator or give notice to the initiating party, in writing, submitting a list of names of persons who are acceptable to it to mediate the differences.	Response to notice	5
Appointment	(3) Where the parties agree on a person to act as mediator, the parties shall appoint that person as mediator.	Appointment	10
Appointment by Court	(4) Where the parties are unable to agree on a person to act as mediator, the Supreme Court may, on the application of either party, appoint a mediator.	Appointment by Court	15
Mediation	42.2. (1) The mediator shall, in a manner he or she considers fit, inquire into the differences of the parties and attempt to resolve them and shall, during the inquiry, (a) hear the representations of the parties; (b) mediate between the parties; and (c) encourage the parties to resolve their differences.	Mediation	20
Recommendation	(2) Within 14 days of the day the parties first meet with the mediator, or such longer period as the parties may agree to, the mediator shall (a) recommend to the parties a resolution of their differences; or (b) inform the parties that he or she will not make a recommendation and the reasons why he or she will not do so.	Recommendation	30
Terms and conditions in notice	(3) A recommendation made under paragraph (2)(a) must deal only with the terms and conditions of employment that are set out in the notice given under subsection 42.1(1).	Terms and conditions in notice	40
Acceptance or rejection	42.3. (1) Where a recommendation is made under paragraph 42.2(2)(a), the parties shall (a) accept the recommendation; or (b) reject the recommendation.	Acceptance or rejection	45
Consideration of recommendation	(2) Where only one party accepts the recommendation, it may request the other party, in writing, to give consideration to the recommendation and, where such a request is made, the other party must comply by (a) submitting the recommendation to the Financial Management Board for its approval or rejection, where the request is made to the Government of the	Consideration of recommendation	55
	(2) On receipt of a notice given under subsection (1), the other party shall, within seven days, either agree to appoint a person whose name was submitted as mediator or give notice to the initiating party, in writing, submitting a list of names of persons who are acceptable to it to mediate the differences.		60
	(3) Where the parties agree on a person to act as mediator, the parties shall appoint that person as mediator.		
	(4) Where the parties are unable to agree on a person to act as mediator, the Supreme Court may, on the application of either party, appoint a mediator.		
	42.2. (1) The mediator shall, in a manner he or she considers fit, inquire into the differences of the parties and attempt to resolve them and shall, during the inquiry, (a) hear the representations of the parties; (b) mediate between the parties; and (c) encourage the parties to resolve their differences.		
	(2) Within 14 days of the day the parties first meet with the mediator, or such longer period as the parties may agree to, the mediator shall (a) recommend to the parties a resolution of their differences; or (b) inform the parties that he or she will not make a recommendation and the reasons why he or she will not do so.		
	(3) A recommendation made under paragraph (2)(a) must deal only with the terms and conditions of employment that are set out in the notice given under subsection 42.1(1).		
	42.3. (1) Where a recommendation is made under paragraph 42.2(2)(a), the parties shall (a) accept the recommendation; or (b) reject the recommendation.		
	(2) Where only one party accepts the recommendation, it may request the other party, in writing, to give consideration to the recommendation and, where such a request is made, the other party must comply by (a) submitting the recommendation to the Financial Management Board for its approval or rejection, where the request is made to the Government of the		



	Northwest Territories; or	Northwest Territories; or	
	(b) submitting the recommendation to a vote of the members of the employee's association for their approval or rejection, where the request is made to the employee's association.	(b) submitting the recommendation to a vote of the members of the employee's association for their approval or rejection, where the request is made to the employee's association.	5
Time for consideration	(3) Where a request is made under subsection (2), consideration of the request must be given within a reasonable period of time.	(3) Where a request is made under subsection (2), consideration of the request must be given within a reasonable period of time.	10
Deemed acceptance	(4) A recommendation shall be deemed to be accepted	(4) A recommendation shall be deemed to be accepted	15
	(a) by the Government of the Northwest Territories, where the Financial Management Board approves the recommendation; or	(a) by the Government of the Northwest Territories, where the Financial Management Board approves the recommendation; or	
	(b) by the employee's association, where a majority of the members of the employee's association who vote on the recommendation vote in favour of the recommendation.	(b) by the employee's association, where a majority of the members of the employee's association who vote on the recommendation vote in favour of the recommendation.	20
			25
Deemed rejection	(5) A recommendation shall be deemed to be rejected	(5) A recommendation shall be deemed to be rejected	Deemed rejection
	(a) by the Government of the Northwest Territories, where the Financial Management Board rejects the recommendation; or	(a) by the Government of the Northwest Territories, where the Financial Management Board rejects the recommendation; or	30
	(b) by the employee's association, where a majority of the members of the employee's association who vote on the recommendation vote against the recommendation.	(b) by the employee's association, where a majority of the members of the employee's association who vote on the recommendation vote against the recommendation.	35
Costs	42.4. Where a mediator is appointed, each party shall pay its own costs and one-half of the costs incurred by the mediator.	42.4. Where a mediator is appointed, each party shall pay its own costs and one-half of the costs incurred by the mediator.	Costs 40
Arbitration	42.5. (1) Where the mediator does not make a recommendation or where the recommendation is rejected, the parties shall agree to submit the terms and conditions of employment on which the parties have been unable to agree to arbitration pursuant to the <i>Arbitration Act</i> .	42.5. (1) Where the mediator does not make a recommendation or where the recommendation is rejected, the parties shall agree to submit the terms and conditions of employment on which the parties have been unable to agree to arbitration pursuant to the <i>Arbitration Act</i> .	Arbitration 45
Content of submission	(2) Only the terms and conditions of employment that were set out in the notice given under subsection 42.1(1) may be submitted to the arbitrator.	(2) Only the terms and conditions of employment that were set out in the notice given under subsection 42.1(1) may be submitted to the arbitrator.	Content of submission 50
Award	(3) An arbitration award shall deal only with terms and conditions of employment of employees as set out in the submission to arbitration.	(3) An arbitration award shall deal only with terms and conditions of employment of employees as set out in the submission to arbitration.	Award 55





Costs of arbitration

(4) Where the parties submit a dispute to arbitration, each party shall pay its own costs notwithstanding sections 32 and 33 of the *Arbitration Act*, but the costs incurred by persons in the discharge of their duties under the *Arbitration Act* shall be shared equally by the parties."

(4) Where the parties submit a dispute to arbitration, each party shall pay its own costs notwithstanding sections 32 and 33 of the *Arbitration Act*, but the costs incurred by persons in the discharge of their duties under the *Arbitration Act* shall be shared equally by the parties.».

Costs of arbitration

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27. Subsection 46(2) is amended by striking out "by an officer duly authorized in that behalf" and substituting "by an officer, duly authorized by the employee's association to make the statutory declaration,".

27. Le paragraphe 46(2) est modifié par suppression des mots «by an officer duly authorized in that behalf» et par substitution des mots «by an officer, duly authorized by the employee's association to make the statutory declaration,».

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28. Section 47 is amended by striking out "section 42 or 44" and substituting "section 42, 42.1, 42.2, 42.3, 42.4, 42.5 or 44".

28. L'article 47 est modifié par suppression des mots «section 42 or 44» et par substitution de «section 42, 42.1, 42.2, 42.3, 42.4, 42.5 or 44».

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29. Sections 48 and 49 are repealed and the following is substituted:

29. Les article 48 et 49 sont abrogés et remplacés par ce qui suit :

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Prior collective agreements

"49. Any collective agreement made under subsection 42(2) in effect immediately prior to the coming into force of this section shall continue in force as if made after the coming into force of this section."

«49. Any collective agreement made under subsection 42(2) in effect immediately prior to the coming into force of this section shall continue in force as if made after the coming into force of this section.».

Prior collective agreements

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30. Schedule A is repealed.

30. L'annexe A est abrogée.

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31. Schedules A and B, as set out in the schedule to this Act, are added after section 50.

31. La même loi est modifiée par adjonction des annexes A et B qui figurent à l'annexe de la présente loi.

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CONSEQUENTIAL AMENDMENT

MODIFICATION CORRÉLATIVE

Arctic College Act

32. The *Arctic College Act* is amended by striking out "Department Head" in subsection 21(3) and substituting "deputy head".

32. La *Arctic College Act* (Loi sur le Collège de l'Arctique) est modifiée dans sa version anglaise par suppression des mots «Department Head» au paragraphe 21(3) et par substitution des mots «deputy head».

Arctic College Act

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Clause 27

Subsection 46(2) now reads:

Article 27

Texte actuel du paragraphe 46(2) :

▶ Proof of compliance

(2) The Minister shall not allow any deduction to be made from the salaries of employees for payment to an employees' association, unless the employees' association delivers to the Minister a statutory declaration made by an officer duly authorized in that behalf that the employees' association is complying and will continue to comply with subsection (1). 1969(2), c.25, s.1; 1986(1), c.14, s.63.

Clause 28

Section 47 now reads:

Article 28

Texte actuel de l'article 47 :

▶ Saving provision regarding health and safety

47. Nothing in section 42 or 44 shall be construed to require the Minister to do or refrain from doing anything contrary to any instruction, direction, regulation or directive in the interest of the health, safety or security of the people. 1969(2), c.25, s.1; 1986(1), c.14, s.64.

Clause 29

Sections 48 and 49 now read:

Article 29

Texte actuel des articles 48 et 49 :

Employees continued

48. Every person who holds a position in the public service at the time this <sup>Act</sup> Ordinance comes into force continues to hold that position after that time, subject to the provisions of this <sup>Act</sup> Ordinance. 1965(2<sup>nd</sup>), c.9, s.39; 1985(1), c.4, s.9.

▶ Collective agreement continued

49. Any collective agreement made pursuant to subsection 42(2) in effect immediately prior to the coming into force of this section shall continue in force as if made after the coming into force of this section. 1986(1), c.14, s.65.



Clause 30

Schedule A now reads:

Article 30

Texte actuel de l'annexe A :

**SCHEDULE A**

**OATH OF OFFICE AND SECRECY**

I, (A.B.) solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the public service of the Northwest Territories and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. So help me God. 1965(2<sup>nd</sup>),c.9,Sched.A.

Clause 31

Schedules A and B are new.

Article 31

Les annexes A et B sont nouvelles.

Clause 32

**CONSEQUENTIAL AMENDMENT**

*Financial Administration Act*

Subsection 21(3) now reads:

Article 32

**MODIFICATION CORRÉLATIVE**

*Loi sur l'administration des finances publiques*

Texte actuel du paragraphe 21(3) :

Department Head (3) For the purposes of the Public Service Act,  
the president is a Department Head.

SCHEDULE

"SCHEDULE A

(Subsection 2(1))

The following are declared to be portions of the public service:

Arctic College, established by the *Arctic College Act*, except with respect to individuals appointed under subsection 24(1) of that Act

Boards of Secondary Education as defined in the *Education Act*

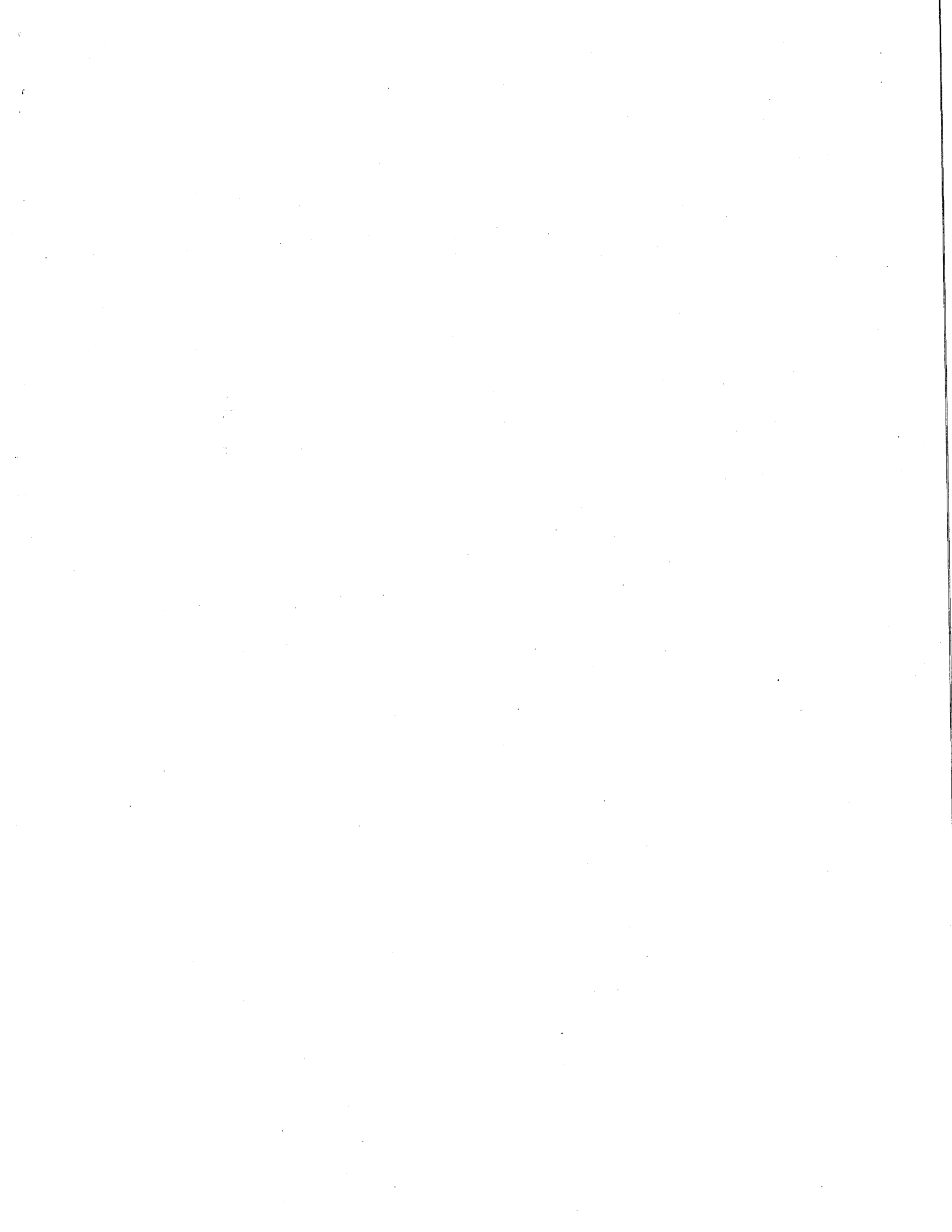
Boards of Management as defined in the *Territorial Hospital Insurance Services Act*

Divisional Boards of Education as defined in the *Education Act*

Northwest Territories Housing Corporation established by the *Northwest Territories Housing Corporation Act*, except with respect to the President appointed under that Act

Northwest Territories Power Corporation established by the *Northwest Territories Power Corporation Act*

Workers' Compensation Board continued under the *Workers' Compensation Act*.



SCHEDULE B

(Subsection 2(1))

Individuals declared for greater certainty to not be included in the public service are those individuals who are hired by, retained by or working for or under the direct or indirect control and supervision of the following:

- (a) Arctic College established by the *Arctic College Act*, where such individuals are appointed under subsection 24(1) of that Act; 5
- (b) community education committees as defined in the *Education Act*;
- (c) community education societies as defined in the *Education Act*, except for teaching personnel as defined in the *Education Act* and principals;
- (d) Rae-Edzo School Society, except for teaching personnel as defined in the *Education Act* and principals; 10
- (e) Boards of Education as defined in the *Education Act*;
- (f) the Forest Supervisor or any forest officer, judge or justice of the peace under subsection 24(1) of the *Forest Protection Act*;
- (g) a housing association or a housing authority as defined in the *Northwest Territories Housing Corporation Act*; 15
- (h) settlements and settlement corporations as defined in the *Settlements Act*;
- (i) bodies throughout the Territories commonly known as band councils."



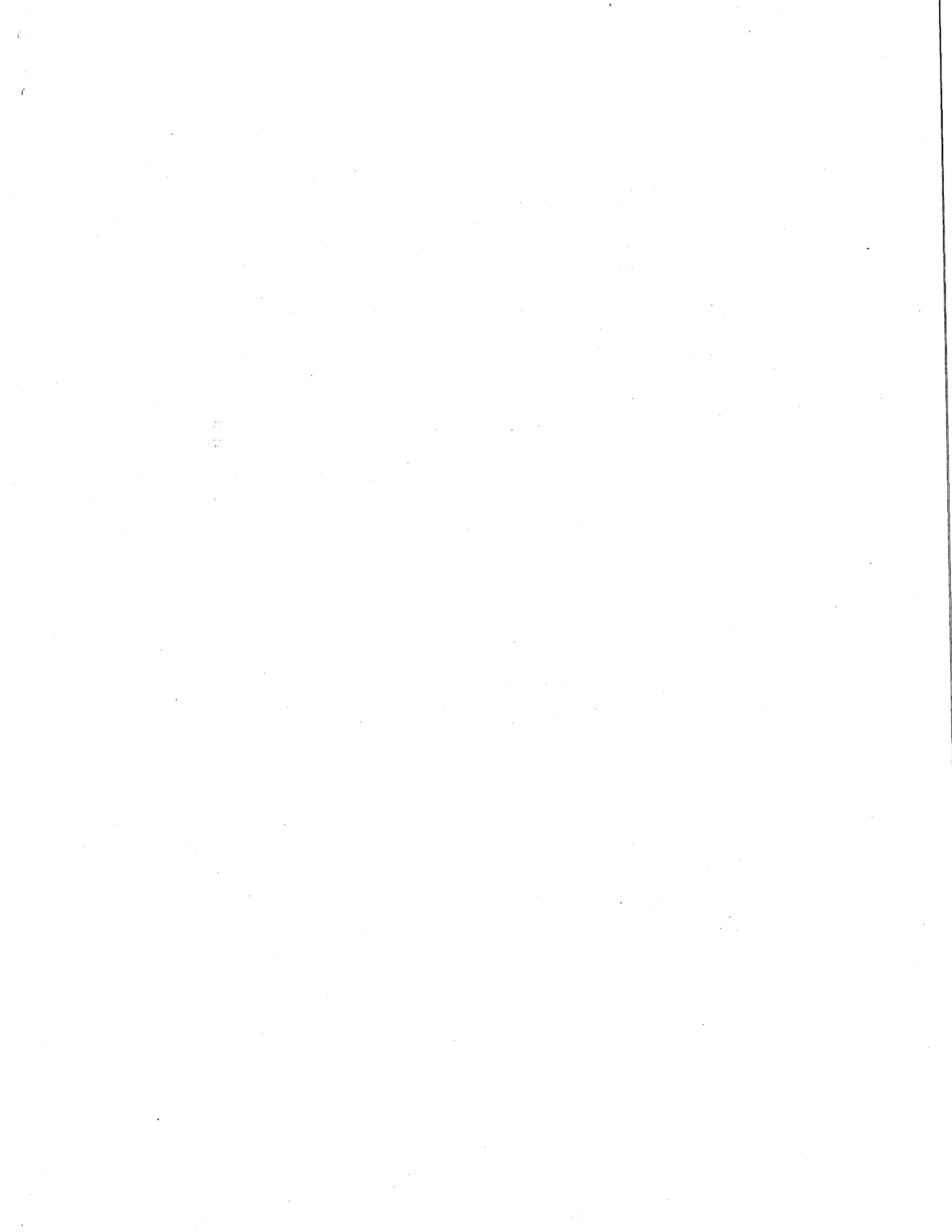


ANNEXE

«ANNEXE A

[paragraphe 2(1)]

Les organismes qui suivent font partie de la fonction publique :	5
Le Collège de l'Arctique, constitué par la <i>Arctic College Act</i> (Loi sur le Collège de l'Arctique), à l'exception des personnes nommées en vertu du paragraphe 24(1) de ladite loi	
Les commissions de l'enseignement secondaire au sens de la <i>Education Act</i> (Loi sur l'éducation)	10
Les conseils d'administration au sens de la <i>Territorial Hospital Insurance Service Act</i> (Loi sur les services d'assurance-hospitalisation des Territoires du Nord-Ouest)	
Les commissions scolaires de division au sens de la <i>Education Act</i> (Loi sur l'éducation)	15
La Société d'habitation des Territoires du Nord-Ouest, constituée par la <i>Northwest Territories Housing Corporation Act</i> (Loi sur la Société d'habitation des Territoires du Nord-Ouest), à l'exception du président de la Société	20
La Société d'énergie des Territoires du Nord-Ouest, constituée par la <i>Northwest Territories Power Corporation Act</i> (Loi sur la Société d'énergie des Territoires du Nord-Ouest)	
La Commission des accidents du travail prorogée aux termes de la <i>Workers' Compensation Act</i> (Loi sur les accidents du travail)	25



Il est entendu que les personnes exclues de la fonction publique sont les personnes employées par les personnes ou organismes ci-après, soit travaillant pour ceux-ci ou sous leur surveillance et leur direction, même indirectes :

- a) le Collège de l'Arctique, constitué par la *Arctic College Act* (Loi sur le Collège de l'Arctique) lorsque ces personnes sont nommées en vertu de l'article 24(1) de ladite loi; 5
- b) les comités scolaires communautaires au sens de la *Education Act* (Loi sur l'éducation);
- c) les associations scolaires communautaires au sens de la *Education Act* (Loi sur l'éducation), à l'exception du corps enseignant au sens de la *Education Act* (Loi sur l'éducation) et des directeurs; 10
- d) l'association scolaire de Rae-Edzo, à l'exception du corps enseignant au sens de la *Education Act* (Loi sur l'éducation) et des directeurs;
- e) les commissions scolaires au sens de la *Education Act* (Loi sur l'éducation);
- f) le directeur des forêts, les agents forestiers, les juges ou les juges de paix au titre du paragraphe 24(1) de la *Forest Protection Act* (Loi sur la protection des forêts); 15
- g) une association ou un office d'habitation au sens de la *Northwest Territories Housing Corporation Act* (Loi sur la Société d'habitation des Territoires du Nord-Ouest);
- h) les localités et corporations de localités au sens de la *Settlements Act* (Loi sur l'établissement de localités);
- i) les organismes partout aux territoires communément appelés conseils de bandes.» 20