

PUBLIC SERVICE ACT**CHAPTER 15***Assented to February 21, 1985.***Contents**

Section	Section
1. Interpretation and application	12. Canadian preference
2. Personnel management	13. Oaths
3. Division established	14. Prerogative powers
4. Deputy ministers	15. Dismissal and suspension of employees
5. Appointments on merit	16. Retirement
6. Probation	17. Annual report
7. Commission established	18. Regulations
8. Panels	19-55. Consequential Amendments
9. Appeal to commission	56. Repeal
10. <i>Inquiry Act</i>	57. Commencement
11. Commission's decision final	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpretation and application**1. (1) In this Act**

"commission" means the Public Service Commission established under section 7;

"deputy minister" means

- (a) the deputy of a minister,
- (b) an officer who, by an Act, is declared to have the status of a deputy minister, or
- (c) a person designated by the Lieutenant Governor in Council as a deputy minister;

"division" means the Government Personnel Services Division established under section 3;

"employee" includes a person employed under this Act

- (a) in a ministry, or
- (b) by a board, commission, association or organization designated by the Lieutenant Governor in Council;

"ministry" includes a division or department of the government.

(2) This Act does not apply to the employment or appointment of a person who the Lieutenant Governor in Council considers

- (a) will be acting in a confidential capacity to the Lieutenant Governor, a member of the Executive Council, the Legislative Assembly or a member of it, or
- (b) will be employed in or appointed to a position that requires special professional, technical or administrative qualifications.

(3) A person referred to in subsection (2) (a) or (b) may be appointed or employed by the Lieutenant Governor in Council on terms and conditions, including remuneration, specified by him.

(4) This Act, other than subsection (2) or (3) or section 13, does not apply to a person employed or appointed under subsection (3).

Personnel management

2. The Provincial Secretary and Minister of Government Services may issue directives respecting government personnel management, including directives respecting

- (a) recruitment, selection and appointment of staff,
- (b) training, development and the health and safety of employees,
- (c) general administration of all labour relations matters of the public service,
- (d) terms and conditions of employment, including rates of compensation and employee expenses and allowances, subject to any applicable provisions of a collective agreement,
- (e) job evaluation and classification,
- (f) standards of job performance and employee conduct,
- (g) all matters respecting discipline, suspension and dismissal of employees,
- (h) establishment and maintenance of a personnel management information system, and
- (i) monitoring and auditing of all personnel functions.

Division established

3. (1) A division of the Ministry of Provincial Secretary and Government Services to be known as the Government Personnel Services Division is established.

(2) The purpose of the division is to

- (a) assist the minister in carrying out his duties under this Act, and
- (b) act as bargaining agent for the government in accordance with section 3 of the *Public Service Labour Relations Act*

Deputy ministers

4. Every deputy minister and assistant deputy minister shall be appointed by the Lieutenant Governor in Council.

Appointments on merit

5. (1) Appointments to and from within the public service shall be based on the principle of merit as determined in subsection (2) and shall be the result of a process designed to appraise the qualifications and capabilities of eligible applicants.

(2) The matters to be considered in determining merit shall, having regard to the nature of the duties to be performed, include the applicant's education, skills, knowledge, experience, past work performance and years of continuous service in the public service.

(3) The division shall consult with the representative of the employees' bargaining agent certified under the *Public Service Labour Relations Act*, with respect to the application of the matters that determine merit under subsection (2).

(4) The division may direct, in respect of a vacancy or class of vacancy in the public service, that

- (a) applicants be limited to a stated geographical area or locale, and
- (b) applicants be limited to employees generally, or to employees of a stated
 - (i) occupational group,
 - (ii) position level, or
 - (iii) organizational unit.

(5) The division may, by directive, delegate to a deputy minister, in respect of his ministry, the powers of the division under subsection (4), subject to any instructions contained in the directive.

(6) Subject to a directive issued under section 2, where a vacancy is filled through a lateral transfer or a demotion, subsection (1) does not apply.

Probation

6. (1) A person who is appointed to a position in the public service shall be on probation until he has worked the equivalent of 6 months full time employment.

(2) Where the appointment is made from within the public service, the deputy minister or an employee authorized by him may waive all or part of the probation period.

(3) The deputy minister may, during the probation period, reject for just cause a person appointed to a position under his control.

Commission established

7. (1) A commission to be called the Public Service Commission is established.

(2) The commission shall consist of at least 3 members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman.

(3) A member of the commission shall hold office during good behaviour for a term not exceeding 6 years.

(4) Where there is a tie vote on any matter before the commission, the decision of the chairman shall be the decision of the commission.

(5) A member of the commission shall be reimbursed for reasonable expenses necessarily incurred by him in the performance of his duties and be paid remuneration in an amount fixed by the Lieutenant Governor in Council.

Panels

8. (1) The chairman may, in writing, authorize one or more of the members of the commission to sit as a panel of the commission on any appeal, and, where so authorized, a panel has all the powers of the commission.

(2) A majority of members of the commission may, but only on the motion of that majority of members of the commission, direct that a decision of a panel on an appeal be reviewed by the commission.

(3) Where a direction has been made under subsection (2), the commission shall, as soon as practicable, reconsider the appeal and, after reconsidering it, section 9 (7) applies.

Appeal to commission

9. (1) An applicant who is an unsuccessful applicant for appointment to or from within the public service may appeal to the commission on the ground that section 5 (1) has not been complied with.

(2) The commission may make regulations prescribing

(a) the manner of bringing appeals and the time limits within which they may be brought, and

(b) all matters respecting practice, procedure and costs on appeals.

(3) Where an applicant commences an appeal under subsection (1), the commission shall, before hearing the appeal, inform the deputy minister of the particulars of it.

(4) The deputy minister may, within 14 days after being informed under subsection (3), direct that the appointment or the proposed appointment in respect of which the appeal was brought be rescinded and reconsidered.

(5) Where the deputy minister makes a direction under subsection (4), the appeal shall not proceed.

(6) Where the deputy minister fails to make a direction under subsection (4) within the 14 day period, the commission shall promptly proceed with the appeal.

(7) The commission may, after hearing an appeal,

(a) dismiss the appeal, or

(b) direct that the appointment or the proposed appointment be rescinded and reconsidered.

(8) The commission may summarily dismiss an appeal under subsection (1) where it considers that the appeal is frivolous or vexatious.

Inquiry Act

10. For the purpose of an appeal under section 9 or a review under section 8 (2), the commission has the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Commission's decision final

11. Subject to section 8 (2), a decision or order of the commission or a panel of the commission is final and binding.

Canadian preference

12. The government shall appoint only Canadian citizens to the public service, but, if no qualified Canadian citizen applies for a position, it may appoint another person as a temporary appointment.

Oaths

13. A person appointed to the public service and a person appointed or employed under section 1 (3) shall swear or affirm, and sign an oath in the prescribed form.

Prerogative powers

14. Nothing in this Act or in a collective agreement between the government and a bargaining agent representing its employees, impairs the authority of the Lieutenant Governor in Council to remove or dismiss an employee.

Dismissal and suspension of employees

15. (1) A minister or deputy minister may dismiss an employee for just cause, subject to the employee's rights under the grievance procedures provided in a collective agreement between the government and a bargaining agent representing its employees.

(2) The minister, the deputy minister or an employee specifically authorized by the minister or deputy minister, may suspend from the performance of his duties an employee who is guilty of misconduct, negligence or incompetence in the performance of his duties, or who is charged with a criminal offence that would render him unsuitable to perform his duties.

Retirement

16. Unless otherwise provided by the Lieutenant Governor in Council, retirement is compulsory for all employees who attain the age of 65 years, and the effective date of retirement shall be the first day of the month next following that in which the anniversary of the date of birth occurs.

Annual report

17. The minister shall lay before the Legislature as soon as practicable, a report for the fiscal year ending March 31 respecting the work of the commission.

Regulations

18. The Lieutenant Governor in Council may make regulations.

Consequential Amendments*Auditor General Act*

- 19.** Section 5 of the *Auditor General Act*, R.S.B.C. 1979, c. 24, is amended
- (a) by repealing subsection (1) and substituting the following:
(1) The Auditor General may appoint, in accordance with the *Public Service Act*, a deputy Auditor General and other employees necessary to enable him to perform his duties. ,
 - (b) by repealing subsection (4), and
 - (c) in subsection (5) (b) by striking out "Public Service Commission," and substituting "Government Personnel Services Division".

College and Institute Act

- 20.** Section 42 (1) of the *College and Institute Act*, R.S.B.C. 1979, c. 53, is amended
- (a) by striking out "Public Service Commission or the Government Employee Relations Bureau acting on behalf of the Treasury Board" and substituting "government", and
 - (b) by repealing paragraph (a) and substituting the following:
 - (a) a provision of the collective agreement is not applicable or is ineffective for any reason, and .

- 21.** Section 42 (2) (b) is amended by striking out "Public Service Commission or the Government Employee Relations Bureau" and substituting "government"

Correction Act

- 22.** Section 3 (3) of the *Correction Act*, R.S.B.C. 1979, c. 70, is repealed.

Development Corporation Act

- 23.** Section 7 (13) of the *Development Corporation Act*, R.S.B.C. 1979, c. 93, is repealed.

Electrical Safety Act

24. Section 4 of the *Electrical Safety Act*, R.S.B.C. 1979, c. 104, is repealed.

Estate Administration Act

25. Section 61 (3) of the *Estate Administration Act*, R.S.B.C. 1979, c. 114, is amended by striking out "a member of the public service" and substituting "an employee".

Ferry Corporation Act

26. Section 23 (3) (b) of the *Ferry Corporation Act*, R.S.B.C. 1979, c. 128, is amended by striking out "Public Service Commission" and substituting "government".

27. Section 23 (4) is amended
- (a) by striking out "Public Service Commission acting on behalf of the Treasury Board" and substituting "government", and
 - (b) by repealing paragraph (a) and substituting the following:
 - (a) a provision of the collective agreement is not applicable or is ineffective for any reason, and .

Financial Administration Act

28. Section 4 of the *Financial Administration Act*, S.B.C. 1981, c. 15, is amended
- (a) in paragraph (e) by striking out "that it does not have the power to deal with under the *Public Service Act*", and
 - (b) by adding " , other than those matters referred to in section 2 (a) to (i) of the *Public Service Act*." at the end.

Forensic Psychiatry Act

29. Section 2 (5) of the *Forensic Psychiatry Act*, R.S.B.C. 1979, c. 139, is repealed.

Interpretation Act

30. Section 23 of the *Interpretation Act*, R.S.B.C. 1979, c. 206, is amended by adding the following subsection:
- (1.1) Where a deputy minister is absent or unable to act, an assistant deputy minister, or some other official authorized by the minister, has the powers and shall perform the duties of the deputy minister.

Mineral Land Tax Act

31. Section 27 (2) of the *Mineral Land Tax Act*, R.S.B.C. 1979, c. 260, is repealed.

Ministry of Consumer and Corporate Affairs Act

32. Section 2 (2) of the *Ministry of Consumer and Corporate Affairs Act*, R.S.B.C. 1979, c. 269, is repealed.

Ministry of Energy, Mines and Petroleum Resources Act

33. Section 2 (2) of the *Ministry of Energy, Mines and Petroleum Resources Act*, R.S.B.C. 1979, c. 270, is repealed.

Ministry of Forests Act

34. Section 2 (2) of the *Ministry of Forests Act*, R.S.B.C. 1979, c. 272, is repealed.

Ministry of Health Act

35. Section 2 (2) of the *Ministry of Health Act*, R.S.B.C. 1979, c. 273, is repealed.

Ministry of Industry and Small Business Development Act

36. Section 2 (2) of the *Ministry of Industry and Small Business Development Act*, R.S.B.C. 1979, c. 275, is repealed.

Ministry of Lands, Parks and Housing Act

37. Section 3 (2) of the *Ministry of Lands, Parks and Housing Act*, R.S.B.C. 1979, c. 277, is repealed.

Ministry of Municipal Affairs Act

38. Section 3 (2) of the *Ministry of Municipal Affairs Act*, R.S.B.C. 1979, c. 278, is repealed.

Ministry of Transportation and Highways Act

39. Section 2 (2) of the *Ministry of Transportation and Highways Act*, R.S.B.C. 1979, c. 280, is repealed.

Ombudsman Act

40. Section 8 of the *Ombudsman Act*, R.S.B.C. 1979, c. 306, is amended
- (a) by repealing subsection (1) and substituting the following:
(1) The Ombudsman may, in accordance with the *Public Service Act*, appoint employees necessary to enable him to perform his duties. ,
 - (b) by repealing subsection (3), and
 - (c) in subsection (4) (b) by striking out "Public Service Commission or the Government Employee Relations Bureau" and substituting "Government Personnel Services Division".

Pension (Public Service) Act

41. The definition of "public service" in section 1 of the *Pension (Public Service) Act*, R.S.B.C. 1979, c. 318, is repealed
42. Section 2 (1) is amended
- (a) by repealing paragraph (b), and
 - (b) in paragraph (e) by striking out "paragraph (b) or (c)" and substituting "paragraph (c)".

43. Section 24 (1) is amended by striking out everything after "superannuation commissioner".

Petroleum Corporation Act

44. Section 6 (4) of the *Petroleum Corporation Act*, R.S.B.C. 1979, c. 324, is repealed.

Public Service Bonding Act

45. Section 4 (1) of the *Public Service Bonding Act*, R.S.B.C. 1979, c. 345, is amended by striking out "Public Service Commission," and substituting "Government Personnel Services Division."

Public Service Labour Relations Act

46. Section 1 (1) of the *Public Service Labour Relations Act*, R.S.B.C. 1979, c. 346, is amended
- (a) by repealing the definition of "bureau",
 - (b) by adding the following definition:
"division" means the Government Personnel Services Division established under section 3 of the *Public Service Act*; , and
 - (c) in the definition of "employee"
 - (i) by striking out "means a member of the public service, as the expression "public service" is defined in the *Public Service Act*," and substituting "means an 'employee' as defined in the *Public Service Act*," , and
 - (ii) by striking out "and" at the end of paragraph (q), by adding "and" at the end of paragraph (r) and by adding the following paragraph:
(s) a person employed in the division; .

47. Section 3 is repealed and the following substituted:

Bargaining agent for government

3. The Government Personnel Services Division may, under the direction of the Treasury Board, act as the bargaining agent for the government.

48. Section 13 (a) is amended by striking out "section 20" and substituting "section 5 (3)".
49. Section 24 (a) is amended by striking out "bureau" wherever it appears and substituting "division".

Science Council Act

50. Section 7 (3) (a) of the *Science Council Act*, R.S.B.C. 1979, c. 379, is repealed and the following substituted:
- (a) a provision of the collective agreement is not applicable or is ineffective for any reason, and .

- 51.** Section 8 is amended
- (a) in subsection (2) by striking out "Public Service Commission." and substituting "Government Personnel Services Division.", and
 - (b) in subsection (3) by striking out "Public Service Commission" and substituting "Government Personnel Services Division".

Securities Act

- 52.** Section 4 (5) of the *Securities Act*, R.S.B.C. 1979, c. 380, is repealed.

System Act

- 53.** Section 15 of the *System Act*, R.S.B.C. 1979, c. 399, is amended
- (a) in subsection (2) by striking out "Public Service Commission." and substituting "Government Personnel Services Division.", and
 - (b) in subsection (3) by striking out "Public Service Commission" and substituting "Government Personnel Services Division".
- 54.** Section 17 (1) is amended
- (a) by striking out "Public Service Commission or the Government Employee Relations Bureau acting on behalf of the Treasury Board" and substituting "government", and
 - (b) by repealing paragraph (a) and substituting the following:
 - (a) a provision of the collective agreement is not applicable or is ineffective for any reason, and .
- 55.** Section 17 (2) (b) is amended by striking out "Public Service Commission or the Government Employee Relations Bureau" and substituting "government".

Repeal

- 56.** The *Public Service Act*, R.S.B.C. 1979, c. 343, is repealed.

Commencement

- 57.** This Act comes into force by regulation of the Lieutenant Governor in Council.