

1980

## c 418 Public Service Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

### Bibliographic Citation

*Public Service Act*, RSO 1980, c 418

### Repository Citation

Ontario (1980) "c 418 Public Service Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 6, Article 58.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss6/58>

## CHAPTER 418

### Public Service Act

#### 1. In this Act,

Interpre-  
tation

- (a) "civil servant" means a person appointed to the service of the Crown by the Lieutenant Governor in Council on the certificate of the Commission or by the Commission, and "civil service" has a corresponding meaning;
- (b) "classified service" means the part of the public service to which civil servants are appointed;
- (c) "Commission" means the Civil Service Commission;
- (d) "Crown" means the Crown in right of Ontario;
- (e) "Crown employee" means a person employed in the service of the Crown or any agency of the Crown, but does not include an employee of Ontario Hydro or the Ontario Northland Transportation Commission;
- (f) "Minister" means the member of the Executive Council who is designated by the Lieutenant Governor in Council as the minister to whom the Commission is responsible for the administration of this Act;
- (g) "public servant" means a person appointed under this Act to the service of the Crown by the Lieutenant Governor in Council, by the Commission or by a minister, and "public service" has a corresponding meaning;
- (h) "regulations" means the regulations made under this Act;
- (i) "unclassified service" means the part of the public service that is composed of positions to which persons are appointed by a minister under this Act. R.S.O. 1970, c. 386, s. 1; 1972, c. 96, s. 1; 1973, c. 57, s. 19.

Commission,  
composition

**2.—(1)** The Commission shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, one of whom may be appointed chairman.

status

(2) The full-time members of the Commission shall be deemed to be civil servants. R.S.O. 1970, c. 386, s. 2.

Chairman  
to rank as  
deputy  
minister

(3) The chairman of the Commission shall rank as and have all the powers and duties of a deputy minister of a ministry. 1972, c. 96, s. 2.

Administra-  
tion

**3.—(1)** The Commission is responsible to the Minister for the administration of this Act. R.S.O. 1970, c. 386, s. 3; 1972, c. 1, s. 107.

Staff

(2) The staff of the Commission is responsible to the chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission. 1972, c. 96, s. 3.

Duties of  
Commission

**4.** The Commission shall,

- (a) evaluate and classify each position in the classified service and determine the qualifications therefor;
- (b) recommend to the Lieutenant Governor in Council the salary range for each classification, except a previously established classification for which a salary range is determined through bargaining pursuant to the *Crown Employees Collective Bargaining Act*;
- (c) recruit qualified persons for the civil service and establish lists of eligibles;
- (d) assign persons to positions in the classified service and specify the salaries payable;
- (e) determine perquisite charges for civil servants;
- (f) provide, assist in or co-ordinate staff development programs;
- (g) present annually through the Minister to the Lieutenant Governor in Council a report upon the performance of its duties during the preceding year, which report shall be laid before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 386, s. 4; 1972, c. 96, s. 4.

R.S.O. 1980,  
c. 108

**5.** The Commission may exclude any position in the classified service from that service for such period as it may determine. R.S.O. 1970, c. 386, s. 5.

Exclusion of positions from classified service

**6.—(1)** When a vacancy exists in the classified service, the deputy minister of the ministry in which the vacancy exists shall nominate in writing from the list of eligibles of the Commission a person to fill the vacancy.

Filing of vacancies in classified service

(2) The Commission shall appoint the person nominated under subsection (1) to a position on the probationary staff of the classified service for not more than one year at a time. R.S.O. 1970, c. 386, s. 6; 1972, c. 1, s. 2.

Appointments to probationary staff

**7.** The Commission shall, if requested in writing by the deputy minister, recommend to the Lieutenant Governor in Council the appointment of a person on the probationary staff of the classified service to the regular staff of the classified service, and the recommendation shall be accompanied by the certificate of qualification and assignment of the Commission. R.S.O. 1970, c. 386, s. 7.

Appointments to regular staff

**8.—(1)** A minister or any public servant who is designated in writing for the purpose by him may appoint for a period of not more than one year on the first appointment and for any period on any subsequent appointment a person to a position in the unclassified service in any Ministry over which he presides.

Appointment by minister to unclassified service

(2) Any appointment made by a designee under subsection (1) shall be deemed to have been made by his minister. R.S.O. 1970, c. 386, s. 8; 1972, c. 1, s. 2.

Idem

**9.** A person who is appointed to a position in the public service for a specified period ceases to be a public servant at the expiration of that period. R.S.O. 1970, c. 386, s. 9.

Termination of appointment

**10.—(1)** Every civil servant shall before any salary is paid to him take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of office and secrecy in the following form:

Oath of office and secrecy.

I, ....., do swear that I will faithfully discharge my duties as a civil servant and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant.

So help me God.

Oath of allegiance

(2) Every civil servant shall before performing any duty as a member of the regular staff take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of allegiance in the following form:

I, ....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being), her heirs and successors according to law.

So help me God.

Unclassified service

(3) A minister may require any person or class of persons appointed to the unclassified service in any ministry over which he presides to take and subscribe to either or both of the oaths set out in subsections (1) and (2).

Record of oaths

(4) A copy of each oath administered to a civil servant shall be kept by his deputy minister in the departmental file of the civil servant. R.S.O. 1970, c. 386, s. 10; 1972, c. 1, s. 2.

Political activities of Crown employees, municipal elections

11. A Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations, may be a candidate for election to any elective municipal office, including a member or trustee of an elementary or secondary school board or a trustee of an improvement district, or may serve in such office or actively work in support of a candidate for such office if,

- (a) the candidacy, service or activity does not interfere with the performance of his duties as a Crown employee;
- (b) the candidacy, service or activity does not conflict with the interests of the Crown; and
- (c) the candidacy, service or activity is not in affiliation with or sponsored by a provincial or federal political party. R.S.O. 1970, c. 386, s. 11.

Political activities of Crown employees, provincial and federal elections

12.—(1) Except during a leave of absence granted under subsection (2), a Crown employee shall not,

- (a) be a candidate in a provincial or federal election, or serve as an elected representative in the legislature of any province or in the Parliament of Canada;

- (b) solicit funds for a provincial or federal political party or candidate; or
- (c) associate his position in the service of the Crown with any political activity.

(2) Any Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause 30 (1) (u), who proposes to become a candidate in a provincial or federal election shall apply through his minister to the Lieutenant Governor in Council for leave of absence without pay for a period,

Leave of absence for election candidates

- (a) not longer than that commencing on the day on which the writ for the election is issued and ending on polling day; and
- (b) not shorter than that commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

(3) Where a Crown employee who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a Crown employee.

Resignation

(4) Where a Crown employee who has resigned under subsection (3),

Re-appointment

- (a) ceases to be an elected political representative within five years of the resignation; and
- (b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

(5) Where a Crown employee has been granted leave of absence under subsection (2) and was not elected, or resigned his position under subsection (3) and was reappointed under subsection (4), the period of the leave of absence or resignation shall not be computed in determining the length of his service for any purpose, and the service before and after such period shall be deemed to be continuous for all purposes. R.S.O. 1970, c. 386, s. 12.

Service deemed continuous

Canvassing prohibited during elections, civil servants

**13.**—(1) A civil servant shall not during a provincial or federal election canvass on behalf of a candidate in the election.

Idem, senior officials

(2) Notwithstanding subsection (1), a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause 30(1)(u) shall not at any time canvass on behalf of or otherwise actively work in support of a provincial or federal political party or candidate. R.S.O. 1970, c. 386, s. 13.

Speaking, etc., on political issues by civil servants

**14.** Except during a leave of absence granted under subsection 12 (2), a civil servant shall not at any time speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal political party. R.S.O. 1970, c. 386, s. 14.

Political activity during working hours

**15.** A Crown employee shall not during working hours engage in any activity for or on behalf of a provincial or federal political party. R.S.O. 1970, c. 386, s. 15.

Dismissal for contravention

**16.** A contravention of section 11, 12, 13, 14 or 15 shall be deemed to be sufficient cause for dismissal. R.S.O. 1970, c. 386, s. 16.

Age of retirement

**17.** Every civil servant shall retire at the end of the month in which he attains the age of sixty-five years, but, where in the opinion of the Commission special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for a period not exceeding one year at a time until the end of the month in which he attains the age of seventy years. R.S.O. 1970, c. 386, s. 17 (1).

Appointment of superannuates and annuitants

**18.** The Lieutenant Governor in Council may appoint for a period not exceeding six months at a time in a special capacity any person who is receiving a superannuation allowance or an annuity under the *Public Service Superannuation Act* and who has professional, expert or technical knowledge that the Lieutenant Governor in Council desires to have at his disposal. R.S.O. 1970, c. 386, s. 18.

R.S.O. 1980, c. 419

Resignation

**19.** A person may resign from the public service by giving his deputy minister two weeks notice in writing of his intention to resign, but he may, by an appropriate notice in writing and with the approval of his deputy

minister, withdraw the notice at any time before its effective date if no person has been appointed or selected for appointment to the position that will become vacant by reason of his resignation. R.S.O. 1970, c. 386, s. 19.

**20.** A public servant who is absent from duty without official leave for a period of two weeks or such longer period as is prescribed in the regulations may by an instrument in writing be declared by his deputy minister to have abandoned his position, and thereupon his position becomes vacant and he ceases to be a public servant. R.S.O. 1970, c. 386, s. 20. Abandonment

**21.—(1)** Subject to the direction of his minister, a deputy minister is responsible for the operation of his ministry and shall perform such other functions as are assigned to him by his minister or by the Lieutenant Governor in Council. Deputy minister's functions

(2) Where a deputy minister is absent or where there is a vacancy in the office, his powers and duties shall be exercised and performed by such public servant as is designated by his minister. R.S.O. 1970, c. 386, s. 21; 1972, c. 1, s. 2. Absence, etc.

**22.—(1)** A deputy minister may, pending an investigation, suspend from employment any public servant in his ministry for such period as the regulations prescribe, and during any such period of suspension may withhold the salary of the public servant. Suspension during investigation

(2) A deputy minister may for cause remove from employment without salary any public servant in his ministry for a period not exceeding one month or such lesser period as the regulations prescribe. Removal from employment

(3) A deputy minister may for cause dismiss from employment in accordance with the regulations any public servant in his ministry. Power to dismiss

(4) A deputy minister may release from employment in accordance with the regulations any public servant where he considers it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization. Release from employment

(5) A deputy minister may release from employment any public servant during the first year of his employment for failure to meet the requirements of his position. R.S.O. 1970, c. 386, s. 22; 1972, c. 1, s. 2. Idem



Delegation  
of powers,  
deputy  
minister

**23.**—(1) With the consent in writing of his minister, a deputy minister may delegate in writing any of his powers under this Act to any public servant or any class thereof in his ministry.

Delegation  
of duties,  
deputy  
minister

(2) With the consent of his minister, a deputy minister may delegate any of his duties under this Act to any public servant or any class thereof in his ministry. R.S.O. 1970, c. 386, s. 23; 1972, c. 1, s. 2.

Delegation of  
powers and  
functions,  
Commission

**24.** The Commission may authorize a deputy minister to exercise and perform any of the powers or functions of the Commission in relation to the recruitment of qualified persons for the civil service and to the evaluation and classification of positions in the classified service that are designated by the Commission. R.S.O. 1970, c. 386, s. 24.

Access to  
records, etc.

**25.**—(1) Deputy ministers and public servants shall give the Commission such access to their respective ministries and offices and such facilities, assistance and information as the Commission may require for the performance of its duties. R.S.O. 1970, c. 386, s. 25 (1); 1972, c. 1, s. 2.

Investigations

(2) In connection with, and for the purposes of, any investigation, the Commission or any member thereof holding an investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 386, s. 25 (2); 1971, c. 49, s. 18.

R.S.O. 1980,  
c. 411

Debts of  
persons  
paid out of  
Consolidated  
Revenue  
Fund

**26.** Where a debt or money demand of not less than \$25, either on a judgment or otherwise and not being a claim for damages, is due and owing by a Crown employee whose salary or wages are paid out of the Consolidated Revenue Fund, and the creditor files with the Treasurer of Ontario,

(a) a notice of the debt or money demand; and

(b) such proof as the Treasurer may require that the debt or money demand is owing,

the Treasurer may deduct from the salary of the debtor, or from any money owing to him from the Crown and payable out of the Consolidated Revenue Fund, such amount as the Treasurer sees fit in the circumstances and pay the amount to the creditor in discharge or in partial discharge of the debt or money demand. R.S.O. 1970, c. 386, s. 26.

**27.—(1)** In this section,Interpre-  
tation

- (a) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;
- (b) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;
- (c) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;
- (d) "Negotiating Committee" means the Ontario Provincial Police Negotiating Committee.

(2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants.

Application  
of ss. 27, 28

(3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force, in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection (4), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to a member for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by members, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.

Bargaining  
authority

(4) Except in relation to matters governed by or under the *Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality

Exclusive  
functions of  
employer  
R.S.O. 1980,  
c. 381

of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee.

**Negotiating  
Committee**

(5) The Ontario Provincial Police Negotiating Committee appointed by the Lieutenant Governor in Council is continued and shall be composed of,

- (a) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";
- (b) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and
- (c) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.

**Acting  
chairman**

(6) The Lieutenant Governor in Council may appoint a person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent.

**Duties of  
chairman**

(7) The chairman of the Negotiating Committee shall,

- (a) at the request of a member convene a meeting of the Negotiating Committee;
- (b) prepare the agenda for each meeting; and
- (c) preside at each meeting.

**Agenda**

(8) Subject to subsection (7), at the request of a member of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning,

- (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request

is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or

- (b) the interpretation or clarification of any clause in an agreement.

- (9) Notwithstanding clause 8 (a), where, Idem

- (a) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and

- (b) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause (a) be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

- (10) A quorum of the Negotiating Committee consists of, Quorum

- (a) the chairman;
- (b) two members of the staff side; and
- (c) two members of the employer side.

- (11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections (8) and (9). Matters to be negotiated

- (12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which the *Police Act* or the Code of Offences contained in the regulations made thereunder applies. Grievance procedure  
R.S.O. 1980,  
c. 381

- (13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side. Decision

When  
binding

(14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until the decision has been approved in the manner set out in subsection (15) and transmitted by the chairman for implementation as set out in subsection (16).

Approval

(15) Approval of a decision of the Negotiating Committee shall be,

(a) on the staff side, by a decision of the Board of Directors of the Association; and

(b) on the employer side, by a decision of the Management Board of Cabinet.

Implementa-  
tion

(16) The chairman of the Negotiating Committee shall transmit every decision of the Negotiating Committee to the proper authority to be implemented. 1972, c. 96, s. 6, *part.*

Arbitration  
Committee

**28.**—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of,

(a) a chairman appointed for a renewable term of two years;

(b) one member recommended by the staff side of the Negotiating Committee; and

(c) one member recommended by the employer side of the Negotiating Committee.

Reference

(2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 27 (2).

Decision

(3) Every decision of the Arbitration Committee shall be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee.

Implementa-  
tion

(4) The chairman of the Negotiating Committee shall transmit the decision of the Arbitration Committee to the proper authority to be implemented. 1972, c. 96, s. 6, *part.*

**29.** Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall be implemented by the Lieutenant Governor in Council by order in council. 1972, c. 96, s. 6, *part*.

Implementa-  
tion of  
collective  
agreements,  
etc.

**30.—(1)** The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations,

Regulations

- (a) prescribing methods of evaluating and classifying positions;
- (b) prescribing classifications for positions, including qualifications, duties and salaries, except salaries for previously established classifications for which salaries are determined through bargaining pursuant to the *Crown Employees Collective Bargaining Act*;
- (c) prescribing the standards and procedures to be followed in recruitment, selection and nomination;
- (d) prescribing the procedures to be followed in making assignments;
- (e) providing for a probationary period on appointment or assignment;
- (f) determining employee benefits;
- (g) providing for the establishment of plans for group life insurance, medical-surgical insurance or long-term income protection insurance;
- (h) prescribing the hours of work;
- (i) defining overtime work and providing for compensation therefor;
- (j) providing for and prescribing payments on death;
- (k) regulating the conduct of public servants, including the imposition of fines, removal from employment, demotion or otherwise;
- (l) providing for a system of credits for regular attendance and payments in respect of such credits;

R.S.O. 1980,  
c. 108

- (m) providing for the granting of leave of absence;
- (n) prescribing a period longer than two weeks for the purposes of section 20;
- (o) prescribing periods of suspension or removal from employment for the purposes of section 22;
- (p) prescribing the conditions and procedures for release from employment, lay-off and subsequent reappointment;
- (q) prescribing the conditions and procedures for dismissal;
- (r) providing for departmental or branch councils, grievance boards, medical boards, and committees of any kind, and prescribing their jurisdictions, powers and duties, including any of the powers of a commission under Part II of the *Public Inquiries Act*;
- (s) prescribing arrangements and procedures for providing, assisting in or co-ordinating staff development programs;
- (t) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee;
- (u) designating positions or classifications of Crown employees for the purpose of section 11;
- (v) prescribing and providing for the use of forms under this Act or the regulations;
- (w) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 386, s. 29 (1); 1971, c. 49, s. 18; 1972, c. 96, s. 7 (1, 2).

R.S.O. 1980,  
c. 411

**Application** (2) Any regulations made under subsection (1) may be made applicable to all or any part of the classified service or unclassified service. R.S.O. 1970, c. 386, s. 29 (2).

**Where agreement in conflict with regulation**

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation. 1972, c. 96, s. 7 (3).

**31.** The cost of administration of this Act is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 386, s. 30. <sup>Cost of administration</sup>

**32.** The *Statutory Powers Procedure Act* does not apply to proceedings and decisions under this Act or the regulations. 1973, c. 85, s. 1. <sup>R.S.O. 1980, c. 484, not to apply</sup>



