

Annex B - Interim Exceptions to the Public Service Terms and Conditions of Employment Regulations for Excluded Employees of the Law Group

Maternity and Parental Leave

1. Leave Without Pay (mandatory)

(a) General

(i) An employee who requests Maternity or Parental Leave and agrees to return to work for a period equal to the period of receipt of maternity and/or parental allowance, and who provides the deputy head with proof that she/he has applied for and is eligible to receive pregnancy or parental benefits pursuant to the *Employment Insurance Act (EI Act)*, shall be paid a maternity or parental allowance in accordance with the Supplemental Unemployment Benefit (SUB) Plan. If the employee fails to return to work, for reasons other than death, layoff, or having become disabled as defined in the *Public Service Superannuation Act*, on a date specified by the deputy head and for a period of work equivalent to the time for which benefits under maternity or parental leave were paid, then all monies received by the employee as maternity or parental allowance, equivalent to the period for which the employee fails to return to work, will be recovered.

(ii) The maternity or parental allowance to which an employee is entitled, as specified below, is limited to that provided under the SUB Plan and an employee will not be reimbursed for any amounts that she/he may be required to repay pursuant to the *EI Act*.

(iii) The weekly rate of pay referred to in the SUB Plan shall be the rate to which the employee is entitled for her/his substantive level; however, if on the day immediately preceding the commencement of maternity or parental leave without

pay an employee has been on an acting assignment for at least four (4) months, the weekly rate shall be the rate she/he was being paid on that day.

(iv) An employee who fails to satisfy the eligibility requirements under the *EI Act*, for pregnancy or parental benefits, solely because of a concurrent entitlement to benefits under the Long-term Disability (LTD) Insurance Portion of the Public Service Management Insurance Plan (PSMIP) or the *Government Employees Compensation Act*, shall be paid:

- for a period of maternity leave, not greater than seventeen (17) weeks, the difference between ninety-three percent (93%) of her weekly rate of pay and the gross amount of her weekly disability benefit;
- for each week the employee would have received a parental allowance had the employee met the eligibility requirements, the difference between ninety-three percent (93%) of her/his weekly rate of pay and the gross amount of her/his weekly disability benefit.

(v) Maternity Leave and Parental Leave shall count for the calculation of "Continuous Employment" for the purpose of calculating severance pay and Service for the purpose of calculating vacation leave.

(b) Maternity

(i) An employee who is pregnant shall, at her request, be granted maternity leave without pay for a period beginning before, on or after the date of childbirth, and ending not later than seventeen (17) weeks after the date of childbirth or the expected date of childbirth.

(ii) Where the employee's new-born child is hospitalised within the period defined above, the deputy head may extend the period of maternity leave without pay beyond the date falling seventeen (17) weeks after the date of termination of pregnancy by a period equal to that portion of the period the new-born child was hospitalised. The employee must return to work during the period of hospitalisation and the extension shall end not later than fifty-two (52) weeks after the termination of pregnancy.

(iii) Maternity allowance payments made according to the SUB Plan will consist of the following:

- for the two (2) week waiting period (where there is one) before receiving EI maternity benefits, ninety-three percent (93%) of her weekly rate of pay for each of the two (2) weeks; and/or
- the difference between the gross weekly benefit rate payable under the *EI Act* and ninety-three percent (93%) of her weekly rate of pay, payable for **each week** the employee receives a pregnancy benefit under the *EI Act*.

(c) Parental

(i) An employee who becomes a parent through the birth of a child or adoption of a child shall be granted parental leave without pay for a single period of up to **thirty-seven (37) consecutive weeks in the fifty-two (52) week period** beginning on or after the date of the child's birth, or the date of acceptance of custody of the child for adoption.

(ii) The period of parental leave without pay shall end no later than **fifty-two (52) weeks** after the child is born or in the case of adoption no later than twenty-four (24) weeks after the acceptance of custody.

(iii) Where a period of maternity leave without pay has been extended due to the hospitalisation of the new-born child and is followed by a period of parental leave without pay, the period of parental leave without pay will end no later than fifty-two (52) weeks after the day the child is born.

(iv) Parental leave allowance payments made according to the SUB Plan will consist of the following:

- for the two (2) week waiting period (where there is one) before receiving EI parental benefits, ninety-three percent (93%) of his/her weekly rate of pay for each week of the waiting period, less any other monies earned during this period; and/or

- the difference between the gross weekly benefit rate payable under the *EI Act* and ninety-three percent (93%) of his/her weekly rate of pay, payable for each week the employee receives a benefit under the *EI Act*.

(v) Parental leave without pay taken by a Public Service couple shall not exceed a total of thirty-seven (37) weeks for both employees combined.

(d) Transitional Provisions

Employees who on March 22, 2001, were currently on parental leave without pay or had requested a period of such leave without pay, but had not commenced the leave, shall upon request, be entitled to these revised provisions. Any application must be received before the termination date of the leave period originally requested.

2. Leave without pay (discretionary)

Leave without pay for the long-term care of a parent

At the discretion of the deputy head, an employee may be granted leave without pay for the long-term personal care of the employee's parents, including step-parents or foster parents, provided that:

- the employee notifies the deputy head at least four (4) weeks in advance of the commencement date of such leave, unless because of an urgent or unforeseeable circumstance such notice cannot be given;
- the leave is for a period of at least six (6) weeks;
- the total leave granted under this clause shall not exceed two (2) years during an employee's total period of employment in the Public Service.

Leave granted under this clause for a period of more than three months shall be deducted from the calculation of "continuous employment" for the purposes of calculating severance pay and from the calculation of "service" for the purposes of calculating vacation leave;

Time spent on such leave shall not be counted for pay increment purposes.

