



TSAWWASSEN FIRST NATION
s̓c̓əwaθən məsteyəx^w

2009

GOVERNMENT EMPLOYEES ACT

Date Enacted: 3 April 2009

Last Consolidation: 6 April 2016

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Table of Legislative Changes

Name of Act	Bill Number	Date Enacted	Section(s) Amended	Comes Into Force Date
Government Employees Amendment Act	004-2010	23/03/2010	s.12.1 added	23/03/2010
Government Employees Amendment Act	002-2014	13/03/2014	s.2, s.6(1)(a)	12/03/2014
Dual Roles Amendment Act	002-2016	29/02/2016	s.2 amended (definitions added) s.11.1 added	29/02/2016

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The Tsawwassen Legislature enacts as follows:

Citation

- 1 This Act may be cited as the *Government Employees Act*.

Definitions

- 2 In this Act:

“**chief**” means the person elected as chief of the Tsawwassen First Nation under the *Election Act* or the person appointed as acting chief under the *Government Organization Act*;

“**chief administrative officer**” means a person appointed in that capacity under the *Government Organization Act*;

“**department**” means an administrative division or agency of the Tsawwassen Government, as established by the Executive Council;

“**employee**” means a person employed by the Tsawwassen Government, regardless of the method of employment, but does not include

(a) the chief administrative officer, or

(b) an employee of a corporation established by Tsawwassen First Nation unless designated by the Executive Council as an employee for the purpose of this definition;

“**Executive Council**” means the Executive Council of Tsawwassen First Nation established under the *Government Organization Act*;

“**Judicial Council**” means the Judicial Council established under the *Administrative Review and Judicial Proceeding Act*;

“**legislator**” means a person elected to the office of legislator under the *Election Act*;

“**manager**” means the administrative head of a department;

“**spouse**” means a person who

(a) is married to another person, or

(b) has lived with another person in a marriage-like relationship, and (i) has done so for a continuous period of at least 2 years, or (ii) has a child with the other person;

“**term**” means a term of the Tsawwassen Legislature as referred to in Part 1 of the *Election Act*;

“**Tsawwassen Government**” means the government of Tsawwassen First Nation as referred to in clause 2 of Chapter 16 [*Governance*] of the final agreement;

“**Tsawwassen Individual**” means an individual who is eligible to be enrolled as a member of the Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of the final agreement;

“**Tsawwassen Member**” means a Tsawwassen Individual as defined in Chapter 1 [*Definitions*] of the final agreement who is enrolled as a member of Tsawwassen First Nation in accordance with Chapter 21 [*Eligibility and Enrolment*] of that agreement;

[Amended by Bill 002-2014; Enacted on March 13, 2014]

[Amended by Bill 002-2016; Enacted on February 29, 2016]

Application

3 This Act governs the employment of Tsawwassen Government employees.

Executive Council as employer

4 The Executive Council, on behalf of the Tsawwassen Government, is the employer for the purposes of this Act.

Hiring employees

- 5**
- (1) Subject to section 6, hiring employees under this Act must be based on the principle of merit, as the result of a process designed to assess the knowledge, skills and abilities of eligible applicants.
 - (2) Having regard to the nature of the duties to be performed, the eligibility of applicants must be determined according to qualifications that include the applicants' education, skills, knowledge, experience, past work performance and personal suitability.
 - (3) Subject to section 6, all regulations, policies and procedures respecting recruitment, appointment and promotion of employees must be consistent with the principle of merit and must facilitate
 - (a) by means of internal advancement and external recruitment of employees, the development of an efficient and effective work force that is representative of the Tsawwassen First Nation membership,
 - (b) the long term employment of Tsawwassen Members, and
 - (c) the long term career development and advancement of employees.

Priorities and limitations in relation to hiring

- 6**
- (1) For a vacancy or class of vacancies, applicants for the vacant position or positions are to be given priority or limited, as the case may be, in a manner described in paragraph (a), (b) or (c) or in any combination of any of those paragraphs as follows:
 - (a) giving first priority to Tsawwassen Members and second priority to the spouse of a Tsawwassen Member and third priority to members of other First Nations;
 - (b) encouraging the career development and advancement of employees;
 - (c) limiting the appointment to employees of a stated occupational group, position level or organizational unit.

[Amended by Bill 002-2014; Enacted on March 13, 2014]

- (2) A vacancy may be filled by means of
 - (a) a lateral transfer, or
 - (b) a promotion of an employee.

Chief responsible for policy leadership

7 The Chief is responsible for providing policy leadership and overall policy direction to employees.

Appointment of department managers

8 Managers of departments are appointed by the chief administrative officer.

Chief administrative officer

9 (1) The chief administrative officer is responsible for

- (a) exercising supervision and control over employees,
 - (b) establishing employment policies and procedures consistent with this Act and the regulations, and
 - (c) promoting and developing an effective work force.
- (2) In exceptional circumstances, the chief administrative officer may limit to one the number of applicants for a vacant position.
- (3) The chief administrative officer may transfer or promote an employee by way of direct appointment if the appointment is otherwise consistent with section 5.

Conflict of interest

10 All employees are subject to the *Conflict of Interest Act*.

Political activity of employees

- 11** (1) An employee must not be required to participate in partisan political activity, including actively supporting a candidate for elective office.
- (2) An employee must not be prohibited from participating in partisan political activity.

Political leaves of absence

- 11.1** (1) An employee or chief administrative officer
- (a) who is elected or appointed as chief, or appointed to Executive Council, as of the date of the first general election that occurs on or after October 16, 2018; or,
 - (b) who is elected as legislator as of the date of the first general election that occurs on or after April 26, 2021,
- and who requests leave under this section, is entitled to an unpaid political leave of absence for up to one consecutive term.
- (2) Tsawwassen Government must not, because of an employee's, or chief administrative officer's, political leave of absence allowed by this section,
- (a) terminate employment, or
 - (b) change a condition of employment without that individual's written consent.
- (3) As soon as a political leave of absence ends, Tsawwassen Government must place the employee or chief administrative officer
- (a) in the position that individual held before taking a political leave of absence, or
 - (b) in a comparable position.

[Amended by Bill 002-2016; Enacted on February 29, 2016]

Review by chief administrative officer of decisions

- 12** (1) A person who is
- (a) a Tsawwassen Member whose application for an advertised position in Tsawwassen Government is not accepted, or
 - (b) dismissed from a position in Tsawwassen Government
- may apply to the chief administrative officer for a review of the decision of non-acceptance or dismissal, as the case may be.

- (2) The chief administrative officer must expeditiously review the decision with the applicant and by order may
 - (a) reverse or modify the decision with or without conditions, or
 - (b) confirm the decision.
- (3) As soon as practicable after completion of the review, the chief administrative officer must deliver to the applicant written notice
 - (a) stating the outcome of the review, and
 - (b) advising the applicant of the right to appeal the order, as described in section 13.

Review by independent arbiter

- 12.1
- (1) An employee who is dismissed by the chief administrative officer may apply to a qualified independent arbiter, appointed by Executive Council for that purpose, for a review of the decision of dismissal.
 - (2) The independent arbiter must expeditiously review the decision with the applicant and by order may
 - (a) reverse or modify the decision with or without conditions, or
 - (b) confirm the decision.
 - (3) As soon as practicable after completion of the review, the independent arbiter must deliver to the applicant written notice
 - (a) stating the outcome of the review, and
 - (b) advising the applicant of the right to appeal the order, as described in section 13.

[Amended by Bill 004-2010; Enacted on March 23, 2010]

Right of appeal to Judicial Council from an order under section 12

- 13**
- (1) No later than 10 days after receipt of the written notice under section 12 (3), the applicant may appeal the order made under section 12 (2) to the Judicial Council.
 - (2) The grounds for an appeal under this section are that the order is inconsistent with this Act, the regulations or the employment policies and procedures referred to in section 9 (1) (b).
 - (3) After conducting a review, the Judicial Council may
 - (a) dismiss the appeal, or
 - (b) if it determines that the order is inconsistent with this Act, the regulations or the employment policies and procedures referred to in section 9 (1) (b), either
 - (i) reverse the decision, or
 - (ii) alter the decision to include a remedy.
 - (4) As soon as practicable after completion of the review, the chief administrative officer must notify the applicant of
 - (a) the outcome of the review, and

- (b) the person's right under the *Judicial Review Procedure Act* (British Columbia) to apply to the Supreme Court of British Columbia for judicial review of the order.

Affirmation ceremony

- 14** All new employees must participate in a Tsawwassen Public Service Affirmation Ceremony, which must include
 - (a) a pledge of honour, respect, confidentiality, and
 - (b) other matters as prescribed by regulation of the Executive Council.

Annual report

- 15** The chief administrative officer must
 - (a) prepare a report annually on matters related to this Act, and
 - (b) present the report to the Executive Council no later than 2 months after the end of each fiscal year of the Tsawwassen Government.

Regulations

- 16** (1) The Executive Council may make regulations that it considers necessary or advisable for purposes under this Act.
- (2) Without prejudice to the generality of subsection (1), the Executive Council may make regulations
 - (a) respecting all or any of the following:
 - (i) classifications of positions;
 - (ii) remuneration of employees;
 - (iii) applications and selection of employees;
 - (iv) appointment of employees;
 - (v) internal advancement of employees;
 - (vi) the giving of first priority to Tsawwassen Members and second priority to members of other First Nations;
 - (vii) lateral transfers of employees;
 - (viii) short term or casual appointments;
 - (ix) benefits;
 - (x) terms of employment;
 - (xi) review and evaluation of performance;
 - (xii) leaves of absence
 - (xiii) competitions and exclusions from competitions;
 - (xiv) position titles and job descriptions;
 - (xv) promotions;
 - (xvi) disciplinary action;
 - (xvii) training and human resource development,
 - (b) defining words and expressions that are used but not defined in this Act, and
 - (c) generally for the purpose of giving effect to this Act.

Interpretation

- 17** The *Interpretation Act* (British Columbia) applies to this Act and the regulations, unless the context or another Tsawwassen enactment otherwise requires.

Commencement

- 18** This Act comes into force on the date of its enactment by the Tsawwassen Legislature.