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## Salary administration policy - Law Group - Department of Justice and other excluded legal officers

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### Policy objective

To ensure the accurate and consistent administration of salaries for legal officers in the Department of Justice and other legal officers excluded from collective bargaining, including incentives to recognize and reward individuals in relation to their peers and subordinates.

### Policy statement

It is government policy to pay legal officers throughout the Public Service according to their contribution to the organization and their attainment of performance goals. The salary administration plan (appendix A) provides the means to achieve this. Its chief provisions are the following:

- cash compensation is based on a salary range for each level and sub-level with a minimum and a job rate (maximum);
- individuals may progress through a range by a series of variable increases related to the employee's assessed level of performance;
- performance awards (bonuses) may be awarded to those whose salaries have reached the job rate and whose performance is superior or outstanding in a given year.

### Application

This plan applies to legal officers in the Department of Justice and to legal officers who are excluded from collective bargaining in other departments and agencies, and who occupy positions assigned to the Law group (LA).

### Policy requirements

Deputy heads must implement and adhere to the Salary administration plan (appendix A) in their departments.

They must:

- ensure that the salaries of legal officers are administered according to the plan, based upon each employee's performance review and appraisal report;
- ensure that employee salaries are determined according to the guidelines prescribed for the year in which they are administered;
- provide all information, training, advice and guidance required to implement and administer the plan;
- obtain prior written approval from the Treasury Board Secretariat when it is believed that the Salary administration plan guidelines should be exceeded.

### Monitoring

Departments are to submit reports to the Treasury Board Secretariat on their application

of the performance pay provisions of the plan in the format prescribed in appendix B.

The following performance indicators will be used to evaluate departments' adherence to the plan:

- performance awards are granted only to employees rated superior or outstanding who have attained the job rate; and
- in-range increases and performance awards do not exceed the percentage guidelines for each level of performance.

Reports on the administration of the plan will be monitored by the Treasury Board Secretariat and will be used to assess departmental personnel administration practices.

## References

*Financial Administration Act*, Section 11(2)(d).

This policy replaces chapter 1-2, Appendix B of PMM volume 8.

## Enquiries

Enquiries about this policy should be referred to the responsible officers in the department who in turn may direct questions regarding policy interpretation to:

Compensation and Human Resource Policy - Executive Group  
General Personnel Policy Development and  
Compensation Division  
Personnel Policy Branch  
Treasury Board Secretariat

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## Appendix A - Salary Administration Plan - Law Group - Department of Justice and Other Excluded Legal Officers

### 1. Purpose

This appendix presents guidelines for the application of the Law Group Salary Administration Plan to ensure consistency throughout the Public Service.

### 2. Definitions

**Acting pay:** the rate that an employee should be paid for a temporary assignment to a higher sub-level position (rémunération provisoire);

**in-range increase:** an increase in salary, based on assessed level of performance, that results in an upward positioning in the range (not to exceed the job rate) (augmentation à l'intérieur de l'échelle);

**job rate:** the maximum rate of pay available to a qualified employee whose performance in the job is at least fully satisfactory (taux normal);

**performance award:** a bonus payable to an employee whose base salary has reached the job rate of the salary range and whose assessed level of performance is superior or outstanding; it is payable in a lump sum and must be re-earned each year (prime au rendement);

**salary level:** six distinct salary levels for the LA-1, LA-2, and LA-3 classification levels, based on the complexity of work and managerial and specialization expertise. Appendix C describes the six salary levels (niveaux de traitement).

### **3. Payment of retroactive remuneration**

A retroactive upward revision in remuneration shall apply to employees, former employees or, in the case of death, the estates of former employees who were employed in the Public Service during the retroactive period.

Remuneration shall be paid in an amount equal to what would have been paid had the revision been implemented on the effective date.

The employer must advise the employee or the former employee of the retroactive revision by registered mail to the last known address. The employee or, in the case of death, the former employee's representatives shall have thirty (30) days from the date of receipt of this letter to request in writing a retroactive payment.

### **4. Salary range revisions**

The salary range consists of a minimum and a job rate (maximum), with movement through this range based solely on assessed performance.

Salary ranges for LAs may be adjusted periodically as authorized by the Treasury Board. Application of these range adjustments to individual salaries is not automatic and may be influenced by a number of factors. Specific instructions for the implementation of range revisions will be provided as appropriate by the Treasury Board Secretariat.

#### **4.1 Salary treatment for "unsatisfactory" performance**

Unless otherwise advised, departments will not apply any range revision to the salary of an employee whose performance is assessed as "unsatisfactory".

#### **4.2 Salary treatment for "satisfactory" performance**

An employee whose performance is assessed as "satisfactory" will not progress beyond a rate of pay which is 96 per cent of the applicable job rate. In the event that application of the full range adjustment would produce a salary greater than 96 per cent of the job rate, the range adjustment granted should be less than the full amount in order to reposition the employee's salary at the appropriate point in the range within a reasonable period of time.

#### **4.3 Employees on leave without pay**

An employee who is granted leave without pay for any period remains an employee.

The salary of an employee on such leave should be adjusted from time to time. Normally, adjustments will occur when directions are given for revisions to the LA salary ranges. Unless otherwise specified by the Treasury Board Secretariat, the employee will be accorded the same treatment as if he or she had received a performance assessment of fully satisfactory.

All periods of leave without pay count towards pensionable service credits, and contributions must be made in respect of such leave. Contributions should be based on the salary calculated as indicated.

#### **4.4 Acting employees**

While in receipt of acting pay, an employee is eligible to receive revisions to the salary range of the higher level.

Employees in receipt of acting pay remain subject to the non-pay terms and conditions

of employment governing their substantive level positions.

### **5. Salary on appointment**

This plan shall be used to determine the rate of pay on appointment of a person employed in the Public Service, or an individual recruited from outside the Public Service to a position in the LA group.

#### **5.1 Appointment to the LA group from outside the Public Service**

Rates of pay above the minimum on appointment will be determined by the deputy head. Normally the salary rate upon appointment should be below the job rate for the sub-level to provide scope for salary advancement.

#### **5.2 Progression between sub-levels**

On assignment to a higher sub-level, a rate of pay which provides a pay increase of at least five per cent of the job rate for the new sub-level but not less than the minimum of the pay range for that sub-level is normally granted. The amount of increase is to be determined by considering such factors as:

- revisions to the employee's former salary level; and
- any annual revision or performance increase that may be due in the former sub-level for the balance of the year in which the promotion occurs.

#### **5.3 Acting pay**

An employee who is performing on an acting basis the duties assigned to a higher sub-level should be paid at least the minimum of the sub-level in which the employee is acting, as detailed in Section 5.2 above, subject to the qualifying period of 30 working days.

While in receipt of acting pay, an employee whose substantive rate of pay is below the range maximum continues to be eligible to receive in-range increases, as well as any salary range revisions, for the substantive level. When an in-range increase to the employee's substantive salary occurs, the acting rate of pay shall be recalculated and any resulting increase paid to the employee.

### **6. Performance pay administration**

Determination of the individual salary adjustments is the responsibility of the deputy head.

The salary administration features vary according to the level.

#### **6.1 Law development level (articling law students)**

The rates of pay shall be administered at the discretion of the deputy head. In selected cases the deputy head may pay employees in the law development level while they are attending a Bar Admission Course provided that:

- an offer is made at the request of the Department to the employee for an indeterminate permanent legal position prior to the termination of the Bar Admission Course, and
- the employee makes a commitment in writing to work in the Department as a legal officer for a minimum period of one year immediately after being called to the Bar, and further agrees that in the event of a subsequent refusal of an offer for a legal position in the Department, or leaving the Department prior to the expiration of the year, the employee will reimburse the Department pay received during attendance at the Bar Admission Course or in respect thereof.

A candidate for admission to the Bar of any province or territory shall be considered to be in the law development level in any period of employment following graduation from law school and before entering the Bar Admission Course.

A candidate for admission to the Bar of any province or territory shall be considered to be in the law development level for that period of time that the candidate is employed by the Department, subsequent to the successful completion of the Bar Admission Course but prior to the formal call to the Bar, on the condition that an offer of permanent employment has been made to the candidate.

**6.2 LA-1**

At the discretion of the deputy head, the performance of legal officers at the LA-1 level may be reviewed on a semi-annual basis and an in-range increase for performance granted consistent with the rates set out in Section 6.3.1 below. Performance awards are not granted in this level.

**6.3 LA-2, sub-levels A and B and LA-3, sub-levels A, B, and C**

The annual performance review and employee appraisal are the basis for awarding performance pay.

**6.3.1 In-range increases**

As a general guide, in-range increases up to the job rate, as a percentage of the employee's salary, may be granted annually for assessed performance as follows:

Outstanding	up to 10%
Superior	up to 7%
Fully satisfactory	up to 5%
Satisfactory	up to 3%

Under no circumstances should an in-range performance increase be authorized for an individual whose performance has been assessed as "unsatisfactory".

**6.3.2 Performance awards**

A performance award (bonus) may be granted to an employee whose performance has been assessed as superior or outstanding, and whose salary is already at the job rate or has just reached the job rate by the application of an in-range increase. These lump sums must be re-earned each year.

Performance awards are to be limited to:

Outstanding performance during the year	up to 10% of salary
Superior performance during the year	up to 7% of salary

**6.3.3 Combined application of in-range increase and performance award**

Some employees assessed as superior or outstanding will reach their job rate with in-range increases which are less than the amounts permissible under the guidelines (paragraph 6.3.1). In these cases, the deputy head may grant a performance award in

addition to the in-range increase. The combination of the two amounts may not exceed 7% of salary for superior performance and 10% of salary for outstanding performance.

#### **6.4 Performance pay while receiving acting pay**

An employee who is receiving acting pay is eligible for performance pay at the higher level when the following criteria are met:

- the substantive rate of pay has reached the range maximum and the employee is no longer eligible for in-range performance increases in the substantive level; **or**, an in-range performance increase in the substantive level does not result in a change to the acting rate of pay; **and**
- performance of the higher level duties is assessed as fully satisfactory or better;
- the employee is on strength in the acting situation on March 31st and April 1st.

The commencement date of the acting assignment will not affect an employee's eligibility for performance pay when these conditions are met. Prorating the performance increase, based on the length of time in the acting assignment, is an option.

#### **6.4.1 Ineligible employees**

When an in-range performance increase in the substantive rate of pay results in a salary increase on recalculation of the acting pay, the employee **is not eligible for performance pay** in the acting level.

#### **6.5 Employees on leave with or without pay**

Consideration may be given to granting performance pay increases to employees who return from a period of leave with or without pay during the period covered by the performance review and appraisal report. This is particularly important for employees who have taken education leave or a period of leave for the purpose of improving qualifications. The amount of the increase should normally be in the fully satisfactory category.

#### **6.6 Limitations**

Under no circumstances are the in-range increases and performance awards paid under this plan to exceed the maximums available for the evaluated level of performance.

#### **6.7 Salary-related benefits**

A performance award will be included as part of salary for the period in respect of which it was paid. Any such award paid in the year of retirement, but related to the year prior to retirement, will be fully counted in the calculation of the six-year average salary for pension purposes. However, it will not be reflected in the level of coverage under salary-related benefits such as Supplementary Death Benefit and insurances.

Performance awards will also not be considered part of salary for the purposes of termination benefits such as severance pay and cash-out of vacation leave, or for salary calculations related to promotion or transfer.

#### **7. Authorization**

The deputy head is authorized to determine increases in salary and to make performance awards within the guidelines prescribed in this plan unless otherwise directed by the Treasury Board.

On those occasions when the circumstances of an individual case are so exceptional that it is believed that the the Salary Administration Plan guidelines should be exceeded, the deputy head must obtain prior written approval from the Treasury Board

Secretariat.

### 8. Confidentiality

As a matter of government policy, disclosure is restricted to information on the salary range. The specific salary paid to an employee in a performance pay plan may be disclosed only to those public servants whose work requires access to such information.

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## Appendix B - Departmental Reporting Format

The Treasury Board Secretariat will monitor the application of the performance awards and salary range revisions after implementation. Departments are asked to provide reports on their application of the plan to the Compensation and Human Resource Policy unit, Management Category, Treasury Board Secretariat. The reports should be on a floppy disk in d-Base III format, with file structure and contents as follows:

Field name	Type	Width	Dec	Contents
DEPT	Character	3		Department
SIN	Character	10		SIN
GRP_LVL	Character	8		Group and level, e.g. LA-1, LA-2A, LA-3B
JOB_RAT	Numeric	9		March 31st job rate
MAR_SAL	Numeric	9		March 31st salary
PERF_RAT	Numeric	1		Performance rating: Outstanding = 5 Superior = 4 Fully satisfactory = 3 Satisfactory = 2 Unsatisfactory = 1 Unable to assess = 0
MERIT_D	Numeric	10	2	In-range increase in dollars
MERIT_P	Numeric	5	2	In-range increase as a percentage of March 31st salary
BONUS_D	Numeric	10	2	Performance award in dollars
BONUS_P	Numeric	5	2	Performance award as a percentage of March 31st salary
TOT_INC	Numeric	5	2	Total increase: in-range plus performance award, as a percentage of March 31st salary
SAL_MERIT	Numeric	9		Salary after in-range merit increase
RANGE_D	Numeric	10		Salary range increase in dollars
RANGE_P	Numeric	5	2	Salary range increase as percentage of SAL_MERIT
APR_SAL	Numeric	9		Salary after range increase

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## **Appendix C - Salary Level Description**

### **LA-1**

Legal officers in this salary range perform legal work under general supervision.

### **LA-2A**

Legal officers in this salary range are at an experienced working level. Individuals are capable of performing in a number of fields or sub-fields of law and undertake complex assignments. Work is performed under general direction but with considerable freedom of action.

Normally a minimum of four years of legal experience related to duties to be performed are required for entry into the LA-2, sub-level A.

### **LA-2B**

Legal officers in this salary range are at the first level of management in the Law Group, or the first level specialist.

This level is intended to provide an introductory level for managers and to enable credit to be given to those who are required to accept minor managerial responsibilities in addition to practitioner duties. It is also intended to provide senior managers with greater flexibility for increasing the effectiveness of the unit.

Also assigned to this salary range are the senior legal officers of legal services units in departments and agencies where the program size and legal complexity are moderate. Specialist positions allocated to this salary range encompass senior level advisory or operational roles in which the legal officer receives general direction from a senior legal officer. Specialists have a depth of legal knowledge and expertise in a particular field of legal specialization and are recognized within the legal community as experts in their field.

### **Examples:**

Senior Counsel, Criminal Prosecutions, Winnipeg  
Senior Counsel, Department of Communications

### **LA-3A**

Legal officers in this salary range are responsible for the management of an organization providing legal services:

(a) to a number of client departments or agencies and involving work in one or more fields of law, or

(b) to a single department or agency where, because of the nature, scope, variety and national or regional significance of the department's or agency's programs and activities, the legal work is characterized by a high degree of complexity, variety or specialization, and creativity.

This level is intended to provide for heads of the more demanding and complex DLSUs, heads of smaller regional offices, group heads (or equivalents) in larger regional offices, and heads of comparable groups or sections at headquarters.

Individuals performing a legal specialist role in this salary range receive only minimal direction in the application of their clearly recognized expertise and experience. Such employees are those few identified as experienced and competent barristers and specialists in a field.

**Examples:**

General Counsel, Winnipeg regional office  
Section Head, Toronto regional office  
General Counsel, Department of National Revenue, Taxation

**LA-3B**

Legal officers in this salary range are responsible for the management of an organization providing legal services to a number of client departments or agencies and involving legal work in each of four or more fields of law, where the volume of work and consequent size of the organization presents substantial administrative and operational problems. This level is intended to provide for heads of the larger administratively complex regional offices, heads of the most demanding DLSU's and heads of the most demanding sections in headquarters.

This is also the select level for senior practitioners.

For a position to be at this level, the practitioner must have a record of continued exceptional contributions to the development of the law. Such achievement may be evidenced by any of the following:

- exceptional achievement in creative lawyering, for example, in the development of legal argumentation, case law, practice, policy, advisory services, or legal scholarship and writing;
- equivalent contributions in other forms of productivity.

**Examples:**

Senior General Counsel, Toronto Regional Office  
Senior General Counsel, Department of Transport

**LA-3C**

Legal officers in this salary range occupy positions at the assistant deputy minister level in the Department of Justice or an equivalent level of responsibility in a department or agency.

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