

NINTH COLLECTIVE AGREEMENT

Between

BC FAMILY MAINTENANCE AGENCY LIMITED

And The

PROFESSIONAL EMPLOYEES ASSOCIATION

April 1, 2019 – March 31, 2022

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ARTICLE 1 PREAMBLE

The parties to this Agreement share a mutual desire that the BC Family Maintenance Agency Limited (BCFMA) shall be operated in an efficient, productive, cooperative manner. The parties recognize that Counsel covered by this Agreement are bound by standards and ethical codes which guide professional conduct and require that fairness, loyalty and courtesy characterize their relations with the Employer, associates, subordinates, Provincial Government representatives and others.

The spirit and intent of this Agreement is to provide a mutually respectful and beneficial relationship between the parties in which Counsel will be able to develop and apply their professional knowledge and expertise to the best of their abilities in meeting the work objectives of the Employer. To this end, the Employer will encourage involvement and consider ideas from Counsel in such matters as may bear directly on Counsel's work and career prospects.

It is further agreed that where difficulties arise because language of this Agreement is imprecise, vague or absent, the parties will make every effort to identify solutions consistent with these principles.

1.1 Purpose of Agreement

The purpose of this Agreement is:

- a) to establish and maintain a harmonious and mutually beneficial relationship between the Association, its members, and the Employer; and
- b) to set forth the negotiated terms and conditions of employment for Counsel covered by this Agreement; and
- c) to advance professional standards among the Counsel covered by this Agreement; and
- d) to improve, on a continuing basis, the professional services provided by the Employer to the people of British Columbia.

1.2 Future Legislation

In the event that any further legislation renders null and void or materially alters any provision of this Agreement, the remaining provisions shall remain in effect for the term of the Agreement, and the Parties hereto shall negotiate a mutually agreeable provision to be substituted for the provision so rendered null and void or materially altered.

1.3 Conflict with Regulations

In the event that there is a conflict between an article of this Agreement and any regulation made by the Employer, this Agreement shall take precedence over the said regulation.

1.4 Human Rights Code

The Parties hereto subscribe to the principles of the *Human Rights Code* of British Columbia.

1.5 Compliance with Legislation

The Employer shall comply with all legislation affecting employment conditions of Counsel.

ARTICLE 2 EMPLOYER'S RIGHTS

The right to manage operations and to direct Counsel is retained by the Employer except as this Agreement otherwise specifies.

ARTICLE 3 ASSOCIATION RECOGNITION AND RIGHTS

3.1 Bargaining Unit

The bargaining unit shall consist of all employees of the Employer for whom the Association has been certified to bargain collectively pursuant to the *Labour Relations Code* of British Columbia, except those employees or classes of employees who may be excluded pursuant to Article 3.4 of this Agreement.

3.2 Bargaining Agent Recognition

The Employer recognizes the Association as the exclusive bargaining agent for all employees for whom the Association has been certified as bargaining agent.

3.3 No Other Agreement

Subject to any requirement of the Law Society of British Columbia, no agreement with any individual Counsel or other organization shall supersede or contravene the terms of this Agreement. No Counsel covered by this Agreement shall be required or permitted to make a written or oral agreement with the Employer or its representatives which may conflict with the terms of this Agreement.

Subject to any requirement of the Law Society of British Columbia, no agreement with any individual Counsel or other organization shall supersede or contravene the terms of this Agreement. No Counsel covered by this Agreement shall be required or permitted to make a written or oral agreement with the Employer or its representatives which may conflict with the terms of this Agreement.

3.4 Excluded Positions

The following positions shall be excluded from the bargaining unit:

Director of Legal Services
Senior Enforcement Manager

3.5 Recognition and Rights of Association Representatives

- a) The Employer will recognize the following designated officials of the Association for the purpose of formal relations between the Employer and the Association: Members of the Executive; Association local representatives; and such staff or Counsel as the Association may see fit to retain. When it is not possible for the local representative to be present to enact a duty under this Agreement or where local representatives are in need of representation under a clause of this Agreement, the Association may designate a non-BCFMA employee to represent the Association to deal with the particular issue at hand.
- b) The Association shall notify the Employer of the geographic jurisdictions and names of all local representatives who are Counsel.

3.6 Bulletin Boards

The Employer agrees to provide bulletin board facilities for use of the Association where Counsel are actively employed.

3.7 Picket Lines

- a) All Counsel covered by this Agreement shall have the right to refuse to cross a lawful picket line arising out of a dispute as defined in the *Labour Relations Code* of British Columbia. Counsel failing to report for duty shall be considered to be absent without pay. The Association will make every reasonable effort to ensure that its members can gain access to the workplace in the event that a BCFMA Counsel's entry might be denied because of a labour dispute between another employer and its employees.
- b) Failure to cross a lawful picket line encountered in carrying out the Employer's business shall not be considered a violation of this Agreement nor shall it be grounds for disciplinary action, provided Counsel meet their professional obligations.

3.8 Time Off for Association Business

a) Without Pay

Leave of absence without pay but without loss of seniority shall be granted:

- 1. to an elected or appointed representative of the Association to attend conventions of the Association and bodies to which the Association is affiliated;
- 2. for elected or appointed representatives of the Association to attend to Association business, which requires them to leave their premises of employment;
- 3. the maximum leave entitlement as per 3.8(a)(1) and (2) combined shall be fifteen (15) days per year.

b) With Pay

Leave of absence with pay and without loss of seniority will be granted:

- 1. to Association representatives or their alternates, to perform their duties pursuant to Article 3.5;
- 2. to Counsel called to appear as witnesses before an Arbitration Board.
- 3. to Counsel to attend Joint Association-Employer committee meetings.

c) Bargaining and Bargaining Committee

Time off shall be granted to not more than three (3) representatives of the Association when it becomes necessary to conduct collective bargaining with the Employer. The parties will each pay fifty percent (50%) of the facility expenses for joint bargaining sessions and fifty percent (50%) of the salary of the Association bargaining committee members on days joint sessions occur.

d) Procedure

Counsel shall give notice to the Employer of any leave to be taken under this Article.

To facilitate the administration of 3.8(a) and 3.8(c) of this section, when leave without pay is granted, the leave shall be given with pay and the Association shall reimburse the Employer for the appropriate salary.

3.9 Local Representative

The Association shall be entitled to have one local representative and alternate local representative in each of the:

- 1) Vancouver Island Region - Victoria Client Offices;
- 2) Lower Mainland Region - Lower Mainland Client Office;
- 3) Interior Regional Office - Northern and Interior Client Office.

In the event that new offices are opened which are not part of an existing facility, each office will be entitled to its own local representative.

ARTICLE 4 ASSOCIATION SECURITY AND DUES CHECK-OFF

4.1 Information

The Employer shall advise the Association of the name and working address of any new member of the bargaining unit. The Employer shall make reasonable efforts to allow representatives of the Association to contact and meet with a new member of the bargaining unit.

4.2 Association Membership

- a) All Counsel in the bargaining unit who October 27, 1995, were members of the Association or thereafter became members of the Association shall, as a condition of continued employment, maintain such membership.
- b) All Counsel hired on or after October 27, 1995, shall, as a condition of continued employment, become members of the Association and maintain such membership, upon completion of thirty (30) days of their appointment to a bargaining unit position.

4.3 Deduction of Dues

- a) The Employer shall, as a condition of employment deduct from the monthly wages or salary of each Counsel in the bargaining unit the amount of the regular monthly dues payable to the Association by a member of the Association.
- b) The Employer shall start to deduct Association dues, as per Article 4.3(a), as of the date Counsel first commences work in a bargaining unit position.
- c) Deductions shall be made semi-monthly and membership dues or payments in lieu thereof shall be considered as owing in the month for which they are so deducted.
- d) Counsel shall, as a condition of continued employment, complete an authorization form providing for the deduction from Counsel's wages or salary the amount of regular monthly dues payable to the Association by a member of the Association.
- e) The Employer shall supply each Counsel, without charge, with a receipt for income tax purposes in the amount of deductions paid to the Association by Counsel in the previous year. Such receipts shall be provided to Counsel before March 1st of the succeeding year.

4.4 Remitting of Dues

- a) All deductions shall be remitted to the Association not later than twenty-eight (28) days after the end of the month for which the dues were deducted and the Employer shall also provide a list of names as well as classifications of those Counsel from whose salaries such deductions have been made, together with the amounts deducted from each Counsel, and including those Counsel within the bargaining unit for whom a deduction was not made.
- b) Before the Employer is obligated to deduct any amount under this article, the Association

must advise the Employer in writing of the amount of its regular monthly dues or assessments. The amount so advised shall continue to be the amount to be deducted until changed by further written notice from the Association. Upon receipt of such notice, such changed amount shall be the amount deducted.

ARTICLE 5 GRIEVANCE PROCEDURE

Part A – Grievance Procedure

5.1 Grievance

The Employer and the Association recognize that grievances may arise concerning:

- a) differences between the Parties respecting the interpretation, application, operation, or any alleged violation of a provision of this Agreement; or
- b) the suspension, dismissal or other discipline of Counsel bound by this Agreement.

The procedure for resolving a grievance is defined by this article.

5.2 First Step

In the first step of the grievance procedure every effort shall be made to settle the dispute informally with the Senior Enforcement Manager and/or where appropriate, Director of Legal Services. The aggrieved Counsel shall have the right to have a local representative present at such a discussion. If the dispute is not resolved orally, the aggrieved Counsel may file a written grievance, through the Association.

5.3 Time Limits to Present Grievance at Second Step

Counsel who wishes to present a grievance at the Second Step of the grievance procedure, must do so not later than thirty (30) days after the date:

- a) on which Counsel was notified orally or in writing of action or circumstances giving rise to the grievance; or
- b) on which Counsel first became aware of the action or circumstances giving rise to the grievance.

5.4 Second Step

Counsel may submit a grievance through the Association in writing, describing the nature of the complaint and the remedy required, to the Senior Enforcement Manager. The Senior Enforcement Manager shall have fourteen (14) days after receiving the grievance to provide a written reply to the Association and Counsel.

5.5 Third Step

Failing satisfactory settlement at the Second Step, the Association may inform the Employer of its intent to submit the dispute to arbitration for final resolution within twenty (20) days after the Second Step response was received or became due, whichever is earlier. The arbitrator shall be

selected by mutual agreement between the parties. If the parties fail to reach agreement the chairperson of the Labour Relations Board will be asked to make an appointment.

5.6 Failure to Act

If the Association does not present a grievance to the next higher level within the prescribed time limits, the grievance will be deemed to have been abandoned. However, the Association shall not be deemed to have prejudiced its position on any further grievance.

5.7 Amending of Time Limits

The time limits fixed in this grievance procedure may be altered by mutual consent of the Parties but the same must be in writing. Where a grievance or a reply is presented by mail or facsimile, it shall be deemed to be presented on the day on which it is postmarked or facsimile stamped and it shall be deemed to be received on the day it was delivered to the appropriate office of the Employer or the Association.

5.8 Dismissal or Suspension Grievance

In the case of a dispute arising from Counsel's dismissal or suspension, the grievance shall commence at the third step of the grievance procedure within fourteen (14) days of the date on which the suspension occurred, or within fourteen (14) days of Counsel receiving notice of dismissal or notice of suspension.

5.9 Deviation of Grievance Procedure

The Employer agrees that after a grievance has been filed by the Association, the Employer's representative will not enter into discussion or negotiation with respect to the grievance, either directly or indirectly with the aggrieved Counsel without the presence of the Association.

In the event that after having initiated a grievance through the grievance procedure, Counsel endeavours to pursue the same grievance through any other channel, then the Association agrees that pursuant to this article, the grievance shall be considered to have been abandoned.

5.10 Policy Grievance

Where either Party to this Agreement disputes the general application, interpretation or alleged violation of this Agreement, the dispute shall be discussed within thirty (30) days of either Party requesting a meeting to resolve the issue. Where no satisfactory agreement is reached, either Party may submit the dispute to arbitration, as set out in Part B.

5.11 Technical Objections to Grievance

It is the intention of both Parties to this Agreement that no grievance shall be defeated merely

because of a technical error other than time limitations in processing the grievance through the grievance procedure. To this end, an arbitration board shall have the power to allow all necessary amendments to the grievance and the power to waive formal procedural irregularities in the processing of a grievance, in order to determine the real matter in dispute and to render a decision according to equitable principles and the justice of the case, provided that the arbitrator's decision does not contravene any other article of this Collective Agreement.

Part B – Arbitration Procedure

5.12 Arbitrator's Duty

The Arbitrator shall sit, hear the parties, settle the terms of the question to be arbitrated, and make an award within ten (10) working days after the conclusion of the hearing. The Arbitrator shall deliver the award in writing to each of the parties and it shall be final and binding upon the parties and implemented forthwith. However, the arbitrator shall not have the power to change this Agreement or to alter, modify or amend any of its provisions, or its application to either party. Should the parties disagree as to the meaning of the arbitrator's decision, either party may apply to the arbitrator to clarify the decision, which the arbitrator shall make every effort to do within seven (7) days.

5.13 Costs

The Employer and the Association shall each pay one-half (1/2) the remuneration and other expenses of the Arbitrator.

5.14 Time Limits / Effective Dates

Time limits specified in this Article may be extended by mutual agreement of the parties. Settlements reached at any step of the grievance procedure shall be effective on such date as determined by mutual agreement or by an Arbitrator.

5.15 Time Off to Appear Before Arbitration Hearing

Time spent by Counsel appearing before an arbitration hearing arising out of this Article shall be considered time worked.

5.16 Expedited Arbitration

By mutual agreement, the parties may proceed to expedited arbitration as an alternative to the aforementioned arbitration procedure.

Where the parties mutually agree to refer a matter to expedited arbitration, the following procedure shall apply:

- a) All presentations are to be short and concise and are to include a comprehensive opening statement. The parties agree to make limited use of authorities during their presentations.
- b) The location of the hearing is to be agreed to by the parties, but will be a location central to the geographic area in which the dispute arose.
- c) As the process is intended to be informal, only an employee of the Professional Employees Association or of BCFMA (or its Bargaining Agent) may present the grievance to the arbitrator.
- d) The arbitrator shall hear the grievances and shall render a decision within two (2) working days of such hearings. No written reasons for the decisions shall be provided beyond that which the arbitrator deems appropriate to convey a decision.
- e) All decisions of the arbitrator are to be limited in application to that particular dispute and are without prejudice. These decisions shall have no precedential value and shall not be referred to by either party in any subsequent proceeding.
- f) All settlements of expedited arbitration cases prior to hearing shall be without prejudice.
- g) The parties shall equally share the costs of the fees and expenses of the arbitrator.
- h) The expedited arbitrator, who shall act as a sole arbitrator, shall be selected from a list to be determined by mutual agreement of the parties.

5.17 No Reliance on Undisclosed Record

In any grievance or arbitration related to a Counsel's discipline, the Employer agrees that it will not rely on any record whose existence has not been disclosed to Counsel.

ARTICLE 6 CONTRACTING OUT

6.1 Contracting Out

The Employer agrees that it will not contract out any work presently performed by Program Counsel covered by this Agreement if the contracting out would result in the layoff of such Counsel.

6.2 Limits

The Association acknowledges and agrees that if the Provincial Government:

- a) takes control of the provision of legal services presently provided by the Employer, the Employer will have no control over whether work is contracted out and this article will have no effect, or
- b) requires the FMEP to centralize in one office pursuant to its contract with government, the Employer shall make best efforts to provide work to affected Counsel.

ARTICLE 7 SENIORITY

7.1 Seniority

'Seniority' means length of continuous service as a Counsel, including continuing, contractor and part time appointments. 'Continuous service' includes all service not interrupted by a break exceeding two years, or by dismissal for cause, unless a dismissed Counsel is reinstated under the provisions of Article 5. 'Break' shall not include any leave of absence. Counsel shall accumulate seniority from their date of initial employment with the Employer as program Counsel. When two (2) or more Counsel have the same service seniority date, the tie shall be broken by chance, in a manner mutually agreed by the Employer and the Union.

7.2 Seniority Accumulation

Counsel shall accumulate seniority during maternity leave, parental leave, sick leave, educational leave and any absence with salary or partial salary. Counsel on an unpaid leave of absence shall accumulate seniority for the first twenty (20) days of unpaid leave in any twelve (12) month period.

7.3 Articled Students

Students who article with the Employer shall receive a seniority credit equal to one-half (1/2) of the period during which they articulated with the Employer if employed as Counsel within six (6) months of completing articles with the Employer.

7.4 Bridging of Service

If Counsel resigns as a result of a decision to care for a dependent parent, spouse or child and is re-employed, Counsel shall be credited with length of service accumulated at the time of termination for the purposes of benefits based on service seniority. The following conditions shall apply:

1. Counsel must have been Counsel with at least three (3) years of seniority at the time of termination;
2. The resignation must indicate that the reason for termination;
3. The break in service shall be for not longer than six (6) years; and during that time Counsel must not have been engaged in remunerative employment for more than six (6) months, excepting employment with this employer as a temporary Counsel;
4. The previous length of service shall not be reinstated until successful completion of the probationary period on re-employment.

7.5 Temporary Counsel

Temporary Counsel accrue no seniority except for the purposes of layoff and recall among

temporary Counsel. If temporary Counsel becomes continuous Counsel during the temporary term or within six (6) months of the termination of temporary employment, the time spent as temporary Counsel will be credited as seniority upon successfully completing the probationary period as continuous Counsel.

ARTICLE 8 ASSOCIATION/EMPLOYER RELATIONS

8.1 Representation

No Counsel or group of Counsel shall undertake to represent the Association at meetings with the Employer without the proper authorization of the Association. To implement this, the Association shall supply the Employer with the names of its officers and similarly the Employer shall supply the Association with a list of its supervisory or other personnel with whom the Association may be required to transact business.

8.2 Association Bargaining Committee

The Bargaining Committee shall consist of three (3) members of the Association. The Association shall have the right at any time to have the assistance of members of the staff of the Association when negotiating with the Employer.

8.3 Joint Consultation

The Employer and the Association acknowledge the mutual benefit derived from joint consultation and its value in maintaining and improving service to BCFMA and FMEP users by Counsel and agree, therefore, to consult on matters of common interest by meeting on a regular basis.

8.4 Structure of Joint Committee

There shall be established a Joint Standing Committee composed of two (2) Employer representatives and two (2) Association representatives. In addition, there shall be two (2) alternates representing each party.

Meetings will normally be held in conjunction with a Province wide meeting of Counsel. Meetings may be held more frequently by mutual agreement of both parties.

8.5 Jurisdiction

This committee shall review matters, other than grievances and issues related to bargaining, relating to the maintenance of good relations between the parties.

8.6 Leave to Attend Committee Meetings

Counsel shall be granted leave of absence with pay (including sufficient travel time) and expenses to attend meetings of the Joint Standing Committee.

ARTICLE 9 PERSONNEL FILE

9.1 Contents

The Employer shall maintain an official Personnel file, both electronic and paper, for every Counsel. The paper file shall contain copies of any documents or notes which pertain to the hiring, job performance, pay and benefits, leave records, disciplinary action, conclusion of employment, and any other relevant documents or notes. The electronic file contains the Running Record and summary details of employment, including leave entitlements and balances.

Except as specified in Article 13, Disciplinary Action, all documents shall remain on file permanently. If any disciplinary action is reversed upon review, grievance or arbitration, all reference to the reversed disciplinary action shall be removed from Counsel's Personnel file.

9.2 Right to See

Counsel has the right to see their personnel file either by accessing the electronic file at any time or by advising the Senior Enforcement Manager that Counsel, or a person authorized in writing by Counsel wishes to see the paper file. The Senior Enforcement Manager or their delegate shall be present when the paper file is being reviewed. Counsel may request photocopies of any document(s) on the file and this shall be done within one working day. All requests to review the file and for copies of documents shall be noted by the attending supervisor on the file's running record.

9.3 Documents

At their request, Counsel shall be entitled to have documents related to their employment attached to their official personnel record. Such documents shall be so marked and shall have no official status except where provided for under this Agreement, and may not be used in formal proceedings.

9.4 No Unauthorized Disclosure

Subject only to Article 9.3, the written personnel record of an Counsel may not be revealed to anyone without Counsel's express written consent, except, the Employer's managers and administrative staff who have responsibilities with respect to the personnel file, and members of a selection panel before which Counsel appears, and legal and medical Counsel providing advice on matters directly related to the Counsel's employment.

9.5 Additions to Employment Record

Counsel shall be advised by their immediate supervisor at the time of the addition of any new document placed on their personnel file that relates to their performance.

ARTICLE 10 HOURS OF WORK

10.1 Number of Hours

The normal working week of Counsel of BCFMA is forty (40) hours per week. It is recognized Counsel are professionals and, that due to the nature of the work performed by Counsel, that Counsel may work a longer week than 40 hours. It is also recognized that in reaching the minimum number of hours of work required of Counsel that some of the work performed by Counsel may occur outside the office, including time attending in Court, and travel time to and from Court. The delivery of quality services to the client is a mutual commitment and objective of both parties to the agreement.

Effective April 1, 2016, the normal working week of Counsel will be 38 hours. Effective April 1, 2017, the normal working week of Counsel will be 39 hours. Effective April 1, 2018, the normal working week of Counsel will be 40 hours.

For each 7.5 hours accrued vacation carryover that Counsel have earned as of March 31, 2016, Counsel will be entitled to an additional 0.10 hours of discretionary time credit. No additional discretionary time credit is available for accrued vacation carryover of less than 7.5 hours.

For each 7.6 hours of accrued vacation carryover that Counsel have earned as of March 31, 2017, Counsel will be entitled to an additional 0.2 hours of discretionary time credit. No additional discretionary time credit is available for accrued vacation carryover of less than 7.6 hours.

For each 7.8 hours of accrued vacation carryover that Counsel have earned as of March 31, 2018, Counsel will be entitled to an additional 0.2 hours of discretionary time credit. No additional discretionary time credit is available for accrued vacation carryover of less than 7.8 hours.

10.2 Discretionary Days

Counsel can schedule nine (9) discretionary days per year. Counsel are not required to be in the office on these days nor are tasks to be assigned. These days are to be scheduled by mutual agreement between the Senior Enforcement Manager and Counsel. Discretionary days are non-bankable, but any unused discretionary days shall be paid out by April 30th of the following year.

ARTICLE 11 HOLIDAYS

11.1 Designated Holidays

The following are designated as paid holidays: New Year's Day, Good Friday, Easter Monday, Victoria Day, Canada Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, Family Day and any other day recognized and proclaimed as a provincial, civic or federal holiday for the locality in which a Counsel is working.

11.2 Entitlement

Regular full-time Counsel shall be entitled to the above holidays with salary at their regular rates for their normal number of daily working hours. Regular part-time Counsel shall be entitled to the above holidays with salary at their regular rates for their average normal number of daily working hours during the preceding twenty-two (22) working days.

11.3 Temporary Counsel

Temporary Counsel shall be entitled to the above holidays on the same basis as regular Counsel.

11.4 Holiday on Scheduled Day Off

When the day observed by the Employer as a paid holiday falls on Counsel's regular scheduled day off, Counsel shall be granted an alternate day off at a time mutually agreed upon between Counsel and the supervisor.

11.5 Holiday During Vacation

When Counsel is on annual vacation and a paid holiday occurs during that period, the paid holiday shall not count as a day of vacation.

11.6 Work on Holiday

Counsel required to work on a day observed by the Employer as a paid holiday shall be entitled to time off in lieu of a holiday to be taken at a time mutually agreed upon between Counsel and their supervisor.

ARTICLE 12 VACATION

12.1 Entitlement

Full-time continuous or temporary Counsel will have an annual vacation entitlement as follows:

Seniority	Work Days Per Fiscal Year
1 month to 36 months	25
37 months to 60 months	28
61 months or more	32 (Plus one (1) additional day for every year worked in excess of six (6) years to a maximum of thirty-five (35) days)

Counsel who resign or are terminated before the end of any fiscal year shall accumulate holidays under this clause on a prorated basis.

Vacation entitlement at the monthly rate of one twelfth (1/12) of the annual vacation leave entitlement in Article 18.2, shall be accumulated as earned to Counsel's credit for each month worked. Counsel working part-time or less than a full month shall have their leave entitlement prorated for the number of hours worked. The period of calculation for annual vacation entitlement shall be April 1 - March 31.

Temporary Counsel hired for a period of less than sixty (60) working days shall not receive any vacation leave credits but shall receive five percent (5%) of their regular pay each pay period in compensation.

12.2 Final Year Entitlement / Payout of Unused Vacation

Vacation leave is to be taken in the form of actual time off. Vacation leave credits will only be paid out as provided for in 12.4 or if Counsel ceases to work for the Employer. At the time of retirement or termination, Counsel shall be paid for any unused vacation. When Counsel resigns, is laid off or is terminated the value of accumulated vacation leave credits shall be added to the final paycheque. The pay out of any vacation time will be at Counsel's salary as of the time they left the Employer.

12.3 Scheduling

Each office will request all Counsel to specify their preferred dates for vacation leave during peak times (defined as July, August and December and the public school spring break period where each regional office is located) by circulating a list between February 1st and 28th each year. Counsel who do not respond within this deadline shall not be given any priority for time off during these periods, their seniority notwithstanding. The Employer shall post the approved list

by March 5th each year.

Counsel wishing to take holiday leave in non-peak periods shall apply in writing for the desired period of leave at least four (4) weeks prior to the commencement of such leave. The Employer will grant Counsel's non-peak requested dates except where it will seriously affect operational requirements. The Employer's decision will be communicated within five (5) working days of the request when it is for time other than peak periods.

Where more than one (1) Counsel applies for holiday leave for the same period of time, leave shall be granted on the basis of seniority. The number to be allowed off at any one (1) time shall be subject to operational requirements. However, no more than one-half (1/2) of Counsel's vacation entitlement will be given during July, August and December and spring break, seniority notwithstanding, if operational requirements do not make it possible to give all Counsel the time off at the dates they have requested.

Vacation schedules, once approved by the Employer, shall not be changed, other than in an emergency for either Party, except by mutual agreement. Counsel with seniority of less than six (6) continuous months as of March 31st of any year will have all unused holiday credits automatically carried over to the new year.

12.4 Carryover and Payout of Vacation

- a) Counsel may carry over up to ten (10) days' vacation leave per vacation year except that all such vacation carryover in total shall not exceed ten (10) days at any time.
- b) Counsel shall not receive cash in lieu of earned vacation time except:
 - i) where they cease to work for the Employer;
 - ii) where Counsel is on MAP leave and request payout of their accumulated or ongoing vacation credits as permitted in Article 14.6;
 - iii) in the circumstances defined in 12.4 (c).
- c) On or before December 1st of each vacation year, Counsel may elect to be paid out unused vacation, however, such payout is:
 - i) restricted to vacation in excess of eighteen (18) days, and
 - ii) any days paid out under this provision will reduce the permitted carryover, such that at no time will the carry over exceed ten (10) days.
- d) Vacation credits paid out under (c) shall be paid out prior to March 31st.

12.5 Callback from Vacation

Counsel shall not be required to report for work during a period of vacation leave. When, during any vacation period, Counsel agrees to be recalled to duty, Counsel shall be reimbursed for all resulting expenses incurred by Counsel and the Counsel's family, where applicable, in

proceeding to work, and in returning to the place from which Counsel was recalled, upon submitting receipts (except for meals) to the Employer. Travel time required in proceeding to work and returning again to the place from which Counsel was recalled shall not be charged against remaining vacation entitlement. In lieu of the foregoing, Counsel recalled from vacation may elect an additional vacation entitlement of five (5) working days.

12.6 Illness During Vacation

Counsel who is ill during a vacation period may substitute accumulated sick leave credits for the days of illness in accordance with Article 19, and shall be entitled to restoration of the lost vacation days.

12.7 Repayment of Vacation Credits Used But Unearned

Counsel who have been advanced vacation or sick leave and subsequently leave the Employer prior to working long enough to have earned back the advanced credits, shall have the monetary equivalent of the time still owing to the Employer deducted from their final paycheck. If Counsel's final paycheck is not sufficient to reimburse the Employer for the holiday time owing, the Employer shall not release any other funds (this does not include pension money) which may be due to Counsel until Counsel has reimbursed the Employer.

12.8 Salary Conversion

Each year prior to January 15th at 5:00 p.m. (the "Notice Deadline") Counsel may elect to irrevocably convert Discretionary days (Article 10.2) and/or Vacation Entitlement (Article 12.1) to salary subject to the following conditions:

1. Discretionary days may only be converted in twenty-four (24) hour blocks and Vacation Entitlement may only be converted in forty (40) hour blocks and the maximum total conversion may not exceed one hundred and fifty-two (152) hours;
2. the conversion will be effective April 1st of the same year of Notice Deadline;
3. each twenty-four (24) hour block of Discretionary time converted will result in the addition of one percent (1%) rounded to the nearest dollar to Counsel's base salary;
4. each forty (40) hour block of Vacation Entitlement converted will result in the addition of 1.75% rounded to the nearest dollar to Counsel's base salary;
5. it is the understanding of the Employer and Counsel that any Discretionary days and Vacation Entitlement converted to base salary shall accrue pension benefits;
6. the conversion of Vacation Entitlement to salary is restricted to vacation in excess of eighteen (18) days.

ARTICLE 13 DISCIPLINARY ACTION

13.1 Procedure

- a) The Employer may discipline for just cause, using the procedures set out below. Counsel considered by the Association to be wrongfully or unjustly disciplined or dismissed shall be entitled to recourse under the grievance procedure, in accordance with Article 5 of this Agreement.
- b) If Counsel is the subject of a formal complaint to the Employer, or grievance by another employee of the Employer then Counsel is to be promptly advised of the subject and nature of the complaint or grievance.

13.2 Right to Have Local Representative Present

- a) Where the Senior Enforcement Manager or Director of Legal Services intends to interview Counsel for disciplinary purposes or to obtain information about an incident which might lead to disciplinary action or where a probationary Counsel is advised of rejection on probation, they shall make every effort to notify Counsel in advance of the purpose of the interview in order that Counsel may contact the representative providing that this does not result in an undue delay of the appropriate action being taken. This clause shall not apply to discussions that are of an operational or instructive nature and do not involve formal disciplinary action.
- b) A local representative shall have the right to consult with the staff of the Association and to have a local representative present at any discussion with supervisory personnel which the representative is advised constitutes disciplinary action against the representative provided that this does not result in any undue delay of the appropriate action being taken.

13.3 Burden of Proof

In all grievance matters involving disciplinary action against Counsel, the burden of proving just cause shall lie with the Employer.

13.4 Notice

All disciplinary notices, including notices of suspension or dismissal, shall be in writing and provide reasons. A copy of such notice shall be forwarded to the Association on the same day it is presented to Counsel.

13.5 Accuracy of Information

The authenticity and accuracy of the information provided in the job application, attached resumes, letters of reference, degrees, diplomas or certificates, or any other document which is submitted by Counsel as part of the selection process, is a condition of employment. Subsequent discovery that the information supplied contains a material error and is deliberately misleading shall result in dismissal for cause.

13.6 Unjust Suspension or Discharge

Counsel who is found to have been unjustly suspended or discharged, and providing that no lesser form of discipline is substituted by the Employer (prior to arbitration) or the arbitrator (after submitted to arbitration), shall be immediately reinstated in their former position without loss of seniority and shall be compensated for all time lost in an amount equal to normal earnings during the period of such suspension or discharge. Any additional compensation which is considered just and equitable in the opinion of the Parties or in the opinion of the arbitrator may be made.

13.7 Termination of Right to Practice Law

It is a term of employment that all Counsel be a member in good standing of the Law Society of British Columbia. If Counsel either loses their right to practice law in the Province of British Columbia through disbarment or refuses to renew their membership in the Law Society of British Columbia, Counsel shall be terminated and their termination is not grievable. If Counsel is not eligible for insurance or is rejected for insurance coverage by the Employer's liability insurance policy for Counsel, Counsel shall be terminated immediately for just cause. If Counsel is suspended by the Law Society or convicted of a criminal offense the Employer shall use the test of reasonableness to determine if Counsel should be dismissed.

13.8 Removal of Documents

Upon Counsel's request any disciplinary documentation shall be destroyed after the expiration of eighteen (18) months (24 months in the case of suspensions) from the date it was issued provided there has been no further disciplinary action and none is pending. If a request is denied because action is pending, the Employer must advise Counsel of the reason and must issue the disciplinary action within two (2) working days of the request.

Separate and apart from any disciplinary documentation, upon Counsel's request a letter of expectation shall be destroyed after the expiration of eighteen (18) months from the date it was issued.

ARTICLE 14 LEAVES OF ABSENCE

Part A – Maternity and Parental Leave

14.1 Eligibility and Notification

- a) Employees are eligible for unpaid leaves of absence from employment subject to the conditions in this article.
- b) An employee who intends to take a leave of absence under this article will give at least four (4) weeks' notice in writing to the Employer unless there is a valid reason why such notice cannot be given and will inform the Employer in writing of the length of leave intended to be taken.
- c) The Employer may require reasonable evidence of the employee's entitlement to leave under this article.

14.2 Maternity Leave

- a) A pregnant employee is entitled to maternity leave without pay for seventeen (17) consecutive weeks.
- b) The period of maternity leave shall commence no earlier than thirteen (13) weeks prior to the expected date of birth and no later than the actual date of birth. The commencement of leave may be deferred for any period approved in writing by a duly qualified medical practitioner.
- c) An employee who takes maternity leave is entitled to an additional six (6) consecutive weeks of unpaid leave if, for reasons related to the birth or the termination of the pregnancy, the employee is unable to return to work at the conclusion of the maternity leave.

14.3 Parental Leave

- a) An employee is entitled to parental leave without pay as follows:
 - 1. for a parent who takes maternity leave, up to sixty-one (61) consecutive weeks, which must begin within seventy-eight (78) weeks after the birth of the child;
 - 2. for a parent who does not take maternity leave, up to sixty-two (62) consecutive weeks, which must begin within seventy-eight (78) weeks after the birth of the child; and
 - 3. for an adopting parent, up to sixty-two (62) consecutive weeks, which must begin within seventy-eight (78) weeks after the child is placed with the parent.
- b) An employee who takes parental leave is entitled to an additional five (5) consecutive weeks of unpaid leave if the child has a physical, psychological or emotional condition requiring an additional period of parental care at the conclusion of the parental leave.

14.4 Return from Leave

On return from leave Counsel shall be placed in their former position of equal salary providing that Counsel has not been laid off as per Article 15.

14.5 Health and Welfare Benefits

- a) The Employer shall maintain, subject to the conditions and limits of the insurer, its portion of Counsel coverage for medical, extended health, long term disability, dental and group life while Counsel is on maternity or parental leave.
- b) Counsel on Maternity and Parental Leave shall notify the Employer at least four (4) weeks prior to the expiration of the leave of their expected return date.

14.6 Terminated Pregnancy

Where the pregnancy is terminated, Counsel is eligible to apply for leave under the provisions of Article 19.

14.7 Maternity and Parental Leave Supplement

Counsel who have completed twelve (12) months continuous service and who qualify for leave under Section 14.1 and provide documented evidence they have applied for and will receive Employment Benefits as per the *Employment Insurance Act* for maternity and/or parental leave benefits, shall be eligible for the following additional allowance/benefits:

- a) Maternity Leave - In addition to the benefit received from EI, Counsel will receive thirteen percent (13%) of weekly salary up to a maximum of \$140.00 per week as long as Counsel is in receipt of Employment Benefits for maternity leave up to fifteen (15) weeks maximum.
- b) Parental and Adoption Leave - In addition to the benefit received from EI, thirteen percent (13%) of weekly salary up to a maximum of \$140.00 per week where an employee has opted for standard (35-week) EI parental benefits, or 6.5% of weekly salary up to a maximum of \$70.00 per week (up to 20 weeks maximum) where an employee has opted for extended (61-week) EI parental benefits.
- c) The weekly allowance shall be paid based on Counsel's rate of pay at the time they commenced leave.
- d) Counsel who are part-time and have variable hours shall be paid thirteen percent (13%) of their average weekly salary for the six (6) months prior to the commencement of leave, up to a maximum of \$140.00 per week.
- e) Where both parents are Counsel of the Employer, they may decide which Counsel shall be eligible for the parental leave allowance, but in no case may the allowance and benefit period for both Parties exceed sixty-two (62) weeks.

- f) If Counsel fails to resume their employment with the Employer or fails to complete six (6) months service upon their return, (except where due to layoff), Counsel shall reimburse the Employer an amount equivalent to the allowance, benefits and vacation earned on leave and paid out or taken within twenty-eight (28) days on a pro rata basis.

14.8 Additional Benefits

Counsel on leave may, on application, cash out some or all of their earned, unused vacation credits.

14.9 Seniority Accrual

An employee shall continue to accrue seniority for the entire duration of maternity or parental leave.

14.10 Entitlements Upon Return to Work

- 1) If Counsel requests, the vacation entitlements may be paid out as earned during the leave.
- 2) At the end of the leave, Counsel may choose to use vacation entitlements earned during leave to extend the period of-leave.
- 3) Counsel may use their accrued vacation entitlements no earlier than sixty (60) days after their return to work.
- 4) Any portion of the leave, not already paid out, may be paid out at the Employer's discretion at any time after Counsel returns to work. If the Employer requests this option, Counsel may direct any portion of the payment to be paid into their pension plan.
 - a) Vacation entitlements shall continue to accrue for the same number of weeks Counsel receive the weekly allowance while they are on leave pursuant to Article 14.7(a) and (b) provided Counsel returns to work at the end of the leave. Counsel have the following options with respect to accrued vacation entitlements under this section.
 - b) As of April 1st of the year following the year Counsel returns to work, the total vacation bank may not exceed ten (10) days.
 - c) Any vacation time taken after Counsel returns to work shall be first deducted from the leave earned under this section.

14.11 Leave Respecting the Disappearance of a Child

An employee is entitled to a leave of absence without pay of up to fifty-two (52) weeks if they are entitled to leave respecting the disappearance of a child under the *Employment Standards Act* and such leave will be in accordance with the *Employment Standards Act*. There will be no interruption in the accrual of seniority or eligibility for benefits.

14.12 Leave Respecting the Death of a Child

An employee is entitled to a leave of absence without pay of up to one hundred and four (104) weeks if they are entitled to leave respecting the death of a child under the *Employment Standards Act* and such leave will be in accordance with the *Employment Standards Act*. There will be no interruption in the accrual of seniority or eligibility for benefits.

14.13 Domestic and Sexual Violence Leave

The Employer shall grant a request for an unpaid leave to a maximum of sixteen (16) weeks if the reason is in relation to domestic or sexual violence. This unpaid leave is in addition to any legislated paid leave for this reason. In the event that present or future legislation enacts provisions with a greater entitlement to maximum weeks of leave in relation to domestic or sexual violence, that legislative provision shall prevail.

An employee's entitlement to leave in this section is in addition to any entitlement to leave under other articles of the collective agreement. An employee granted leave under this section shall be entitled to benefits in accordance with Article 14.12 (Leave Without Pay). For the balance of the leave taken pursuant to this Article, the service of an employee shall be considered continuous for the purpose of any pension, medical or other plan beneficial to the employee, and the Employer shall continue to make payment to the plans in the same manner as if the employee was not absent.

Casual employees shall not be required to be available for shifts for up to seventeen (17) weeks if the employee's unavailability is in relation to domestic or sexual violence.

14.14 Donor Leave

The Employer and the Union encourage employees to register as organ donors. An employee shall be granted the necessary leave of absence with pay for the purpose of donating bone marrow or an organ.

Part B – Political Leave

14.15 Leave During Campaign

The Employer shall grant unpaid campaign leave during the election campaign, on request, to Counsel who stands for election to public office.

14.16 Leave for Elected Members

Counsel who is elected to either the Provincial Legislature or Federal Parliament must take a leave of absence without salary.

14.17 Return to Same Rank

Counsel on leave shall be entitled to return to the Employer at the same rank or classification upon the expiration of any leave of absence granted under this Article.

14.18 Total Maximum Leave

Unless otherwise agreed by the Employer, the appointment of Counsel granted full-time leave while holding political office shall be terminated if the leave of absence exceeds five continuous years. In this article, 'continuous leave' shall mean leave which is not interrupted by a period of more than one full year of service with the Employer.

Part C – Personal Leave

14.19 Bereavement Leave

- a) The Employer shall grant up to five (5) days paid leave in any given calendar year in the event of the death of an immediate family member. Where extensive travelling time is required or Counsel is the executor of the estate, up to two (2) additional days shall be granted on request. Bereavement leave may be given verbally and later confirmed in writing. The Employer may, at its sole discretion, extend the period of bereavement leave with or without pay.
- b) Immediate family for the purposes of this Article and Article 19.2 is defined as: Any relative with whom the employee permanently resides; an employee's parents; former guardian; wife; husband; fiancé; common-law spouse; same sex partner; child; brother; sister; father-in-law, mother-in-law, and step-parents.
- c) In the event of the death of Counsel's grandparent, grandchild, son-in-law, daughter-in-law, brother-in-law, sister-in-law, Counsel shall be entitled to paid leave for three (3) days.
- d) Counsel on any form of leave of absence without pay are not eligible for bereavement leave while they are on such status.

14.20 Leave Without Pay

The Employer may, at its sole discretion, for an emergency or other exceptional circumstances, subject to operational requirements, grant Counsel leave without pay for a period not to exceed three (3) months. All requests and approvals for such leave will be in writing. Counsel absent under this paragraph shall be required to reimburse the company for the cost of all benefits for any period of such leave over twenty (20) working days. Long Term Disability is only available to the end of the month following the month in which the leave was commenced.

14.21 Elections

Counsel eligible to vote in a Federal, Provincial or Municipal Election or a referendum shall have the minimum consecutive clear hours in which to cast their ballots as specified in the

relevant legislation.

14.22 Other Religious Observances

Counsel are entitled to up to two (2) days leave with pay per year to observe their religion's spiritual or holy days not already provided for in Article 11, provided that time taken is made up within thirty (30) days following or preceding the day(s) taken off under this section. Two (2) weeks' notice is required for leave under this provision. Where two (2) weeks' notice is not possible due to the unpredictable nature of the spiritual or holy days, then as much notice as possible shall be provided.

14.23 Special Leave

Counsel not on leave of absence without pay shall be entitled to special leave at the regular rate of pay for the following up to a maximum of five (5) days per calendar year for all categories combined except the maximum number of days which may be taken under (d) and (e) is two (2) days each:

- a) marriage of Counsel or formal same sex affirmation four (4) days;
- b) attending wedding of Counsel's child one (1) day;
- c) birth or adoption of Counsel's child one (1) day;
- d) serious household (Counsel's) or serious domestic emergency one (1) day;
- e) moving of Counsel's household furniture and effects if Counsel changes permanent residence two (2) days;
- f) divorce hearing of Counsel one (1) day;
- g) attending their formal hearing to become a Canadian citizen one (1) day;
- h) to attend the funeral of a relative or close friend one (1) day;

Two (2) weeks' notice is required for leave under subsection (a), (b), (e), (f) and (g). The Employer may request information or documentation where appropriate to be satisfied that the leave is justified.

14.24 Compassionate Leave

- a) The Employer may grant, at its sole discretion, special compassionate leave with and/or without pay for reasons other than those set out in Article 14.15. This leave is for purposes not contemplated or provided for by any other clause in the Agreement. Permission is required from the Employer to be absent but only such explanation as is necessary to confirm for the Employer the appropriateness of the purpose shall need to be given and such explanation shall remain confidential.
- b) An Employee who is entitled to compassionate care benefits under the Employment Insurance Act is entitled to a leave of absence without pay of up to eight (8) weeks for the purpose of providing care or support to a gravely ill family member at risk of dying within twenty-six (26) weeks. Notwithstanding Article 7.2, there will be no interruption in the accrual of seniority for Counsel. The Employer will continue to pay the cost of benefit premiums for Counsel on leave under this section, provided that the care is being provided

for an immediate family member as defined in Article 14.11 (b). In all other cases, Counsel will be responsible for paying the full cost of their benefits.

14.25 Absence Without Leave (Abandonment of Position)

Counsel who fails to report to work and does not request and/or is not eligible for authorized leave as per this article, shall be deemed to be absent without leave and may be terminated after five (5) days absence except where, in the opinion of the Employer, there are reasonable circumstances which prevented Counsel from reporting or requesting leave for which Counsel is eligible.

Part D – Planned Leave Program

14.26 Planned Leave Program

- a) The objective of a Planned Leave Program is to provide Counsel an opportunity for a planned period of absence to pursue any activity or interest, such as continuation of educational studies, travel, or other interests.
- b) All Counsel who have been continuously employed with BCFMA for a minimum of five (5) years are eligible to participate in the program. No Counsel may take a planned leave more than once in a five (5) year period, and only if they have been a continuous employee throughout that five (5) years. No more than one Counsel from each office may be on a Planned Leave at the same time.
- c) The minimum leave period will be three (3) consecutive months and the maximum will not exceed twelve (12) consecutive months. Counsel will return to their former position or an equivalent position in the same region as held prior to the leave. This will be decided prior to the leave and will form part of the leave agreement.
- d) Counsel and the Employer shall enter into a Planned Leave Agreement setting out duration of leave and position upon return at least three (3) months prior to leave being taken. Approval of the start date shall be subject to reasonable operational requirements.
- e) Two (2) months prior to the commencement of the leave, Counsel will confirm their leave start date.
- f) The Planned Leave Program is unpaid. Counsel may continue on the benefits plan, subject to the rules of the insurers, for which they are currently registered by prepaying seventy-five percent (75%) of the monthly premiums for such coverage. Long and short term coverage is not continuable.
- g) Counsel shall give the Employer notice of intention to return to work two (2) months prior to the expected date of return.
- h) If Counsel intended to, or subsequently accept paid employment during the Planned Leave

they shall notify the Employer and the Employer may make commencement or continuation of the leave conditional on reimbursement of any extra costs incurred by the Employer for a replacement for insurance and Law Society fees.

Part E – Leave for Court and Tribunal Appearances

14.27 Witness Leave

The Employer shall grant paid leave to Counsel, other than those on leave without salary, who appear as subpoenaed witnesses in a court action or statutorily established tribunal, provided such action is not occasioned by the Counsel's private affairs. Counsel who intend to use the rights under this clause, shall notify the Employer when served with a subpoena.

14.28 Court Actions Arising from Private Affairs

In cases where Counsel's private affairs result in court appearances, leave to attend at court shall be granted. Such leave shall be without salary.

14.29 Remission of Payments

Counsel who receive regular salary while serving at court shall remit to the Employer all monies paid by the court, except unreimbursed travelling expenses.

14.30 Incarceration

Staff members who are incarcerated, for a period not to exceed ten (10) work days, pending a court appearance shall be entitled to leave without salary.

14.31 Position Upon Return to Work

Regular Counsel on leave of absence shall have the right to return to their former position.

ARTICLE 15 LAYOFF AND RECALL

15.1 Notice to Association

Where the Employer plans to layoff Counsel or to reorganize the operation in a way which would result in redundancy, the Employer shall advise the Association in advance of the affected Counsel of its intention prior to such layoffs or reorganization being implemented. A formal consultation meeting between the bargaining principals or their representatives shall be held within five (5) working days at the request of either Party.

15.2 Alternatives to Layoff

Where a redundancy has been identified, and before any layoff occurs, the Employer shall conduct an appropriate canvass of bargaining unit members to determine whether layoff can be avoided by use of alternatives such as voluntary placement into vacant positions, resignation with severance pay as provided under Article 15.7, job sharing, alteration of hours of work, increase the number of part-timers.

15.3 Notice of Layoff

- a) The Employer shall provide Counsel who are non-Contract status with less than four (4) years seniority three (3) months' notice of layoff. Non-Contract status Counsel with more than four years seniority shall receive six (6) months' notice. Contract Counsel shall receive six (6) months' notice of layoff except where the layoff is due to a reduction in the FMEP operating budget. If layoff is due to a budgetary reduction three (3) months' notice must be given. Contract Counsel are not eligible for any additional severance benefit and are automatically on the recall list.
- b) Where a layoff is to occur, the Employer shall layoff Counsel with the least amount of service seniority in the region as defined in Appendix B. The affected Counsel can opt to displace the most junior Counsel in the province, provided that such Counsel has less than three (3) years seniority.
- c) Counsel whose position is eliminated must advise the Employer within two weeks of receiving notice where Counsel intends to exercise displace rights. The Employer shall, within one week of being advised that Counsel is going to exercise the displacement rights, give notice of this to the Counsel who is being displaced. Counsel with the least seniority shall be given the required notice under 15.3(a).
- d) Once the right to displace has been exercised, Counsel is no longer on layoff status, and shall commence work in the new position no later than the effective date of the layoff of the displaced Counsel.

15.4 Recall

- a) Counsel who has been laid off has the right of first refusal to any vacant position for a period of one year following layoff or, in the case of temporary Counsel, up to the date that

Counsel's employment would have ended, but for the layoff. If more than one Counsel is on layoff status, the right of first refusal is offered in order of seniority. The Employer is to notify laid-off Counsel of such vacancies. If Counsel exercises the right of first refusal they are responsible for their own moving expenses should this involve moving to a different office, except as provided for in 27.10(a).

- b) No new continuous Counsel shall be hired until Counsel on the recall list are offered and decline recall as specified in Article 15.4 (a).
- c) Continuous Counsel who opts to remain on the recall list shall be recalled in order of seniority, and shall be credited with their seniority as of the date of lay off.
- d) The Employer will attempt to reach laid off Counsel for recall by telephone and registered letters for ten days. It is the responsibility of the laid off Counsel to ensure that the Employer is kept notified of their current mailing address, telephone number and availability.
- e) If the recalled Counsel with the highest service seniority is unavailable or refuses work, Counsel with the next highest service seniority in the classification shall be recalled.
- f) Continuous Counsel on the recall list who has not accepted full time employment elsewhere may continue on the benefits plan, subject to the rules of the insurers, for which they are eligible (basic medical plan, dental, extended health care, accidental death and dismemberment, and group life) by prepaying the monthly premiums for such coverage for a maximum of six (6) months. This does not include Long Term Disability which can only be maintained to the end of the month following the month in which Counsel was laid off. The Employer will pay the cost of premiums for the first sixty (60) days.

15.5 Receipt of Due Monies

Counsel who is laid off shall receive, no later than the effective date of the layoff, net payout of all earned salary, vacation leave, and compensatory time off.

15.6 Notice to Counsel

- a) If Counsel has not had the opportunity to work the full notice period they shall be paid in lieu of work for that part of the notice period for which work was not made available.
- b) Following notice of layoff, Counsel so affected, who are seeking alternative employment, shall, subject to operational requirements, receive leave with pay to attend job interviews. The Employer agrees that such leave shall not be unreasonably withheld. The Employer may require reasonable proof that Counsel has attended the job interview for which the time was taken off. The total number of hours of such paid leave shall not exceed ten (10) hours.

15.7 Alteration of Hours of Work

In cases where the hours of work of a bargaining unit position are to be increased or decreased, Counsel occupying that position and the Association shall be given not less than three (3)

months' notice of such change. Before any alteration of hours is imposed on Counsel, the Employer shall conduct an appropriate canvass of bargaining unit members to determine whether the Employer's objectives can be accommodated by other, voluntary alternatives.

15.8 Severance

Except where the date of layoff is established by the appointment notice, Counsel who are laid off and not placed or recalled as contemplated in Article 15.3 and 15.4 shall receive a severance payment according to the following scale:

1 – 6 months	2 weeks' pay
7 – 12 months	4 weeks' pay
13 – 24 months	6 weeks' pay
24+ months	10 weeks' pay plus an additional week for every year of continuous service after two years, in which at least six months were on salary or Maternity and Parental Leave, up to a maximum of 24 weeks.

Counsel who receive a layoff notice may elect, at any time during the period contemplated in Article 15.4, to be paid severance pay in lieu of placement in a vacant position or on a recall eligibility list.

15.9 Transfer and Relocation

It is understood by the parties that as a general policy, Counsel shall not be required to relocate from one region to another against their will. In cases where the Employer desires to transfer Counsel who objects to the transfer, Counsel shall not be required to transfer unless the Employer can demonstrate reasonable grounds for the transfer. Counsel may elect voluntary layoff.

15.10 Temporary Counsel

Where a layoff is to occur, the Employer shall layoff the temporary Counsel with the least amount of service seniority in the region as defined in Appendix B. The parties agree that temporary Counsel will be laid off prior to any continuous Counsel. Recall of temporary Counsel to a temporary position will be offered to the most senior temporary Counsel on layoff.

ARTICLE 16 JOB SHARING AND PART TIME

Job sharing and part time arrangements may be entered into on a case by case basis where the terms and conditions are mutually acceptable to the Employer, the Association and the persons wishing to job share or work part time. Such arrangements will be approved subject to reasonable operational and financial considerations.

ARTICLE 17 PROFESSIONAL FEES

17.1 Liability Insurance

- a) The Employer shall provide professional liability insurance. Provided the claim has not arisen as a result of an intentional act or omission or the gross negligence of Counsel, the Employer shall pay the deductible should a successful claim be made against Counsel. The Employer shall not make any change in coverage without the consent of the Association. The Association is entitled to be provided with a copy of the policy.
- b) It is the duty of Counsel to immediately advise the Employer, in writing, when becoming aware of any situation arising from work conduct, or the conduct of another Counsel from, or for whom, Counsel is assuming responsibility which may give rise to a claim under the policy, giving details of the conduct.

17.2 Indemnity

Except where a joint Employer/Association committee considers that there has been an intentional act or omission or gross negligence by Counsel in the performance of the Counsel's official duties, the Employer agrees:

- a) Not to seek indemnity against Counsel whose actions in the performance of those official duties result in a judgment against the Employer;
- b) To pay any judgment against Counsel or former Counsel, arising out of the performance of the Counsel's duties with the Employer;
- c) To provide legal services and/or to pay approved legal costs incurred in the civil proceeding arising. Wherever practical the Employer will consult with Counsel on the naming of legal Counsel and shall abide by the Counsel's decision unless the insurer insists otherwise.

In the event the joint Employer/Association committee cannot resolve differences the dispute will be put to a mutually agreed third party for binding and final resolution.

17.3 Law Society Fees

The Employer will pay the mandatory fees as set by the Law Society of British Columbia for each Counsel. If a Counsel is newly hired or recalled and Law Society fees for the year have been paid, the Employer will reimburse Counsel for a *pro rata* portion of the fees; or if fees for the year have not been paid, the Employer will pay the Law Society fees for the year.

If Counsel terminates employment, the Employer shall be entitled to recover a pro-rated portion of the fees from Counsel.

17.4 Articled Student Fees

The Employer shall pay the Articled Student Fees as established from time to time by the Law

Society of British Columbia for both the Law Society's Admission Programme and Training Course Registration for Articled Students employed by the Employer. The amount will be prorated if the student does not complete articles with the Employer.

If another organization or individual undertakes to pay the fees covered by this section, the Employer will not be required to pay those fees.

The Employer shall pay the bar call fees for a student who has articulated, at least in part, with the Employer within six months of completing articles. If these fees have already been paid, the Employer will reimburse Counsel.

ARTICLE 18 PROFESSIONAL DEVELOPMENT

18.1 Importance of Professional Development

The Employer recognizes that a climate encouraging Counsel to improve educational level and enhance job performance is essential to preserving and enhancing the quality of the Employer's programs. The Employer further recognizes the importance of providing educational and professional development opportunities equitably to Counsel.

18.2 Annual Professional Development Entitlement

Continuous Counsel who are employed for no less than .6 of a full time position shall have the following professional development entitlement:

- For legal Counsel in the Lower Mainland Client Office, a total of \$2,000 per year;
- For legal Counsel in the Victoria Client Office, at total of \$2,200 per year;
- For legal Counsel in the Northern Interior Client Office, at total of \$2,400 per year;
- The professional entitlement may be applied to:
 - Course or conference fees which are in some way related to the practice of law for the Employer or the work/performance skills of the Employer and all related travel costs. Consideration will be given to courses offered outside British Columbia within Canada or internationally if the combined cost of registration and travel are comparable to the cost of similar courses within British Columbia.
 - Acquisition of resource materials or work tools related to the Employer's business.
 - Membership in professional organizations.
 - Attendance at meetings of the Canadian Bar Association or other legal professional organizations.

Expenses in excess of the foregoing amounts per year may be paid at the discretion of the Employer. Costs incurred by Counsel attending the Federation of Law Societies annual Family Law conference shall not be included in the monetary limits set out in this paragraph.

Payment shall be made upon receipt of an itemized invoice or, if requested by direct payment. Ownership of any materials purchased with this allowance, except for course/conference materials, belongs to the Employer and must be surrendered upon cessation of employment.

Under no circumstances will unused professional development funds be used other than for professional development. It cannot be 'cashed out' on termination or retirement. Unused Professional Development allowances may be carried forward to a maximum of \$2,000 for legal Counsel in the Lower Mainland Client Office, \$2,200 for legal Counsel in the Victoria Client Office and \$2,400 for legal Counsel in the Northern Interior Client Office.

Approval for professional development will not be unreasonably withheld.

18.3 Required Attendance

Where the Employer requires Counsel to attend a training program, the Employer shall bear the full cost of the Counsel's training, and where the program entails leave of absence, such leave of absence shall be with salary. Leave and costs provided under this Article shall not be charged against the entitlement established under Article 18.2.

18.4 Discretionary Attendance

Where Counsel asks to attend a training program not covered under Article 18.2 and not required by the Employer, at its option the Employer may grant Counsel leave of absence, with or without pay, or any portion thereof, at its discretion.

18.5 Costs

The costs of Counsel's training provided under Articles 18.3 and 18.4, include, where applicable, tuition fees, entrance or registration fees, course-required books and materials, necessary travel expenses (minus travel expenses normally incurred by Counsel travelling between home and the place of work), necessary subsistence expenses, and other legitimate expenses approved by the Employer.

18.6 Provincial Counsel Meetings

A minimum of two (2) two-day provincial Counsel meetings will be held each year.

18.7 Personal Growth Allowance

Continuous Counsel shall receive a Personal Growth Allowance of \$600 (pro-rated for part time Counsel) to be paid by September 1st of each year. Counsel may elect to have this allowance added to Article 18.2 Professional Development entitlement.

18.8 Justice Access Transformation Fund (JATF)

The Employer shall contribute each year, a lump sum amount to the JATF which shall be administered by the committee detailed in Article 8 of this Collective Agreement (the "Committee"). The amount of the contribution to the fund shall be a lump sum of \$8,000 upon the ratification of this agreement which shall be disbursed by March 31, 2021. There shall be a lump sum of \$5,000, commencing April 1, 2021 to continue in that amount each following year. The maximum amount of the fund available to any legal Counsel will be prorated based on full time and part time status of that legal Counsel. Any funds not expended in the same year will not carry forward to a subsequent year.

ARTICLE 19 SICK LEAVE

19.1 Sick Leave Entitlement

Counsel shall earn paid sick leave at the rate of six and one-quarter (6 1/4) hours for each full month of service [ten (10) days per year] in which pay was received for at least ten (10) days. Part-time Counsel shall be entitled to paid sick leave credits on a prorated basis. Where Counsel is absent from work because of illness or injury Counsel shall be entitled to claim sick leave at the regular rate of pay for a maximum period equivalent to the accumulated paid sick leave credit. Counsel shall be entitled to bank up to twenty (20) days of earned sick leave credits at any time. Any unused sick time in excess of twenty (20) days as of April 1st is lost. This means Counsel may not have more than thirty (30) paid sick days in any year.

19.2 Use of Paid Sick Leave

Sick leave may be taken in the event of illness by Counsel or an immediate family member of Counsel. The entitlement to use sick leave to care for an immediate family member applies only to paid sick leave. Counsel who are absent for more than five (5) consecutive days because of illness of themselves or a family member, must submit at the Employer's request, a doctor's note with their application for sick leave. If Counsel does not provide this doctor's note and the Employer does not consider Counsel's explanation for not having such a note to be reasonable, the sick leave applied for will not be granted as paid leave and the Employer may take disciplinary action. Upon return to work Counsel must submit the sick leave form within two (2) working days.

19.3 Unpaid Sick Leave

Continuous Counsel who has used up all their paid sick leave credits as per 19.1, and is required to be absent from work due to illness or injury, is eligible for unpaid sick leave, except for new Counsel on probation who may be rejected on probation. Unpaid sick leave will be granted for a period of time not to exceed one-hundred and fifteen (115) working days in any fifteen (15) month period subject to the following conditions:

- a) Counsel has qualified for Workers' Compensation benefits or weekly indemnity payments by the insurer;
- b) Counsel has, upon the expiry of the weekly indemnity eligibility term, qualified for long term disability payments by the insurer;
- c) Counsel contacts the Employer after each visit to a doctor about the illness(es) for which Counsel is absent, or every two (2) weeks, whichever is sooner, to advise whether Counsel is still unable to return to work and if an expected date of return to work is known;
- d) when Counsel has been absent from work for more than sixty (60) continuous days, Counsel must provide, in writing, at least twenty (20) working days' notice to the Employer of their date of return; the Employer is under no obligation to permit Counsel to return to their position prior to such notice being given, if position has been backfilled by a temporary Counsel.

Counsel who fails to meet the above conditions, and is not reasonably prevented by the circumstances of the illness from communicating with the Employer, shall be deemed to be absent without leave and may be terminated as per Article 14.18.

19.4 Loss of Accrual

Counsel who are absent on unpaid leave in excess of twenty (20) cumulative working days in any twelve (12) month period and Counsel who are on MAP leave, short-term or long-term disability, do not earn sick leave credits for these periods.

19.5 Advising Employer

Counsel who are unable to report in for work on any day because of illness, must phone their Senior Enforcement Manager or designate by 9:00 a.m. of that same day to advise that they will not be coming in. Counsel has the responsibility to advise their supervisor or colleague of any important matters which must be looked after that day. Disciplinary action may be taken against Counsel who does not advise the Employer unless there is a reasonable explanation.

19.6 Deduction of Sick Leave

All absences on account of illness or injury on a normal working day (exclusive of designated paid holidays) shall be charged against Counsel's sick leave credits, except as noted in Section 20.7.

19.7 Repayment of Sick Leave Credits Used But Unearned

Counsel who have used all or part of their year's sick leave entitlement and subsequently leave the Employer prior to earning the sick leave credits used (as per Article 19.1), shall have the equivalent monetary value of the days owing deducted from their final paycheck.

19.8 Extended Absence for Medical Reasons

If Counsel is absent from work for medical/health reasons for a cumulative total of eight (8) months or more in any fifteen (15) month period, the Employer may fill the position on a permanent basis. Counsel will be considered on unpaid leave and may return to work within the next sixteen (16) months provided they provide medical confirmation that they are fit to resume all duties, and providing that there is a vacancy in the same worksite. The Employer has no obligation to maintain any employment obligation for an employee who is absent for a twenty-four (24) month period in a thirty (30) month period. The Employer has no further obligation to maintain liability insurance and/or Law Society fees for Counsel after the initial eight (8) months.

ARTICLE 20 HEALTH AND WELFARE BENEFITS

20.1 Definitions

For the purposes of this article, Counsel means only those who are employees and excludes Counsel who are on contract to the Employer.

20.2 Commencement of Benefits

Continuous Counsel become eligible for all benefits commencing the first date of employment. Temporary Counsel become eligible for all benefits after they have completed ninety (90) days of continuous employment. Part-time Counsel shall be eligible for all benefits on the same basis as full-time Counsel providing they work a minimum of seventeen (17) hours per week. This applies to Counsel under age sixty-five (65).

20.3 Group Plan

The Employer will maintain a group benefit contract for its Counsel which includes at least the following components:

- Life Insurance
- Accidental Death and Disability Insurance
- Extended Health
- Short Term Disability
- Long Term Disability
- Dental
- Employee Assistance Plan

The minimum level of coverage shall be in accordance with the contract between the Employer and its insurers as of June 1, 1996, a copy of which is filed with the Association. The Employer is not the insurer but has the obligation to pay the premiums and to insist that the insurer meet the obligations of the insurance contract, except that the payment of Long Term Disability benefit premiums shall end 120 days prior to Counsel's sixty-fifth (65th) birthday.

20.4 Cost of Premiums

The cost of the premiums shall be borne by the Employer until Counsel's sixty-fifth (65th) birthday.

20.5 Basic Medical Insurance

All continuous and temporary Counsel must be covered by Province of British Columbia basic medical insurance plan. This coverage must be through the Employer unless Counsel provides proof they are already covered and does not wish to be covered under the Employer's group.

20.6 Group Plan Coverage

All continuous eligible Counsel, and all temporary eligible Counsel who have more than ninety (90) days continuous service, must participate in all the benefits noted in Article 20.3. This shall not include Dental and Extended Health where Counsel provides proof of similar coverage under another plan. Counsel who is covered by another plan and elects to participate in the Extended Health and Dental components of the Company's plan shall not be permitted to later withdraw from these components of the plan.

20.7 Medical Examination

Where the Employer requires Counsel to submit to a medical examination or medical interview, it shall be at the Employer's expense and on the Employer's time. This does not apply if it is the benefits insurer that is requiring the examination.

20.8 Health and Welfare Plan

A copy of the benefit contracts with the carriers for the extended health care, dental and group life plans shall be sent to the Association. A descriptive pamphlet will be given to every Counsel upon request.

20.9 Coverage on Leave of Absence Without Pay

Benefits as per 20.3 and 20.6 will be maintained upon written request for Counsel absent on leave without pay in excess of twenty (20) work days in any calendar year providing Counsel pays to the Employer one hundred percent (100%) of the monthly premium within fifteen (15) days of billing by the Employer. The conditions for eligibility and limits of the Insurer re coverage shall apply. If Counsel does not pay an invoice within twenty-one (21) days, the Employer may cancel Counsel's coverage.

20.10 Coverage on MAP and Sick Leave

The Employer shall continue to pay the premiums for the benefits described in 20.3 and, 20.5, for up to twelve (12) months, for Counsel on approved MAP leave, short term disability and WCB (except where the premiums are paid by another party) and sick leave providing Counsel pays their share of the benefits within fifteen (15) days of billing by the Employer. Counsel on MAP leave who subsequently do not return to work shall reimburse the Employer for the cost of premiums paid for the entire period of MAP leave. The limits of the Insurer regarding eligibility and the maximum time period for coverage shall apply.

20.11 Health and Welfare Plan Review

A representative for Counsel will sit on the Benefits Committee established under the Collective Agreement between the Employer and the BCGEU. The committee will review the health and welfare plans and determine if there can be cost savings or benefit improvements in the current plan.

Any actual savings to the Employer (based on current rates) would be split 50/50 and the employee's share paid out as 'gainsharing' bonus twice per year. The amount paid would be based on the individual savings per employee account.

20.12 Supplement to Short Term Disability

Please refer to Memorandum from Themis Program Management attached at the end of this Collective Agreement on page 71.

ARTICLE 21 PENSION PLAN

21.1 Participation

- a) The employer agrees to maintain enrolment in the Public Service Pension Plan and to advise the Association of any changes in the terms and conditions of the Plan;
- b) Employees are required as a condition of employment to be enrolled in, and make contributions to, the Public Service Pension Plan.

21.2 Vesting Formula

Counsel who leave the Employer shall receive fully vested payout or transfer of all pension contributions and the interest earned by those contributions.

ARTICLE 22 DISCRIMINATION & HARASSMENT

22.1 No Discrimination

Subject to other articles contained in this Agreement the Employer and the Association agree that there shall be no discrimination with respect to Counsel's employment for reasons of age, race, creed, colour, national origin, political or religious affiliation, sex or marital status, place of residence, sexual orientation, or for reason of membership or activity in the Association, or for any other reason.

22.2 Freedom of Association

Every Counsel is free to belong to, and to participate in, the activities of any association, society, organization, club or group without censure, or disciplinary action by the Employer, subject only to the limitation that such membership and activity shall not interfere with the performance of the Counsel's responsibilities, duties, or professional obligations, or which might reasonably be considered to jeopardize the Employer's contract to run the FMEP. Disputes regarding the extent of such limitation shall be referred to the Joint Standing Committee for resolution. Any disciplinary action taken by the Employer under this Article is subject to the grievance procedure.

22.3 Harassment Free Worksite

The Association and the Employer recognize the right of all staff to work in an environment free from personal or sexual harassment, and the Employer undertakes to maintain a harassment free worksite and to discipline any person employed by the Employer engaging in the harassment of another employee.

22.4 Personal Harassment

- a) Personal harassment means verbal or physical behaviour that is discriminatory in nature, based upon another person's race, colour, ancestry, place of origin, political beliefs, religion, marital status, physical or mental disability, sex, age, or sexual orientation. It is discriminatory behaviour, directed at an individual, which causes substantial distress in that person and serves no legitimate work-related purpose. Such behaviour could include, but is not limited to:
 - physical threats or intimidation;
 - words, gesture, actions, or practical jokes, the natural consequence of which is to humiliate, alarm or abuse another person;
 - distribution or display of offensive pictures or materials.
- b) To constitute personal harassment, behaviour may be repeated or persistent or may be a single serious incident.

22.5 Limitation of Definition

- a) The use of professional, objective and non-demeaning language to supervise or discipline does not constitute harassment. The definition of harassment is not intended to restrict the Company's managers from exercising their normal supervisory responsibilities, nor is it intended to restrict Counsel from fulfilling their job responsibilities.
- b) Pressing debtors for payment or cross-examination in a Court proceeding does not constitute harassment for the purposes of this section, providing the debtor is treated in a professional manner.

22.6 Response to Harassment

Any Counsel who believes that they have been the victim of personal harassment shall use the grievance process to seek redress. If the Senior Enforcement Manager or Director of Legal Services is the person against whom Counsel is complaining, then the grievance is to be filed directly with the Chief Executive Officer.

22.7 Confidential Investigation

In the course of responding to a grievance alleging harassment, all steps will be taken to ensure that the matter is properly investigated and that all evidence is taken and held in confidence except as may be necessary to divulge as a result of any formal legal action or defence of the Employer's disciplinary action which may subsequently result.

22.8 Sexual Harassment

- a) Sexual harassment shall be defined as any unwelcome comment or conduct of a sexual nature that may detrimentally affect the work environment or lead to adverse job-related consequences for the victim of the harassment. Sexual harassment may include, but is not limited to, unwanted physical contact, suggestive remarks or other verbal abuse with a sexual connotation, emphasizing sexuality, sexual identity or sexual orientation, compromising invitations, repeated or persistent leering at a person's body, demands for sexual favours, or sexual assault.
- b) In cases where harassment may result in the transfer of Counsel, where possible, it shall be the alleged harasser who is transferred. Counsel who is alleging harassment shall not be transferred against her/his will.

22.9 Complaint Procedure for Sexual Harassment

- a) Counsel shall file a written complaint within thirty (30) days of the alleged occurrence with the Senior Enforcement Manager.
- b) The Senior Enforcement Manager shall immediately advise the Association.
- c) If the complaint is against the Senior Enforcement Manager, the complaint will be filed with the Chief Executive Officer.
- d) The investigation shall be concluded within fourteen (14) days of the complaint being received.
- e) The Employer may request an extension for the investigation period from the Association. The extension, if granted, shall not in any event, be longer than twenty-eight (28) days from the date of the written complaint.
- f) The complainant will be given the option of having an Association representative present as an observer at the meeting(s) at which the complainant is present.
- g) The Chief Executive Officer or designate who have investigated the incident shall complete a written report within five (5) working days of completion of the investigation.
- h) The Association and complainant shall be apprised of the action(s) to be taken.
- i) Where the complaint is determined to be frivolous and/or vindictive in nature, the Employer

will take appropriate disciplinary action.

- j) If the Association is not satisfied with the Chief Executive Officer's actions it may request a meeting to try and resolve the issue, and such meeting shall be held at the earliest opportunity. If the Association is still dissatisfied the matter shall be referred to a panel consisting of an Association appointee, an Employer appointee, and a mutually agreed upon chairperson. The panel shall have the right to:
- dismiss the complaint
 - determine the appropriate level of discipline to be applied to the offender.

The majority decision of the panel is binding on all parties.

- k) The offender has no recourse to the grievance process for any disciplinary action imposed by the Employer or the panel.

22.10 Human Rights Act

A complainant alleging discrimination or harassment who files a complaint under Section 8 of the *Human Rights Act* cannot use this Article for redress. If a grievance or action under 22.9 is in progress it will be deemed to have been abandoned, but any facts, findings or documents relating to the alleged discrimination or harassment may be used by the Employer with respect to a subsequent investigation under the *Human Rights Act*.

ARTICLE 23 GENERAL CONDITIONS

23.1 Copies of Agreement

The Association and the Employer desire all Counsel to be familiar with the provisions of this Agreement and their rights and obligations under it. For this reason the Employer and the Association shall share the cost of printing this Agreement on an equal basis. Each Counsel has a right to a copy of the Collective Agreement upon employment.

23.2 Unrelated Work

The Employer and the Association agree that Counsel shall not be required to or permitted to perform work which is not related to the business of the Employer for any person employed by the Employer who is in a supervisory position to Counsel.

The Employer and the Association agree that Counsel shall not be required to perform any work not related to the business of the Employer for any other employee of the Employer.

23.3 Resignation

Any Counsel who resigns shall give written notice of resignation at least two (2) months before the date of resignation and shall specify the last day of work. Employer will consent to a shorter period if circumstances permit.

23.4 Internet Access

Counsel provided with Internet access (e.g., e-mail) will sign the *Internet Usage Agreement*.

23.5 Hiring and Evaluation of Legal Secretaries/Legal Assistants

One Counsel shall be asked to sit on the selection panel for the hiring of any legal secretary or legal assistant.

All affected Counsel will be asked to provide feedback about the performance of a legal secretary/assistant as part of any performance evaluation process.

23.6 Vacant Counsel Positions

All Counsel vacancies will be posted internally. Any interested continuous Counsel will be interviewed for the position. The successful candidate will be appointed by the principles of merit.

23.7 Vacancies

Where there is a permanent vacancy, or a vacancy arising as a result of MAP leave, extended sick leave or a leave of absence, the Employer shall, as soon as practicable, advise employees of what it is doing to deal with the situation. If it is not practical to backfill the position, the Employer shall consult with affected Counsel to see what can be done to minimize the impact.

If backfilling a position is warranted, the Employer will exercise its best efforts to expeditiously fill the position.

ARTICLE 24 PROBATION

24.1 Probation

- a) Both continuing and temporary Counsel may be subject to a probationary period not to exceed eight (8) months. The Employer may reject probationary Counsel at any time during the probationary period for reasons of performance or personal suitability. Any rejection during probation shall not be considered a dismissal for the purpose of Article 13 of this Agreement. The test for rejection shall be a test of suitability of the probationary Counsel for continued employment in the position to which Counsel has been appointed
- b) Probationary Counsel shall be entitled to a mandatory performance review at the four (4) - month point of their probation. New Counsel shall be provided with an orientation program and will not be required to do default hearings, committal hearings or applications to vary during their first month of employment without permission of the Director of Legal Services. This will permit a new Counsel to become oriented to the large caseload expected of an experienced program Counsel.
- c) At the end of the eight (8) month probationary period, Counsel shall be given verbal and/or written notice that they have:
 1. satisfactorily passed the probationary period and is now confirmed in the position as either a continuous Counsel, or, if a temporary Counsel for the balance of the temporary term, or
 2. had their employment terminated.

If Counsel has not been given or sent such notice at the end of the probationary period, that Counsel shall be deemed to have successfully completed the probationary period.

- d) Counsel who has been rejected on probation shall be sent a cheque within five (5) working days for the net of all outstanding wages, compensatory time, overtime and holiday time. Any keys and/or equipment issued to the terminated Counsel must be returned.

24.2 Right to Grieve

When Counsel feels they have been aggrieved by the decision of the Employer to reject Counsel during the probationary period, Counsel may grieve the decision pursuant to the grievance procedure outlined in Article 5 of the Agreement commencing at Step 3.

ARTICLE 25 STANDARDS OF PERFORMANCE AND PROFESSIONAL REQUIREMENTS

25.1 Performance

Subject to any right given by the Agreement to Counsel to grieve an assessment of the Employer as to the adequacy of Counsel's performance, the Association recognizes that the Employer is the final judge of Counsel's performance.

The Association recognizes that supervisors are periodically required to assess the performance and potential of subordinates. The Employer agrees that such assessments will address performance of Counsel's duties but not their overall professional competency.

This clause is not intended to abrogate any right that the Law Society of British Columbia has to make a determination as to Counsel's performance or to take action as a result of its determination.

25.2 Supervision and Duties

Counsel take instructions from FMEP staff and managers and are supervised by the Senior Enforcement Manager with respect to their adherence to policies, procedures and administrative requirements. Counsel are supervised by the Director of Legal Services with respect to their practice of law. Normally Counsel shall not be required to carry out duties that are inconsistent with their status as legal Counsel.

25.3 Performance Appraisals

When a formal appraisal of Counsel's performance is carried out, Counsel shall be given the opportunity to read and review the appraisal. Provision shall be made on the appraisal form for Counsel to sign it. The form shall provide for the Counsel's signature in two (2) places: one indicating that Counsel has read and accepts the appraisal, and the other indicating that Counsel disagrees with the appraisal. Counsel shall sign in only one of the places provided. Counsel who disagrees with the appraisal and so signifies in the appropriate place, shall have the right to amplify the reasons for any objections in writing, and such amplifications shall be attached to and become part of that appraisal. No Counsel may initiate a grievance regarding the contents of an appraisal form unless the signature indicates disagreement with the appraisal.

When Counsel receives a performance appraisal they will be given an opportunity to review it. The signed appraisal must be returned to the Employer within two (2) working days or a longer period mutually agreed to by the supervisor and Counsel.

Each performance appraisal must address any issues of concern/need for improvement identified in the previous appraisal. If there are no longer concerns about that issue, the appraisal must note that fact.

Counsel shall, upon request, receive a copy of this appraisal form.

Counsel appraisal shall not be changed after Counsel has signed it without the knowledge of Counsel.

25.4 Procedure

The Senior Enforcement Manager and Director of Legal Services shall give Counsel a draft copy of the appraisal and shall discuss it with Counsel. Changes may be made to the draft based on the discussion and that shall constitute the final version of the appraisal. If no changes are deemed necessary by the supervisor, the draft copy shall be the final version. If Counsel is absent from work the appraisal shall be held until Counsel returns to work except where the purpose of the appraisal is to advise Counsel of their status at the conclusion of the probationary period. In the latter case Counsel shall be sent the appraisal by courier or registered mail to the last known address and the appraisal will be deemed to have been given to Counsel as of the date it was sent.

ARTICLE 26 PROFESSIONAL CONDUCT/CONFIDENTIALITY

26.1 Professional Behaviour

All Counsel are required to behave and present themselves in a professional manner and to abide by the Rules of the Law Society, the Code of Professional Conduct published by the Canadian Bar Association and the Policies and Procedures of the Employer.

26.2 Conflict of Interest

- a) Counsel shall advise their Senior Enforcement Manager and the Director of Legal Services if their job responsibilities involve them with a case where Counsel may have a conflict of interest with one of the parties. In such a case, Counsel will abide by the rules of the Law Society of BC in relation to conflicts of interest.
- b) While employed by the Employer, Counsel may not provide legal services to any other client concerning the obtaining, enforcing or varying of maintenance, whether or not there is an order of agreement enrolled with the FMEP.

If Counsel takes work for clients other than the Employer, in no event shall Counsel engage in the practice of law for those external clients during work hours.

Counsel who is found to have violated this section may be subject to discipline.

26.3 Personal Use of Employer's Resources

Any Counsel who uses resources of the Employer or the Employer's access to information for non-work related purposes without express permission is guilty of a serious breach of professional conduct, and will be disciplined and may be dismissed for cause.

26.4 Professional Responsibilities

The Employer recognizes that Counsel must work in a manner consistent with the *Professional Conduct Handbook*, the *Law Society Rules* and the codes of ethics established by the Law Society.

No Counsel will be disciplined for refusal to comply with an Employer-instructed course of action which, in the Counsel's opinion, conflicts with the aforesaid standards of the Bar, provided that in such a case Counsel shall, upon request, be required to provide the violation of the relevant professional standard or code and the Employer shall have the right to seek alternative advice from the Law Society.

26.5 Inappropriate Use of Information

Any Counsel who obtains or uses information about a creditor or debtor for any purpose other than the regular performance of their assigned responsibilities may be dismissed for cause without further notice.

26.6 Due Care

Counsel shall exercise all reasonable care to ensure files and other documents or information within their control are secure.

26.7 List of Parties

Counsel who have left the employment of the Employer shall be entitled to receive, subject to the approval of the Director of Maintenance Enforcement, a list of all cases (by parties' names) which they have acted or commented on.

ARTICLE 27 PAYMENT OF WAGES AND ALLOWANCES

27.1 Paydays

Counsel, other than contract Counsel, shall be paid on the fifteenth (15) and last day of each month. When a payday falls on a Saturday, Sunday or statutory holiday, the Employer agrees to deposit Counsel's paycheque in Counsel's bank account by 3:30 p.m. on the preceding Friday.

27.2 Rates of Pay

Counsel who are either employed by or on contract with the Employer as of June 1, 1996 shall move to the next level according to Appendix C on April 1, 1997. Counsel who are either employed by or enter into contracts with the Employer after June 1, 1996 shall be credited with the years of call contained in the letter of offer of employment by the Employer once that letter of offer is accepted by Counsel beginning employment or entering into a contract with the Employer and any such new Counsel shall move to the next level according to Appendix C on the first day of April next following the date of their employment or contract with the Employer. For the purpose of determining years of call, the Employer shall consider years of practise including, but not limited to, amount of family law experience, practice in a Canadian law firm, Crown Counsel work, Counsel work with government, government agencies, non-profit organizations, or corporations. The crediting of years of call is not grievable.

27.3 Payroll Deduction

Counsel shall have payroll deductions made, upon request, for the purchase of Canada Savings Bonds. Other voluntary deductions may be arranged by mutual agreement.

27.4 Vehicle Allowance

- a) Vehicle allowance for all distances required by the Employer to be travelled on the Employer's business in Counsel's personal vehicle shall be paid as follows:
 1. At the maximum amount permitted under the Regulations issued by the CCRA for employee mileage allowance.
 2. Mileage shall be measured from the office to the place Counsel is conducting business; where travel is directly from home without first going to the office, door to door mileage is claimable.
- b) Parking spots shall be provided for Counsel required to use their car as part of their normal duties.
- c) Parking charges and ferry reservations costs incurred while on the Employer's business shall be reimbursed at cost.

27.5 Interview Expenses

Counsel shall be granted leave of absence with pay to attend an interview for a posted position.

Counsel who is not on a leave of absence without pay shall have authorized expenses paid to attend the interview.

27.6 Meal Allowance

- a) Meal allowances shall be paid when Counsel is away from the office attending court or on approved travel status at the following rates:

Meal	Existing	On Ratification	On April 1, 2021
Breakfast	\$11.75	\$12.25	\$12.50
Lunch	\$13.50	\$14.00	\$14.50
Dinner	\$22.75	\$24.00	\$24.25
Incidental Allowance	\$15.00	\$16.00	\$16.00

1. *Breakfast* - When Counsel left home before 7:00 a.m. or is away from home on travel status overnight;
2. *Lunch* - When Counsel is required to be out of the office on the Employer's business over the lunch hour, or where Counsel is participating in a committee meeting or FMEP training event where a majority of other participating Counsel are on travel status;
3. *Dinner* - When Counsel is away from home on travel status overnight, or arrives home after 6:30 p.m.

An incidental allowance may be claimed if Counsel is away overnight on travel status or claims both lunch and dinner in a single day.

- b) Meal allowances may not be claimed for any meal that was provided at the Employer's expense or is included in the price of a ticket, or accommodation/conference package.

27.7 Accommodation and Other Expenses

- a) Accommodation will be provided at actual cost at hotels approved by the Employer in advance and where possible, booked in advance by the Employer. Private accommodation will, where substituted for authorized overnight accommodation in a hotel, be reimbursed by a gratuity payment of fifty dollars (\$50) per night. Every Counsel shall have the right to a single room.
- b) Other legitimate travel expenses shall be paid for at cost where noted on the expense form and authorized as allowed by the Employer.

27.8 Expense Form

Expenses, claims and accounting of all travel accompanied by appropriate receipts shall be completed by Counsel on a form provided by the Employer for this purpose within five (5) days

of month end. Travel expenses shall be reimbursed by the Employer no later than twenty (20) days from date the claim form is submitted by Counsel.

27.9 Training, Conferences, and Meetings

Where the Employer requires Counsel to take a training program or to attend a conference or meeting, the cost of training and normal meal, accommodation and travel expenses, if Counsel is on approved travel status, shall be at the Employer's expense as per this Article.

27.10 Relocation Expenses

- a) Counsel who are granted a lateral or recall transfer shall be entitled to one thousand dollars (\$1,000) transfer expense providing such relocation requires a change of residence.
- b) If Counsel is required by the Employer to move from an office in one region to one in another region, and such relocation requires a change of residence, the Employer shall pay the following relocation benefits:
 1. *Moving* - The costs of moving the personal household effects of Counsel and his or her immediate family who normally reside with Counsel up to a maximum of three thousand dollars (\$3,000); this shall not cover any structures, vehicles, non household machinery or equipment, boats, etc. Counsel shall use movers approved by the Employer. The cost of packing and unpacking will be included. Counsel who wish to undertake their own moving may negotiate an amount to be paid in lieu. Additional insurance coverage beyond the liability of the movers is the responsibility of Counsel.
 2. *Real Estate and Legal Fees* - Any commission actually paid by a relocated Counsel who sells his or her primary residence which was occupied by Counsel at the time the relocation offer was made, may be reimbursed up to a maximum level of four thousand dollars (\$4,000). Legal fees connected with the selling of the house and the conveyancing of a new house (but not mortgage fees) will be reimbursed at cost. Property transfer taxes or GST may not be claimed.
 3. *Relocation Allowance* - Counsel may claim up to ten (10) days travel allowances meals, accommodation, as per this article, if temporary accommodation in a hotel is required prior to moving to the new residence, at the commencement of employment in the new location.
 4. *House-hunting Trip* - Counsel who are eligible for relocation expenses under Section 27.10(b) will be granted up to three (3) work days prior to their move for the purpose of finding accommodation in their new location. Full travel allowances will be paid for both Counsel and their spouse for up to three (3) days for any house-hunting trip.
 5. *Relocation Leave* - Counsel required to relocate will be given three (3) days paid leave at the time of the move only.
- c) Section 27.10(b) does not apply if the relocation is due to Counsel applying for a vacant

position in another office or because Counsel's position in one office was terminated and Counsel opted to take a vacant position in another office.

- d) The Employer may, at its discretion, provide financial assistance to Counsel not eligible for the allowances specified under Section 27.10(a) and (b). The level of assistance to be provided is at the discretion of the Company.
- e) Counsel who receives relocation benefits as per Section 27.10(a) and (b) and resigns within one (1) year of the date of the move, shall reimburse the Employer - one hundred percent (100%) of all the expenses paid out to Counsel under Section 27.10(a) or (b) less one-twelfth (1/12) of those expenses for each full month worked since the move.

ARTICLE 28 TERM OF AGREEMENT

28.1 Term of Agreement

Unless otherwise provided, this Agreement shall be binding and remain in full force from the date it is signed through March 31, 2022. This Agreement shall continue from year to year thereafter unless either party exercises its right to commence collective bargaining as provided for in the *Labour Relations Code* of British Columbia. If negotiations extend beyond the expiry date of this Agreement, both parties shall adhere fully to the provisions of this Agreement during the period of *bona fide* collective bargaining.

The parties agree that any increase to wages or premiums will be effective the first pay period after the agreed effective date.

28.2 Effective Date

The provisions of this Agreement, except as otherwise specified, shall come into force and effect on the date of ratification by the parties.

28.3 Notice to Bargain

Either party may give notice to the other party not more than one hundred and twenty (120) days and not less than ninety (90) days next preceding the expiry of this Agreement, in writing, requiring the other party to commence collective bargaining with a view to the renewal or revision of the Agreement or the conclusion of a new Agreement.

28.4 Changes in Agreement

This Agreement may be varied or modified at any time as agreed to by both parties in writing.

28.5 Interest Arbitration

Where the Association and the Employer have bargained in good faith and fail to conclude a renewal or revision of the Collective Agreement, the parties may mutually agree to refer all outstanding issues to a three-person interest arbitration board.

Each party will name one person to the board who shall in turn name a third person to act as chairperson.

The special interest arbitration board shall have authority to make final and binding settlement of all outstanding issues. The parties agree that once any matter is referred to the interest arbitration board under this Article the parties waive their right to engage in a strike or lockout pursuant to the *Labour Relations Code*.

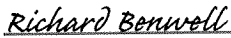
SIGNED ON BEHALF OF THE
PROFESSIONAL EMPLOYEES
ASSOCIATION BY:



Scott McCannell



Jennifer Anderson



Richard Benwell (Jul 12, 2021 08:56 PDT)

Richard Benwell



Brent L. Hird (Jul 9, 2021 14:46 PDT)

Brent Hird

SIGNED ON BEHALF OF THE BC
FAMILY MAINTENANCE AGENCY
LIMITED BY:



Joanne Hanson on behalf of Employers
Representative Chris Beresford

APPENDIX A – DEFINITIONS

For the purpose of this Agreement:

Calendar Year is the period January 1 to December 31.

Child - wherever the word "*child*" is used in this Agreement, it shall be deemed to include a ward of the Superintendent of Family and Child Services or a child of a spouse, including the child of a common law spouse, or a child to whom Counsel stands in *loco parentis*.

Contract Counsel means lawyers who have signed a contract with the Employer to provide legal services to the Family Maintenance Enforcement Program and receive 12% in lieu of benefits.

Counsel means a member of the bargaining unit and includes:

- (a) **Continuous Counsel** who is employed for work which is of a continuous full-time or continuous part-time nature;
- (b) **Temporary Counsel** is legal Counsel who is employed on a fixed temporary basis for the reasons noted below and is so informed at the time of hiring; for
 - 1. replacement of Counsel on vacation, sick, or other leave;
 - 2. a position created to carry out special projects or work which is not continuous;
 - 3. temporary positions as may be necessary to cover varying workload requirements;
 - 4. short-term vacancy relief.
- (c) Temporary Counsel who are hired for a term greater than 90 working days are entitled to all benefits specified in Articles 12, 14, 18, and 19 on the same basis as continuous Counsel. Counsel hired for a term of less than 90 days are not eligible for any benefits except as outlined in 12.1. If temporary Counsel have to be laid off prior to the end of their contract term, such Counsel shall receive thirty (30) days' notice of that layoff and are not eligible for any layoff or severance benefits. The Employer shall include in any offer of employment for temporary Counsel, specific reference that Counsel may be laid off with 30 days' notice without entitlement to layoff or severance benefits.
- (d) Where temporary Counsel is hired, that Counsel shall be paid according to the salary grid outlined in Appendix C.

Day is a calendar day except when described as a working day, in which case it is a normal day of work.

Day of Rest in relation to Counsel, means a day other than a holiday on which Counsel is not ordinarily required to perform the duties of the position. This does not include Counsel on a

leave of absence.

Fiscal Year means from April 1st of any year to March 31st of the following year.

Layoff is a temporary or permanent cessation of employment as per Article 15 and 24.

Leave of Absence With Pay means to be absent from duty with permission and with full pay directly from the Employer.

Leave of Absence Without Pay means to be absent from duty with permission but without pay.

Local Representative means Counsel designated by the Association to represent other Counsel within a particular geographic jurisdiction and to assist them in such matters as the handling of grievances.

MAP means maternity, adoption and parental.

Pay means rate of compensation for the job.

Recall is a return to work subsequent to a layoff.

Resignation means voluntary notice by the Counsel that the Counsel is terminating service with the Employer on the date specified.

Termination is the separation of Counsel from the Employer for cause.

Transfer refers to the relocation of Counsel from one geographic work location to another.

APPENDIX B – LAYOFF/RECALL REGIONS

The bargaining unit shall be divided into three regions:

Region I	Lower Mainland	- Lower Mainland Client Office
Region II	Vancouver Island	- Victoria Client Offices
Region III	Interior	- Northern and Interior Client Office

APPENDIX C – SALARY SCHEDULE

Counsel Compensation

<i>Years of Call</i>	<i>April 1 2019</i>	<i>April 1 2020</i>	<i>April 1 2021</i>
1	\$68,971.15	\$70,350.57	\$71,757.58
2	\$73,583.39	\$75,055.06	\$76,556.16
3	\$78,193.95	\$79,757.83	\$81,352.99
4	\$84,342.48	\$86,029.33	\$87,749.92
5	\$90,491.01	\$92,300.83	\$94,146.85
6	\$97,662.18	\$99,615.43	\$101,607.74
7	\$102,409.21	\$104,457.40	\$106,546.55
8	\$107,154.51	\$109,297.60	\$111,483.55
9	\$109,528.04	\$111,718.60	\$113,952.97
10	\$111,901.53	\$114,139.56	\$116,422.35
11	\$113,989.85	\$116,269.65	\$118,595.04

The referenced rates are for full-time Counsel and shall be pro-rated for part-time Counsel.

MEMORANDUM

November 15, 2010

To: Professional Employees Association

From: Themis Program Management

Re: Short Term Disability

We have been advised by our Benefits Provider that employees are allowed to use earned vacation credits and earned discretionary credits to supplement short term disability benefit payments as this represents income earned prior to being disabled.

Sick leave credits cannot be used to supplement short term disability as the benefit has an 85% all source maximum. Sick leave credits may be used prior to the short term disability payment period.



Hannah E. Roots
Managing Director

MEMORANDA OF UNDERSTANDING

Re: Contractors to Convert

Current Counsel may remain on contract status. Contract Counsel will be governed by all provisions of this agreement except articles 15.8, 20, and 21. Contract Counsel may convert to employee status at any time before notice of layoff. Upon conversion Counsel will move laterally to the corresponding level on the grid.

All new Counsel hired for a term greater than ninety (90) days shall be employees not contractors. The Employer may, where circumstances make it impractical to recruit temporary Counsel who are able to be employees, request an exemption from the Association, to issue a contract. This request will not be unreasonably withheld.

Counsel who are employees may not convert to contractor status.

Contract Counsel agree to sign the contract as it exists in present forms subject to limitations of the collective agreement. The length of the contract shall coincide with the length of the Collective Agreement.

The employer may amend the contract at any time to adequately indemnify the Employer from any extra costs, fees or penalties over what it would have paid if the contract Counsel were an employee, except where specifically referenced in the Collective Agreement.

Contract Counsel must convert to employee status on or before March 31, 2017. Upon conversion Counsel will move to the appropriate level on the grid in Appendix C for non-Contract Counsel.

LETTER OF UNDERSTANDING

Re: Budget Management Consultation

The parties agree to meet pursuant to Article 8.3 to review budget constraints and explore efficiencies to achieve service delivery. These meetings shall occur on a monthly basis until June of 2011.

MEMORANDUM OF AGREEMENT – PENSION PLAN

1. Subject to the agreement of the BCFMA members of BC Government and Employees Union to participate in the Public Service Pension Plan, effective September 30, 2015, subject to the approval of the Public Service Pension Board of Trustees, the Employer will enrol in the Plan. Employee participation shall commence October 1, 2015.
2. Eligibility and terms and conditions for the pension shall be those contained in the Public Service Pension Plan and associated documents.
3. Effective September 30, 2015, upon enrolment by the Employer in the Public Service Pension Plan all existing matching contributory RRSP plans, including Article 21 (Pension Plan) will be discontinued.
4. Should the members of the BCGEU fail to agree to participate in the Public Service Pension Plan, the Employer's contribution as set out in Article 21.2 shall increase from 6 percent (6%) of annual salary to 10.93 percent (10.93%) of annual salary effective October 1, 2015.

JUSTICE ACCESS TRANSFORMATION FUND – MEMORANDUM OF AGREEMENT

The parties recognize that as a result of the changing operations of British Columbia's Courts including the increase use by the courts of web-based services such as MS Teams and Zoom and telephone appearances, Counsel have had to adapt their practices to meet the work objectives of the Employer and their professional obligations to the court. To enable Counsel to maintain their practice and respond to existing and emerging technologies required by the Courts, additional resources shall be available to Counsel including, but not limited to, access to appropriate telephony services, web services and related training. The Article 8 Committee shall establish mutually agreed upon guidelines for the administration of the JATF.

MEMORANDUM OF AGREEMENT BETWEEN BC FAMILY MAINTENANCE AGENCY (BCFMA) AND PROFESSIONAL EMPLOYEES ASSOCIATION (PEA)

The following provision applies to the Agreement:

- A. If a public sector employer as defined in s. 1 of the *Public Sector Employers Act* enters into a collective agreement with an effective date after December 31, 2018 and the first three years of the collective agreement includes a cumulative nominal (not compounded) general wage increase of more than six percent (6%), the general wage increase in the Ninth BCFMA/PEA Agreement will be adjusted on the third anniversary of the Ninth BCFMA/PEA Agreement so the cumulative nominal (not compounded) general wage increases are equivalent. This Letter of Agreement is not triggered by any general wage increase awarded as a result of binding interest arbitration.
- B. A general wage increase and its magnitude in any agreement is defined by the PSEC Secretariat and reported by the Secretariat to the Minister of Finance.
- C. For certainty, a general wage increase is one that applies to all members of a bargaining unit and does not include wage comparability adjustments, targeted lower wage redress adjustments, labour market adjustments, service improvement allocations, and is net of the value of any changes agreed to by a bargaining agent for public sector employees to obtain a compensation adjustment.
- D. This MOA shall be effective during the term of the Ninth BCFMA/PEA Agreement, April 01, 2019 – March 31, 2022.