CONTRACT INTERPRETATION MANUAL

Article 11 DEFINITION OF EMPLOYEE STATUS AND BENEFIT ENTITLEMENT

Interpretation Guidelines

Article 11.01 - Restriction of Employee Status

An employee cannot have more than one employment status at a time with the same Employer. This restriction also applies where the same Employer has multiple worksites. An employee must be either regular full-time (RFT), regular part-time (RPT), or a casual employee.

An employee who has regular employment status at one worksite automatically is considered to have regular employment status at all the other worksites with the same Employer for the purpose of application of the above noted articles. As an example, any employee of Interior Health who has regular status is considered to have regular status at all Interior Health sites.

Therefore, if an employee is hired as a RPT employee at Shuswap Home Support Services, even though the employee has volunteered to be called in for casual shifts at Vernon and District Home Support Services, they cannot be considered to be a casual employee for the purposes of casual call-in as it is identified as part of the same Employer. Instead, they can only be called for unfilled shifts at Vernon and District Home Support Services once the casual call-in list has been exhausted.

However, RPT employees accrue benefits such as sick leave and additional vacation for extra shifts worked at the same or other worksites with the same Employer. (Article 11.03 (B) Benefit Entitlement).

The ability to take this additional earned vacation as time off was rejected in the arbitration award (Royal Columbian Hospital and BCNU, February 17, 1989, (Hope)). Instead, the additional vacation entitlement by RPT employees is paid out. (Article 45).

RPT employees may own 2 separate part time positions if the 2 positions do not total more than 1.0 FTE and there is no scheduling conflict between the 2 positions.

The restrictions to one employee status with the same Employer also means that a RFT employee would need to be paid overtime for “casual” shifts performed at other worksites with the same Employer.

To determine the worksites that are part of the same Employer, Appendix DD of the current PCA is your first source of information. Worksites covered by the same Employer (Health Authority) are listed under that authority’s name. To confirm whether this information is still accurate, Stewards can contact their LRO who will check the most recent copy of the Appendix to the consolidated certification between HEABC and the NBA.

Article 11.02 (C), 11.03 (C), 11.04 (H) – Seniority

For application of seniority for each employment status see the interpretation guidelines for Article 13.

Application of seniority for RFT, RPT, and casual employees should be interpreted in context with Article 11.01.

Casual employees will accrue seniority for the purpose of casual call-in by seniority based on the hours worked at all the worksites within a Health Authority.

Article 11.03 (B) Benefit Entitlement – Regular Part-Time Employees

Benefits Not Prorated	Benefits Prorated
Increments (12.03)	Payment for Statutory Holidays (39)
Probation (14)	Sick Leave Accumulation (42)
In-Service (35)	Vacation Pay (45)
Parental Leave (38)	Qualification Differential (53)
Leave for Public Office (41)	Severance Allowance (55)
Extended Health, Dental and Group Life, LTD (46)	Compassionate Leave – Based on Hours Regularly Scheduled (33)
Special Leave Application (43)	Special Leave Accumulation (43)
Seniority (13)	Supplementary Vacation (45.03)
Court Leave (34)	Isolation Allowance (54)
Election Leave (36)	Leave – General (37)
Sick Leave Application (42)	Monthly Incentive Allowance Specialty Areas
Monthly Car Allowance – Community Based Services	
Personal Leave Days	
Business Allowance	

The language in Article 11.03 (B) has been consistently applied by arbitrators to govern the interpretation of pro-ration in all the related articles where benefits are earned. An illustration of this point is in the arbitration decision, Fort St. John General Hospital and BCNU, June 15, 1994, (Kinzie), dealing with the application of Isolation Allowance to RPT employees. Arbitrator Kinzie wrote "the most significant interpretation applicable to the resolution of this dispute is that the provisions of the Master Collective Agreement are to be read as a whole giving meaning to them all and wherever possible avoiding conflict".

That means that the language of Article 11.03 (B) takes precedence even when a plain reading of other articles appears to provide part-time and full-time employees with the same level of benefit. For example, in the Fort St. John arbitration, even though the language in Article 54 – Isolation Allowance spoke of a "lump sum payment", the pro-ration of benefits for RPT employees in Article 11.03 (B) takes precedence.

In most cases pro-ration applies to all accrued benefits. The intent behind pro-rating is that a RPT employee does not have a superior benefit to that of a RFT employee.

For example, in Royal Columbian Hospital and BCNU, February 17, 1989, Arbitrator Hope's concern with respect to RPT employees taking their additional vacation entitlement, earned by working extra shifts, was that based on their normal schedule it would result in the RPT employee being able to take a longer vacation period than a RFT employee.

Another example is with respect to compassionate leave, the Royal Columbian Hospital and BCNU, February 6, 1995, (Kelleher) arbitration decision said that the use of compassionate leave is prorated and its usage is based on hours regularly scheduled.

To avoid pro-ration, the article usually has to contain specific wording that overrides the application of Article 11.03 (B). For example, Article 13.01 (A) makes it clear that seniority is accrued in the same way by both RPT and RFT employees.

Arbitration Awards

Arbitrations on the effect of extra booked shifts for RPT

1. Extra booked shifts worked by RPT employees are considered to be part of their work schedule and therefore cancellation of any shifts by the Employer with less than ten days' notice is considered in effect to be a layoff (Royal Columbian Hospital and BCNU, June 7, 1994 (Kelleher).
2. Extra shifts worked by RPT employees are recognized in the calculation of benefits paid for WCB leave, SEB Plan top-up, sick leave, vacation entitlement, payment of isolation allowance and usage of general unpaid leave.
3. Royal Columbian Hospital and BCNU, February 17, 1989, (Hope) Part-timers accrue paid vacation based on the extra hours worked; however, vacation time off entitlement for part- timers is based on their regularly scheduled hours (i.e. FTE) not on extra hours worked.
4. Royal Columbian Hospital and BCNU, February 28, 1994 (Laing) The taking of special leave credits is not prorated for part-timers.
5. Royal Columbian Hospital and BCNU, December 13, 1995, (Munroe) Sick leave accrual is based on extra hours worked by part-timers.
6. Fort St. John General Hospital and BCNU, June 15, 1994, (Kinzie) While isolation allowance is prorated the amount is based on extra hours worked by part-timers.
7. HEABC and Richmond Hospital and BCNU, May 20, 1998 (Kelleher) SEB plan payments are based on the extra hours worked by part-timers in addition to their regular FTE.
8. HEABC Vancouver Hospital and Health Sciences Centre and BCNU, January 28, 1998 (Munroe) Part-timers top-up while on WCB leave is based on the extra hours worked in addition to their regular FTE.
9. HEABC Overlander Extended Care Hospital and BCNU, July 4, 2002 (Korbin) The Employer is entitled to pro-rate unpaid leaves of absence for part-timers, however the pro- ration should be based on the extra hours worked by the part-timer in addition to their regular FTE.

Pro-ration Confirmed

1. Fort St. John General Hospital and BCNU, June 15, 1994, (Kinzie). Isolation allowance is prorated the amount is based on extra hours worked by part-timers.
2. Royal Columbian Hospital and BCNU, February 6, 1995, (Kelleher). The use of compassionate leave is prorated and its usage is based on the part-timers regular FTE.
3. HEABC Overlander Extended Care Hospital and BCNU, July 4, 2002 (Korbin). The Employer is entitled to pro-rate unpaid leaves of absence for part-timers, however the pro- ration should be based on the extra hours worked by the part-timer in addition to their regular FTE.

HEABC and the NBA agreed to one change to Article 11.03 (C) in the 2014 -2019 Provincial Collective Agreement, which is summarized; The parties have agreed that – once the casual call-in process has been

exhausted – the Employer will offer unfilled shifts to regular part-time employees in order of seniority, where doing so will not result in overtime.

Article 11.04 (A) - Casual Employees

Casuals may be used by Employers to fill relief assignments as set out in the list at 11.04 (A). In other words, casuals do not have an entitlement to that work.

Research has shown that the creation of regular positions improves the working conditions of nurses and the Union continues to discuss creation of these positions with the Employer as one way to address workload issues. Employers have had the ability to create regular float positions (17.05) and regular temporary vacation relief positions (17.03) and reassign the work previously assigned to casuals under 11.04 (A).

The Employer may also assign work previously assigned to casuals to Seasonal Part Time positions (17.04).

Employers agreed to convert casual and overtime hours to regular positions wherever possible (Appendices II.1 and MM).

Casuals who fill temporary assignments in accordance with Article 17.02 (C), are deemed regular employees during the period of the temporary position, and are entitled to all benefits of a regular employee, with the exception of LTD which they may only access for a maximum of 2 years.

Because casuals in a temp position do change employment status, they shall not be called for additional casual shifts as part of the casual call list. They must be treated as regular employees for the purpose of extra shifts.

The Employer must post a temporary appointment where the incumbent is expected to be away for over 9 months. For example, employees who are on LTD, Parental Leave, WCB or long term Union Leave (Article 17.02). Regular and casual employees may apply. Regular employees keep their regular employment status for the duration of the appointment.

A temporary workload appointment is when the Employer requires additional work to be performed over and above the normal staffing requirements. This workload is supposed to be a temporary fluctuation and therefore not enough to create a regular ongoing vacancy. For example, dealing with a flu outbreak or providing care to a seriously ill patient. Stewards need to monitor these situations and determine whether there is enough ongoing workload to create a new regular position.

Arbitration Awards

1. Royal Columbian Hospital and BCNU, March 14, 1996 (Larson). A casual employee can only become a regular employee by successfully posting into a position where there is no incumbent. The contract language changed in 2019 so that casuals in temporary lines as defined in Article 17.02 change their status to regular for the duration of the temporary appointment.

Article 11.04 (B) to (F)

The provisions address the procedures for the assignment of casual work.

Article 11.04 (B) - Off-Duty Rights

While casuals have the right to turn down work, there are limitations.

1. At the time of hire casuals get a Letter of Appointment that contains a mutually agreed statement of their commitment to be available for certain shifts and days on specified unit(s) (Article 11.04 (C) (1)).
2. Casuals can negotiate any changes to their general availability with the Employer at least once a year and provide monthly short term availability (Article 11.04 (C) (3)).
3. It is important that casuals ensure that they have a Letter of Appointment and that it is updated to reflect any changes to their availability. The Letter of Appointment could be a key document in dealing with any disputes involving this provision.

The Employer may require casuals to work 400 hours over a 12 month period (measured from the start date as a casual.) The hours worked will be reviewed every 6 months and casuals notified by letter if they have failed to meet 200 hours in the 6 months (Article 11.04 (c) (5)). As well the Employer can require 200 of the 400 hours to be worked during peak times as defined in Article 11.04 (c) (1). The Employer may discuss the lack of agreed to availability with the casual and take measures up to and including removal from the casual register.

Article 11.04 (C) (1) - Letter of Appointment

It is important to ensure compliance with this provision as it forms the basis for the casual's employment contract and could be a key part in arguing any future dispute that might arise.

These are the key aspects of the Letter of Appointment:

1. The letter is to be provided at the time of hire for a new casual.
2. The Employer and the new casual must mutually agree on when and where the casual commits to be available to work.
3. The general availability agreement can be changed at least once a year, or more frequently if there is mutual agreement between the Employer and casual.
4. The Employer is required to provide the casual with a new Letter of Appointment each time there is a change to the general availability agreement.

The Letter of Appointment should contain the following information:

1. Employment status;
2. Classification and wage level;
3. Worksite;
4. Whether the employee is seeking regular employment;
5. A mutually acceptable statement of the casual's days and shifts of availability;
6. Any specialist qualifications held by the employee (casuals need to advise the Employer of any additions to their specialty qualifications); and

7. All mutually agreed wards, units, programs in which the casual will work.

The Employer may require a casual to work a minimum of 400 hours in a 12 month period (measured from the start date in a casual position.) The hours worked will be reviewed every 6 months and the casual who has not maintained 200 hours in 6 months will be notified by letter (Article 11.04 (C) (5)). As well, Employers can require casuals to work 200 of the 400 hours during peak periods as defined by Article 11.04 (C) (1). The Employer may discuss the lack of agreed to availability with the casual and take measures up to and including removal from the casual register. The casual may be exempt from this language if they have a bona fide reason for being unable to meet the required hours such as illness or pregnancy, or if they have not been offered the requisite number of hours.

Article 11.04 (C) (2) - General Availability

Casuals preferences for specific shifts or areas of work will not be accommodated at the expense of regular employees' schedules. This means that a casual cannot be booked to cover a regular employee who is being redeployed to another unit or having their scheduled shift changed.

Article 11.04 (C) (3) - Short Term and Long Term Availability

Casuals must be available for work during June, July and August unless there is agreement between the Employer and the casual that is set out in the Letter of Appointment or they are on a leave of absence such as sick leave, parental leave, etc.

Casuals shall provide monthly availability and Employers are not required to call casuals who have not provided their availability.

Article 11.04 (C) (4) - Casual Availability Bonus (CAB)

Employers may initiate a CAB when they determine that there is a need (e.g. not enough casuals on night shift). The Employer will determine the number of casuals that are required. Eligibility will be based on the casual having worked 85% of the shifts they were offered in accordance with their agreed to availability in a 3 month period. The bonus will be $2.00/per hour for all hours worked in the 3 months.

HEABC – NBA Provincial Collective Agreement – Joint Guideline

CASUAL AVAILABILITY BONUS

Employers now have the discretion to implement a Casual Availability Bonus (CAB) as an incentive for casuals to be available to work identified shifts, such as evenings and weekends. Where the Employer chooses to implement a CAB, it must establish a "CAB list" that includes a set number of casual employees, all of whom will be eligible to receive the CAB. Selection of which casual employees are included on the CAB list is to be determined through an expression of interest process. Where there are more employees interested in being added to the CAB list than the Employer requires, inclusion on the list will be by seniority. Each casual employee that is on the CAB list will be eligible to receive a retroactive CAB of $2.00 per hour for all hours worked over a six (6) month period where the following criteria are met: (1) the employee must have accepted 85 percent of the offered shifts that are consistent with his or her general, short-term, and long-term availability over the relevant six (6) month period; and (2) not more than

half of the shifts that the employee does not accept and work can be evening/night/weekend shifts. An assessment of whether these criteria have been met shall occur every six (6) months on a retroactive basis. Where this assessment demonstrates that these criteria have been met, the employee will receive the CAB only for the identified shifts

For clarity, implementation of a CAB lists at a particular unit, department or program shall not amend the usual procedure for calling in casuals by seniority as per Article 11.04(E). For example, where a CAB list has been implemented, the Employer must call in the next senior casual on the casual list for the unit, department or program, regardless of whether or not that casual is on the CAB list.

Where an employee has applied for multiple shifts with the same Employer and was the successful applicant for a shift not on the CAB unit, the employee will not be penalized or have this shift recorded as a refusal for the purposes of the 85% acceptance rate. It is understood that the employee will prioritize CAB shifts where he or she has the ability to do so. Employers will develop an administrative tool to capture data in the bidding and call out system which will remove the negative acceptance rate impact for a casual employee who has bid on a CAB shift and was not the successful applicant.

Article 11.04 (C) (5) - Insufficient and Non-Availability

The Employer may require casuals to work 400 hours in a 12 month period (measured from the start date as a casual.) The hours worked will be reviewed every 6 months and casuals notified by letter if they have failed to meet 200 hours in the 6 month period. As well, the Employer can require 200 of the 400 hours to be worked in the peak times as defined in Article 11.04 (C) (1), The Employer may discuss the lack of agreed to availability with the casual and take measures up to and including removal from the casual register for failure to meet the 400 minimum hours.

If an Employer doesn't require casuals to work a minimum of 400 hours over a 12 month period, the Employer may meet with the casual who hasn't accepted any work for a 3 month period to discuss the bone fides of the refusal. After a further 3 months without any shifts worked, the casual may be removed from the casual registry.

Article 11.04 (C) (6) - New Qualifications

The Employer is required to note this information on the employee's personnel file. It is important that casuals keep the Employer updated on any new qualifications they acquire.

Article 11.04 (C) (7) - Orientation

Casuals must receive an orientation to each of the wards, units, programs agreed to in their Letter of Appointment.

Article 11.04 (D) - Casual Register

The requirements are as follows:

1. Casuals must be registered for work on each of the units, wards programs as mutually agreed in their Letter of Appointment.
2. Casuals can request to be registered for work on additional units and the Employer is required to consider these requests before hiring more casuals. Where the Employer agrees to the casual's request, a revised Letter of Appointment needs to be issued.
3. The Employer is required to keep a master list which lists all the casuals with their agreed to areas of work in descending order of seniority, listing each of the casual's seniority hours. Copies of the list must be easily available at each ward, unit or program.
4. The Employer is required to update the casual seniority list every 3 months. It is essential that casuals keep track of all the hours they work and ensure that this is accurately reflected on each of the updates.

Article 11.04 (E) - Procedure for Casual Call-In

Article 11.04 (E) (I) (1)

Employers are required to call in casuals for work in order of seniority provided that the casual is:

1. Registered for work on the ward, unit or program,
2. Has the qualifications and capabilities to perform the work,
3. Has been oriented to the ward, unit or program,
4. Casual assignments with more than 48 hours notice are to be offered in order of seniority.

Article 11.04 (E) (I) (2) (3)

There are three circumstances where the Employer can call casuals out of order of seniority.

1. Casual assignments with less than 48 hours notice:
    (a) May be filled in the manner the Employer "deems most efficient" (e.g. out of seniority order). An example defining the words "deems most efficient" is where a casual is already working and is asked near the end of their shift to replace an employee who has just booked off sick for the next day. The Employer is required to record the date and time of the notification of the employee's absence in the telephone logbook (Article 11.04 (E) (6) (d)).
2. For probationary casuals:
    (a) The Employer has the ability to schedule no more than 3 shifts out of seniority order over the length of the probationary period so that probationary casual can be assessed. The intent is that this provision only be used where the Employer can demonstrate that the shift pattern has not allowed for an adequate assessment. For example, the new casual has only worked night shifts or weekends during their probationary period.

3. New Graduate Nurses:
    (a) New graduates who are casuals could be called for work out of seniority order to allow them to consolidate their practice. The intent of this provision is to take the new graduate from "practice ready" to "job ready".

Appendix X provides for a mentorship program of up to 15 weeks of full and part time work assignments (using work normally offered to casuals) for new graduate nurses. Article 17.03 would not apply to these assignments, and therefore they would not be posted, and the new graduates maintain their casual status.

Casuals who take a position under Article 17.02 (C) change status to regular for the duration of the appointment and are therefore not entitled to be called for extra shifts until after the casual call out by seniority is completed.

Article 11.04 (E) (I) (4)

While casuals are expected to advise if the assignment will attract overtime. It is the Union's position that the Employer is in the best position to keep track of which shifts are likely to attract overtime.

Article 11.04 (E) (I) (6) - Telephone Call-In

The most important aspect of this provision is that Employers have to keep a log book of calls to casuals. The requirements of the log book are:

1. When there is a dispute the Union has to be given reasonable access to the log book and is allowed to make copies of the pertinent pages.
2. All calls are to be recorded in the log book showing:
    (a) The signature of the person making the call;
    (b) The name of the employee called;
    (c) The position they were being called to fill;
    (d) The time the call was made;
    (e) Whether the casual accepted or declined the assignment or whether the casual failed to answer the telephone; and
    (f) The date and time of the notification where the relief is requested with less than 24 hours notice.

Article 11.04 (E) (I) (7) - Alternative Process for Call-In

The Employer may introduce an alternative method for casual call in using available technology, the previous principles for telephone call in will be used as part of the new process.

Article 11.04 (E) (I) (8) - Block of Work

While the Union can support a shorter definition of a block than the shifts between regular days off, the Union will not support an agreement that would result in a block being defined to exceed the language in the PCA.

Casuals do not have to accept all the blocks of work that result from one employee's absence. For example, three weeks of vacation may give three blocks of work as defined by the PCA. The senior casual may accept the first and third block of work and decline the middle block.

Article 11.04 (E) (II) - Errors in Casual Call-In

This provision is based on an industry wide arbitration award, HEABC and BCNU (Casual Call-in) June 16, 1997 (Ready) where it was determined that an arbitrator has the ability to award monetary damages where an Employer makes an error in calling in casuals.

For example, if the Employer violates the PCA by inappropriately calling in a junior casual, the arbitrator could award monetary compensation for the lost work opportunity experienced by the senior casual.

Article 11.04 (E) (III)

Once a straight time shift has been offered and accepted by the casual, it cannot be cancelled by either the Employer or the casual unless the circumstances are "beyond the Employer or employee's control".

The wording is ambiguous, and it will likely need to be defined through the grievance process as to what could reasonably be "beyond the Employer or employee's control".

Examples of situations "beyond the employee's control" include illness, a death in the family, unexpected emergency, or posting into a regular position.

Examples cited by the Employer in bargaining of "circumstances beyond the Employer's control" included closure of a unit, decrease in patient census or an inability to "float" the casual to another unit.

Before cancelling a casual, Employers should be encouraged to provide regular employees with the opportunity to take a day off utilizing time owing, vacation or unpaid LOA or provide casuals with the option of floating to another unit according to their skills.

The intent of this provision is to address the arbitrary cancellation of pre-booked shifts by requiring an equal commitment on the part of both the Employer and the casual once a straight-time shift has been booked.

Arbitration Awards

1. HEABC and BCNU (Casual Call-in) June 16, 1997 (Ready). An arbitrator has the ability to award monetary damages where an Employer calls casuals outside of seniority order in violation of the PCA.

Article 11.04 (F) - Wage Entitlement

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Article 11.04 (F) (2)

Casuals are paid the same way as regular employees except casuals can now move up the increment scale faster by combining seniority accrued at more than one PCA worksite. The following conditions apply:

1. The hours cannot exceed the maximum of a full-time equivalent (i.e.1950 hrs per year) worked at all worksites during the same period of time;
2. The hours have to be worked within the Union bargaining unit;
3. The hours have to be worked with an Employer covered by the PCA;
4. Casuals are required to provide the Employer with written proof of the hours worked at another worksite;
5. Employers at the other worksites are required to provide written proof of the hours worked by a casual promptly on request; and
6. Credit for these additional hours will be effective on the date the Employer receives written verification of the hours.

Casuals port their increment step under the following circumstances:

1. They are hired as a casual by another PCA Employer within 30 days;
2. They go from regular employment to casual at the same worksite within 30 days;

However, when a casual goes from casual employment to regular at the same worksite within 30 days they have the following choice:

1. To “port” their current increment step or
2. To use their previous experience to get placed at a higher increment step.

Casuals can use previous experience to receive credit of one increment step for each 1950 hours of work. The criteria for application of previous experience are set out in Article 52:

1. It has to have occurred within two years of their current employment (excluding time spent in an education program)
2. It has to be relevant experience as determined by the Employer.

Employers are generally expected to accept any reasonably relevant experience. For example, Medical/Surgical experience has been considered relevant in most acute, extended and long term care units as well as for employees in home care in the community.

Employers usually require documentation from previous Employers to prove years of service.

Employees are advised to obtain documentation regarding years and type of experience before they leave their current employment for another Employer.

Article 11.04 (F) (4)

When a casual receives a regular position with the same Employer they shall receive credit for the casual hours on a prorated basis. That means they will increase to the next increment step when they have

worked a total of 1950 hours and then will advance another increment when they reach their anniversary date. This may result in a casual receiving 2 increments in one year.

For example, a casual moves into a regular position on July 1 at that time they have 1700 hours accrued as a casual since their last increment. By September 15 they have worked another 250 straight time hours and therefore have a total of 1950 hours and would be entitled to receive their next increment. They would also receive a second increment on July 1 their anniversary date. Therefore receiving 2 increments in 12 months.

Arbitration Awards

1. HLRA and BCNU, October 11, 1989 (Ready). This decision is the origin of the language on the application of casual increment steps set out in Article 11.04 (F) (1) through (4). There have been changes to the language since then including the removal of the increment cap of three years and the prorating of call hours for increments when the casual moves to a regular position.

Article 11.04 (G) (1) (2) (3) Casual Employee – Benefit Entitlement

Grievance and Arbitration

1. Casuals have all the same rights as regular employees with respect to access to the grievance and arbitration processes set out in the PCA.

Vacation Pay and Paid Holidays

1. Casuals receive 12.6% of straight time pay on each pay cheque for vacation and stat pay. This equals 8% as vacation pay (based on 20 days' vacation) and 4.6% (based on BC Statutory holidays) in lieu of stat pay.

Other Benefits

1. Casuals are entitled to be paid shift premiums, weekend premiums, responsibility pay, and premium pay for work on a paid holiday, on-call, call-back, call-back travel allowance and isolation allowance.

Payment for relieving in a higher level position

1. See Article 18.08 and the HEABC FHA and BCNU Hayward April 2016 (Lanyon) award.

Qualification Differential

1. Casuals are not entitled to be paid qualification differential as the current wording specifies that it only applies to regular employees.

Isolation allowance

1. Casuals are only entitled to be paid isolation allowance for hours and days actually worked. Arbitration Award Fort St. John Hospital and BCNU, June 16, 1994 (Kinzie).

Municipal Pension Plan

1. Casuals are entitled to access the Municipal Pension Plan under certain conditions. For current information contact the Municipal Pension Plan www.pensionsbc.ca, 1-800-668-6335.

Article 11.04 (G) (4) - Health and Welfare Benefits

Casuals may enroll themselves and their families in the medical, dental and extended health plans on completion of 180 hours of work.

Requirements of enrolment are:

1. The casual has to enroll in all three plans.
2. The casual has to pay the premiums in advance.

Casuals who opt out of the plan or are dropped for non-payment of plan premiums, may only re-enroll if they apply between December 1 and December 15 of any year and it will be effective for January 1 of the next year.

Casuals who work more than half time in a year will be refunded their premium payments by the Employer by November 1st of each year under the following conditions:

1. They have worked 975 hours (based on a 37.5 hour work week) by September 30 each year or 500 hours in the peak periods which are the months of March and December and June 15 to September 15.
2. The casual who is enrolled after September 15 and works the required hours is limited to a refund for the number of months the casual paid premiums. For example, if the casual paid premiums from January onward, only casual hours from January to September will be counted.
3. A casual who was enrolled in the benefit plans after October 1 and who posts into a regular position prior to September 30 of the following year is only eligible for a premium refund if they worked 975 hours as a casual in that period. Or if the casual works 500 hours in the peak periods, which are the months of March and December and June 15 to September 15, they also qualify for the premium refund. For example, for the casual who posted into a regular position January 1 the calculation would be based on both the casual hours worked in October, November, and December and the hours worked in the regular position January to September 30. They would only be eligible for a refund for the premiums that they actually paid.
4. Hours worked in temporary appointments over 9 months pursuant to Article 17.02 (C) and 11.04 (G) (5) do count toward the hours used for benefit refund payments but the casual is only entitled to be reimbursed for the premiums which they paid.
5. Casuals who post into a temporary regular position in accordance with Article 17.03 are changed to regular status for the duration of the position. Therefore, the Employer pays 100% of the health and welfare plan premiums while the casual occupies the position. These hours count towards the 975 hours in a year, but the casual does not get reimbursement for them.

Article 11.04 (G) (5) - Benefits for Casual Employees in Temporary Appointments

Casuals in a temporary appointment under Article 17.02 have their status changed to regular for the time of the appointment and are eligible for all regular employee benefits with the exception of LTD. LTD coverage is only for a maximum period of 2 years and the employee is not eligible to make successive claims.

Article 11.04 (H) - Seniority

A casual who is the successful applicant on a regular position is entitled to seniority credit for the total number of hours worked as a casual at all Employer worksites covered by the PCA up to a maximum of the annual full time equivalent of 1950 hours per year.

In other words, the casual may choose to combine casual seniority hours earned at other PCA worksites to the new worksite to get seniority credit in their new regular position.

The Union is taking the position that a casual does not have to port their hours from other worksites or indeed all of the other worksites they worked as a casual. In some instances, the casual may wish to keep their casual status and their seniority hours at the other worksites. However, once they choose to port their casual seniority hours to the worksite where they have accepted a regular position, the casual seniority hours are reduced to zero at all worksites where the casual has used seniority hours to enhance their seniority in their new regular position at their new worksite (Article 13).

The casual is responsible for providing the Employer with written verification of their casual hours worked at other worksites.

Total hours of seniority include overtime hours worked and include hours worked in any classification included in the Union bargaining unit at any site in the Health Authority.

Total hours of seniority can only be accrued to a maximum of 1950 (i.e. the annual full- time equivalent based on a 37.5 hour work week) in any one year. Seniority calculation for hours worked prior to April 1, 2013 is based on 1879.2 hours worked per year.

Casuals are credited with seniority on return to work following WorkSafeBC (WSBC) leave (including wage loss replacement and rehab benefits). Their seniority is based on the number of hours worked as a casual in the 12 months before the leave as follows:

1. Number of hours worked in 12 month period before divided by 52.2 weeks and multiplied by the number of weeks on WSBC leave. For example, 1000 hours ÷ 52.2 weeks × 4 weeks = 76.62 hours.
2. Casuals who have been employed less than 12 months before the WSBC leave will have their seniority calculation based on the shorter period. For example, a casual employed for 6 months at a worksite would use the hours worked in those 6 months.

Article 11.04 (I) - Overtime Pay

In (HEABC) Overlander Extended Care and BCNU, September 30, 2002, (Hope) the arbitrator set out the purpose of overtime provisions as follows: “Very briefly, [overtime] provisions are intended to act as a disincentive against too many consecutive hours or days of work, and as a source of premium earnings for employees who are called upon to work for extended periods”.

The arbitration decision Campbell River et al and BCNU, February 12, 1998 (Munroe) reinforced that Article 11.04 (I) (or J as it then was) is the sole source for overtime entitlement for casuals except with regard to determination of the rate of pay (Article 27). This decision also applies to casuals working in

temporary appointments pursuant to Article 17.02 (A) only because they do not change their employment status. Casuals who take a position under 17.02 (C) or 17.03 do change their status to regular for the duration of the appointment and therefore are entitled to overtime under Article 27.

There is no requirement in the PCA for consecutive days off for casuals. Overtime applies only after the number of shifts specified in Article 11.04 (I).

Article 11.04 (E) (4) Procedure for Casual Call-In provides that where a casual is called for an assignment which the casual is aware would attract overtime, the casual must advise the Employer when asked.

Article 11.04 (I) (1) (a) (i) Hours of work in one day exceed the normal daily full shift hours.

The casuals may not be entitled to overtime if they agree to work a second shift within a 24 hour period. (HEABC) Overlander Extended Care and BCNU, September 30, 2002, (Hope). The arbitrator found they were not entitled to overtime in those circumstances. Arbitrator Hope stated: “The assignments the Grievor accepted were discrete and the term, "normal daily full shift hours", must be read as meaning the hours of the particular assignment. I conclude that the Union failed to establish that the Grievor was entitled to claim overtime for the second assignment she accepted”. However, he went on to add “That is not to say that the interpretive issue prevents a member employer from offering overtime to a casual nurse to induce her to accept a second assignment within 24 hours. The question is whether overtime can be claimed as of right under the language”. In HEABC (Overlander Extended Care Hospital) and BCNU January 22, 2008 (Ready), Arbitrator Ready awarded that casuals receive overtime at the rate of 1.5 for the entire shift if there is less than eight hours off between shifts.

“When the language is examined in the context of the arbitral authorities dealing with issues of overtime, it must be taken that the parties intended that casual nurses, who have no work schedules and who have a unique control over the assignments they will accept, will be entitled to overtime when the "normal daily full shift hours" of an assignment they accept are extended. Acceptance of a second assignment does not fall within Article 11.04(J)(1)(a)(i) in the sense that it cannot be seen as an extension of the "normal daily full shift hours" of the original assignment”.

This award only dealt with a situation where the grievor worked the two 7.5 hour shifts in 24 hours with 8 hours off in between the two shifts (so they worked 16 hours out of 24). The award clarified that overtime would apply in the following circumstances:

1. In the same circumstances where the Employer promised to pay overtime as an inducement to the casual to accept the second shift.
2. Where the second shift is essentially an extension of the original assignment (i.e. the Employer asks the casual to work two shifts back to back without a break in between).

Since the Hope ruling in 2002 an arbitrator found that casuals working 2 shifts within 24 hours without 8 hours between the 2 shifts were entitled to OT pay for the whole shift at the OT rate of X1.5 (Overlander Extended Care and BCNU, January 22, 2008 (Ready).

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Article 26.03 - Meal Breaks

Casuals who work during their meal break and do not receive additional continuous time off later in the same shift, are entitled to be paid 1.5 x the regular rate for the total of the meal period (Employment Standards Act, Section 32).

Article 27 - Overtime

Casuals are paid overtime for hours worked in excess of the normal daily full-shift hours or for hours in excess of the normal work week of a full-time employee.

Article 29 - On-Call, Call-Back and Call-In

Casuals being paid on-call allowance are entitled to be paid a minimum of 2 hours at the appropriate overtime rates provided by Article 27.05 for each separate call-back. Casuals working in Community are entitled to be paid a minimum of 30 minutes for telephone call back (Article 29).

The definition of a "scheduled day off" has an expanded application in Article 29.04 (C) so it also applies to casuals and RPT employees who are placed on-call. Article 11.04 (G) (3) confirms that all the on-call, call-back and call-back travel allowance provisions apply to casuals.

The Union's interpretation was confirmed by the arbitration award, Delta Hospital and BCNU, April 28, 1999, (Munroe), where the arbitrator considered the clear language of the PCA and the evolution of that language that supported the Union's position that casuals and RPT employees who are placed on-call and receiving the on-call allowance have the same entitlement to overtime as RFT employees.

Article 39.04 - Premium Rates of Pay on a Paid Holiday

Casuals are entitled to overtime at the rate of 1.5 x the appropriate stat holiday rate for all overtime hours worked on a paid holiday (Article 11.04(G)(3)).

Casuals placed on-call and called-back receive 1.5 x the appropriate stat holiday rate for each separate call-back (Article 11.04(G) (3)).

Article 57.01 - General Conditions – Escort Duty

A casual required to escort a patient receives their regular pay and where applicable overtime pay while the patient/client/resident is in their care (i.e. until the patient/client/resident is delivered to their destination).

Arbitration Awards

1. Campbell River et al and BCNU, February 12, 1998 (Munroe). This grievance was about a casual in a temporary line that was booked for three shifts and had the shifts cancelled because the Employer believed it would result in overtime. The grievance was allowed.

2. Delta Hospital and BCNU, April 28, 1999, (Munroe). The arbitrator considered the clear language of the collective agreement and the evolution of that language that supported the Union's position that casual and RPT employees who are placed on-call and receiving the on-call allowance have the same entitlement to overtime as RFT employees.
3. (HEABC) Overlander Extended Care and BCNU, September 30, 2002, (Hope). There were two issues:
    (a) In the preliminary issue, Hope ruled that this arbitration decision would only apply to the facts of this case.
    (b) The main issue was whether casuals who agree to work two 7.5 hours shifts in a 24 hour period with 8 hours off in between are entitled to overtime for the second shift. The arbitrator found they were not entitled to overtime in the circumstances.

Additional Resources

Legislation

1. Employment Standards Act

Article 11.04 (J) - Casual Employees – Probationary Period

1. The probationary period for new casuals is a minimum of 487.5 hours worked.
2. The criteria set out in Article 14 apply to casuals in the same way as to regular employees. Namely that before transferring or dismissing the casual during their probationary period, the Employer has to demonstrate that the casual "is unsuitable" and that "the factors involved in suitability could reasonably be expected to affect work performance".
3. In 1998 Article 11.04 (E) (3) provided the Employer with an ability to schedule a maximum of 3 shifts during the probationary period for the purposes of assessment. This means that the Employer has flexibility to schedule additional opportunities to work with a new casual on day shifts to assist them in passing their probation. Often new casuals are also new graduate nurses who may require mentoring support to make the change from being "practice ready" to "job ready".

Article 11.04 (K) - Employer Approved Education Programs

The obligations that apply when a casual participates in an education program paid for by the Employer are:

1. The casual has to return to work for the same Employer, for 18 months after they complete the education program.
2. This only applies where the total cost of the education program (including wages) paid for by the employer exceeds the dollar value represented by 225 hours paid at the casual's regular hourly wage rate.
3. If the casual fails to return to work for 18 months, as set out in Point 1, then they have to reimburse the Employer for the full costs (including wages, if any) of the program to the Employer (Article 35).

The provision clarifies that casuals are eligible to attend Employer paid education programs that may include the payment of wages. This only applies to programs where the casual's participation has cost the Employer more than the equivalent of 225 hours at the employee's regular hourly rate.

Employers are not required to pay for study time associated with programs taken on a voluntary basis pursuant to this provision. Vancouver Hospital and Health Sciences Centre (VGH Site) and BCNU, February 19, 2004 (Korbin). The arbitrator wrote: "I am unable to conclude that any requirement to compensate nurses for training found in the Collective Agreement extends to the point where the Employer is obliged to pay for training and upgrading that a nurse undertakes voluntarily in order to apply and qualify for a new position. Suffice to say the present facts lack the necessary compulsion to warrant pay for the study time claimed".

Arbitration Awards

1. Vancouver Hospital and Health Sciences Centre (VGH Site) and BCNU, February 19, 2004 (Korbin). Employers are not required to pay for study time associated with programs that a nurse undertakes on a voluntary basis.

Footnotes

Article	11
Sub-Article	11.01, 11.02, 11.03, 11.04
Last Update	31-03-21
Related Articles	6, 9, 10, 12, 13, 14, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 49, 52, 54, 55, 56, 62, 63, Appendix M, Appendix X, Appendix Z, Appendix DD, Appendix II