

# **Ambulance Services Continuation (2013) Act**

CHAPTER 31 OF THE ACTS OF 2013



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**An Act to Ensure Public Safety  
through the Provision of Emergency Health Services**

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(The table of contents is not part of the statute)

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WHEREAS EMC Emergency Medical Care Incorporated and its employees are unable to reach a negotiated settlement that both parties can accept despite months of negotiation and tentative settlements;

AND WHEREAS no agreement to continue Lifeflight and other services that mean life or death for critically ill and injured Nova Scotians has been reached;

AND WHEREAS there is no prospect of any additional bargaining taking place:

**Short title**

**1** This Act may be cited as the *Ambulance Services Continuation (2013) Act*. 2013, c. 31, s. 1.

**Interpretation**

- 2 (1)** In this Act,
- (a) “arbitrator” means the arbitrator appointed pursuant to this Act;
  - (b) “Chief Justice” means the Chief Justice of the Supreme Court of Nova Scotia;
  - (c) “employee” means a member of the Union who is employed by the Employer;
  - (d) “Employer” means EMC Emergency Medical Care Incorporated;

(e) “Minister” means the Minister of Labour and Advanced Education;

(f) “party” means the Employer or the Union;

(g) “Union” means the International Union of Operating Engineers, Local 727.

(2) Except as otherwise provided in this Act, words and expressions used in this Act have the same meaning as in Part I of the *Trade Union Act*.

(3) Where there is a conflict between this Act and the *Trade Union Act*, this Act prevails. 2013, c. 31, s. 2.

#### **Application of Act**

3 This Act applies to the Employer, the employees and the Union. 2013, c. 31, s. 3.

#### **Supervision of Act**

4 The Minister has the general supervision and management of this Act. 2013, c. 31, s. 4.

#### **Last collective agreement**

5 The collective agreement between the Employer and the Union that expired on March 31, 2011, is and remains in force and effect and is binding on the Employer, the Union and the employees until such time as an award is made by the arbitrator. 2013, c. 31, s. 5.

#### **Appointment of arbitrator**

6 (1) The Employer and the Union shall endeavour to agree on a person satisfactory to both of them to be the arbitrator and, where agreement is reached, that person is hereby appointed as the arbitrator.

(2) Where the Employer and the Union are unable, within 30 days after this Act comes into force, to agree on a person to be the arbitrator, either of them may apply to the Chief Justice for the appointment of a person to be appointed as the arbitrator from nominees provided to the Chief Justice by the Employer and the Union.

(3) Upon receiving an application pursuant to subsection (2), the Chief Justice shall notify the Employer and the Union.

(4) Within five days of receiving notice pursuant to subsection (3), the Employer and the Union shall each provide one nominee together with a brief rationale in writing for the selection of the nominee.

(5) Within 15 days of receiving the nominees pursuant to subsection (4) or the expiry of the time for receiving nominees, whichever is earlier, the Chief Justice shall select a person to be the arbitrator from the nominees provided by the Employer and the Union or, where one of them fails to provide its nominee within the time provided in subsection (4), select the nominee provided and, upon

selection by the Chief Justice, the selected person is ~~hereby appointed~~ [hereby appointed] as the arbitrator.

(6) The Employer and the Union shall each pay one half of the fees of, and expenses incurred by, the arbitrator. 2013, c. 31, s. 6.

#### Duties of arbitrator

7 (1) The arbitrator shall examine the matters that are in dispute, including a proposal for a defined-benefit pension plan, and any other matters that appear to the arbitrator to be necessary to be decided to enable the Employer and the Union to conclude a collective agreement.

(2) The arbitrator

(a) shall request a final offer from each party for the matters remaining in dispute and may determine the time within which the offers must be submitted;

(b) may hear arguments respecting the matters in dispute and shall hear the arguments if either the Employer or the Union requests; and

(c) shall select one of the final offers submitted or, where one of the parties fails to submit a final offer within the time determined pursuant to clause (a), select the final offer submitted.

(3) Subject to subsection (2), the arbitrator shall determine the procedure for its examination but must permit the Employer and the Union to present evidence and make submissions.

(4) Sections 9 and 43B of the *Trade Union Act* apply *mutatis mutandis* to the proceedings before the arbitrator.

(5) The arbitrator shall make a decision within 90 days of the arbitrator's appointment or such further time as the Minister may grant at the request of the arbitrator.

(6) The decision of the arbitrator is final and binding upon the Employer and the Union and, together with any matters that have been agreed to by the Employer and the Union, constitutes a new collective agreement. 2013, c. 31, s. 7.

#### Prohibitions

8 (1) For greater certainty,

(a) neither the Union nor an officer or representative of the Union shall declare or authorize a strike by the employees or continue to authorize a strike by the employees declared or authorized before the coming into force of this Act;

(b) the Employer shall not declare or cause a lockout of the employees or continue a lockout of the employees declared before the coming into force of this Act; and

(c) no employee shall strike or continue a strike declared before the coming into force of this Act,

and a contravention of this subsection is deemed to be a contravention of Section 48 of the *Trade Union Act*.

(2) On the coming into force of this Act, the Union and each officer or representative of the Union shall

(a) give notice of this Act to the employees and direct them to immediately continue or resume the duties of their employment;

(b) take all reasonable steps to ensure that the employees immediately continue or resume the duties of their employment; and

(c) refrain from any conduct that may encourage the employees not to immediately continue or resume the duties of their employment.

(3) Neither the Employer nor any person acting on behalf of the Employer shall, without lawful excuse, refuse to permit or authorize, or direct or authorize another person to refuse to permit or authorize, any employee to continue or resume the duties of that person's employment as required by this Section.

(4) No employee shall, without lawful excuse, fail to continue or resume the duties of the employee's employment with the Employer as required by this Section.

(5) No person shall in any manner impede or prevent, or attempt to impede or prevent, any employee from complying with this Section or counsel any employee not to comply with this Section.

(6) This Section applies in addition to the provisions of the *Trade Union Act* respecting a lockout or strike.

(7) This Section applies until the expiry of the new collective agreement constituted by this Act. 2013, c. 31, s. 8.

#### **Prohibited activities of Union**

9 (1) Neither the Union nor any person acting on behalf of the Union shall expel or suspend an employee from membership in the Union or take disciplinary action against or impose any penalty on an employee by reason of the employee having performed an act that is required by this Act or having refused to perform an act that is contrary to this Act, and any such expulsion, suspension, action or imposition is deemed to be a contravention of clause 54(h) of the *Trade Union Act*.

(2) Neither the Union nor any person acting on behalf of the Union shall discriminate against a person in regard to employment, a term or condition of employment or membership in the Union, or intimidate or coerce a person, because that person has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Act, and any such discrimination, intimidation, coercion or imposition is deemed to be a contravention of clause 54(i) of the *Trade Union Act*. 2013, c. 31, s. 9.

**Granting of injunctions**

**10** Nothing in or done pursuant to this Act prevents the granting of an injunction by any court or judge. 2013, c. 31, s. 10.

**Regulations**

**11 (1)** The Governor in Council may make regulations

- (a) respecting the powers of the arbitrator;
- (b) defining any word or expression used but not defined in this Act;
- (c) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2013, c. 31, s. 11.

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