



BILL NO. 138

Private Member's Bill

*1st Session, 59th General Assembly
Nova Scotia
53 Elizabeth II, 2004*

An Act to Amend Chapter 475 of the Revised Statutes, 1989, the Trade Union Act

CHAPTER 47
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 18, 2004**

Bill Langille
Colchester North

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 475
of the Revised Statutes, 1989,
the Trade Union Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 49(2) of Chapter 475 of the Revised Statutes, 1989, the *Trade Union Act*, is amended by striking out “No police constable or officer, and no” in the first line and substituting “No”.

2 Chapter 475 is further amended by adding immediately after Section 52 the following heading and Sections:

INTEREST ARBITRATION

52A (1) In this Section, “police bargaining unit” means a unit that includes police constables or officers that has been certified under this Act or that is a party to an agreement filed pursuant to subsection (2) of Section 30 and the certification of which has not been revoked.

(2) Notwithstanding anything contained in this Act,

(a) no police constable or officer or member of a police bargaining unit has the right to strike; and

(b) no employer shall lock out a police constable or officer or member of a police bargaining unit.

(3) The right to strike and the right to lock out police constables or officers and members of a police bargaining unit is hereby replaced with interest arbitration.

52B Notwithstanding Section 35, the employer shall not, without consent by the certified or recognized bargaining agent or by the Board, increase or decrease rates of wages or alter any other term or condition of employment of employees in relation to whom notice to bargain has been given until

(a) a new collective agreement has been concluded; or

(b) the bargaining agent and the employer or representatives authorized by them in that behalf have bargained collectively and have failed to conclude a collective agreement and an interest-arbitration board has made an award.

52C Where

(a) a conciliation officer fails to bring about an agreement between the parties engaged in collective bargaining; and

(b) the conciliation officer makes a report to the Minister,

the employer or the union shall notify the other party in writing of its desire to submit the collective agreement to an interest-arbitration board composed of one person

unless the parties agree to submit the collective agreement to an interest-arbitration board of three persons.

52D (1) Where the interest-arbitration board referred to in Section 52C is to be composed of one person, the employer and the union shall, within ten days after delivery of the notification referred to in that Section, attempt to agree on a person satisfactory to both parties to be the interest-arbitration board and, if agreement is reached, that person is appointed as the interest-arbitration board.

(2) Where the parties are unable to agree on a person to be the interest-arbitration board pursuant to subsection (1), either party may apply to the Minister to appoint a person to be the interest-arbitration board and the Minister shall appoint a person.

(3) The employer and the union shall each pay one half of the fees of, and expenses incurred by, an interest-arbitration board appointed pursuant to subsection (1) or (2).

(4) Where an interest-arbitration board is appointed pursuant to subsection (1) or (2) the person appointed is the chair for the purpose of subsection (4) of Section 52F and Section 52G.

52E (1) Where the employer and the union agree pursuant to Section 52C to appoint an interest-arbitration board composed of three persons, the party that gave notification pursuant to that Section shall, within seven days of the date of the agreement, give notice of its readiness to proceed pursuant to this Section.

(2) The party giving the notice referred to in subsection (1) shall in and with the notice give the name of a person to act as its nominee on the interest-arbitration board and request that the other party name a person to act as its nominee on the board.

(3) The party to whom notice is given pursuant to subsections (1) and (2) shall, within seven days of the receipt of such notice, appoint a person to be its nominee on the interest-arbitration board and shall, within those seven days, notify in writing the other party of the name of the person so appointed.

(4) Where a party fails to appoint a member to the interest-arbitration board and give notice thereof as required by subsection (3), the Minister, on the application of the party who has appointed a member pursuant to subsection (2), shall, within seven days, appoint a person to act on the interest-arbitration board as the nominee of the party who has failed to appoint a member.

(5) The two members appointed pursuant to subsections (2), (3) and (4) shall, within seven days after the day on which the second of them is appointed, appoint a third person to be a member and chair of the interest-arbitration board.

(6) Where the two members fail or neglect to make an appointment as required by subsection (5), the Minister, on the application of either party, shall within seven days appoint a third person to be a member and chair of the interest-arbitration board.

(7) The decision of a majority of the interest-arbitration board shall be the decision of the arbitration board.

(8) The employer shall pay the fees and expenses of the member appointed to the interest-arbitration board by or on behalf of the employer, the union shall pay the fees and expenses of the member appointed to the interest-arbitration board by or on behalf of the union, and the employer and the union shall each pay one half of the fees of, and expenses incurred by, the chair of the interest-arbitration board.

52F (1) An interest-arbitration board appointed pursuant to Section 52D or 52E or a collective agreement

(a) shall determine the procedure to be followed during the arbitration, but shall give full opportunity to the parties to the proceeding to present evidence and make submissions to the arbitrator; and

(b) has, in relation to any proceedings before the arbitrator, the powers conferred on the Board, in relation to any proceedings before the Board, by subsections (7) and (8) of Section 16,

and the parties to the proceedings may

(c) appear and be heard and be represented by counsel; and

(d) call witnesses and examine or cross-examine all witnesses.

(2) As soon as possible after conducting a hearing into the matters referred to it, the interest-arbitration board shall make an award and in its award deal with each item in dispute.

(3) An award of an interest-arbitration board is binding upon

(a) the union and every employee in the unit on whose behalf it was bargaining collectively; and

(b) the employer,

and the employer and the union shall give effect to it.

(4) Every award of an interest-arbitration board must be signed by the chair of the board.

52G Where an interest-arbitration board renders an award, the chair of the interest-arbitration board shall make a report and transmit it to the Minister and to the parties.

3 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
