

BILL NO. 68

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Healthcare Services Continuation (2001) Act

CHAPTER 27 OF THE ACTS OF 2001

The Honourable Jamie A. Muir
Minister of Health

[First Reading](#): June 14, 2001

Second Reading: June 19, 2001

[Third Reading](#): June 27, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: June 27, 2001



**An Act to Continue Healthcare Services
in Nova Scotia**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Healthcare Services Continuation (2001) Act*.

2 (1) In this Act,

- (a) "bargaining unit" means the bargaining units referred to in subsection 3(1), including all members thereof;
- (b) "collective agreement" means a collective agreement as defined in the *Trade Union Act*;
- (c) "district health authority" means a district health authority established pursuant to the *Health Authorities Act*;
- (d) "employee" means a person who performs duties and functions that entitle that person to pay on a regular basis but does not include a consultant or independent contractor and who is a member of a bargaining unit referred to in subsection 3(1);
- (e) "employer" means the employer of the persons referred to in subsection 3(1);
- (f) "Minister" means the Minister of Health;
- (g) "Nova Scotia Government Employees Union" means the union known or formerly known as the Nova Scotia Government Employees Union;
- (h) "union" means a bargaining agent representing employees to whom this Act applies.

(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.

3 (1) This Act applies to

- (a) the Nursing Bargaining Unit of the Queen Elizabeth II Health Sciences Centre, the Nova Scotia Hospital and the Capital District Health Authority as described in the Schedule to this Act, their employers and the Nova Scotia Government Employees Union;
- (b) the Healthcare Bargaining Unit of the Queen Elizabeth II Health Sciences Centre, the Nova Scotia Hospital and the Capital District Health Authority as described in the Schedule to this Act, their employers and the Nova Scotia Government Employees Union;
- (c) any bargaining unit of employees represented by the Nova Scotia Nurses Union employed by the Izaak Walton Killam - Grace Health Centre for Children, Women and Families or a district health authority, their employer and the Union; and
- (d) any bargaining unit of employees of a district health authority or the Izaak Walton Killam - Grace Health Centre for Children, Women and Families the Governor in Council may designate pursuant to this Act, their employer and the union representing those employees.

(2) This Act binds Her Majesty in right of the Province.

4 The Minister has the general supervision and management of this Act.

5 (1) On and after the coming into force of clause 3(1)(a), (b) or (c) or a designation of a bargaining unit by the Governor in Council pursuant to this Act, as the case may be,

- (a) no union or officer or representative of a union shall declare or authorize a strike by its members or continue to

authorize a strike by its members declared or authorized before the coming into force of this Act;

(b) no employer shall declare or cause a lockout of its employees or continue a lockout of its 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,

before April 1, 2004.

(2) On the coming into force of clause 3(1)(a), (b) or (c) or a designation of a bargaining unit by the Governor in Council pursuant to this Act, as the case may be, every union and each officer or representative of a union shall

(a) give notice of this Section to any employees whom it represents and direct the employees 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) An employer and any person acting on behalf of an employer shall not, 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 employee's employer.

(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 requirements of the *Trade Union Act* for a strike.

6 (1) Where the Governor in Council is satisfied that an employer and a union are unable to conclude a collective agreement, the Governor in Council may, by order, determine any collective agreement or provision of a collective agreement.

(2) A collective agreement or provision of a collective agreement determined pursuant to subsection (1) may have effect

(a) from the date of expiry of the agreement it replaces or such other date; and

(b) subject to subsection (4), for such term,

as the order of the Governor in Council provides.

(3) An order of the Governor in Council pursuant to subsection (1) constitutes a collective agreement or a provision of a collective agreement, as the case may be, for the purpose of the *Trade Union Act* as if it were a collective agreement or a provision of a collective agreement entered into pursuant to that Act.

(4) No order shall be made by the Governor in Council pursuant to this Section that has effect after March 31, 2004.

7 (1) Nothing in this Act shall be construed so as to limit or restrict a union and an employer from attempting to resolve any issues or make any agreements before the Governor in Council makes an order pursuant to Section 6.

(2) No collective agreement may be concluded or amended to be contrary to an order made pursuant to Section 6 and, where there is a conflict between an order made pursuant to Section 6 and a collective agreement, the order prevails.

8 Subject to Sections 6 and 7, the last collective agreement before the coming into force of this Act for a bargaining unit remains in force and effect and binding on the employer, the union and the employees of the bargaining unit.

9 (1) Where an employer contravenes Section 5, the employer is guilty of an offence and liable on summary conviction to

(a) a penalty of not more than fifty thousand dollars; and

(b) in the case of a continuing offence, a further penalty of not more than ten thousand dollars for each day or part of a day during which the offence continues.

(2) Where a union contravenes Section 5, the union is guilty of an offence and liable on summary conviction to

(a) a penalty of not more than fifty thousand dollars; and

(b) in the case of a continuing offence, a further penalty of not more than ten thousand dollars for each day or part of a day during which the offence continues.

(3) Every individual who contravenes Section 5 is guilty of an offence and liable on summary conviction to a penalty of not more than two thousand dollars and, in the case of a continuing offence, a further penalty of not more than five hundred dollars for each day or part of a day during which the offence continues.

(4) Nothing in or done pursuant to this Section prevents the granting of an injunction by any court or judge.

10 Section 79 of the *Trade Union Act* applies *mutatis mutandis* to a prosecution under this Act.

11 (1) A union and any person acting on behalf of the union shall not 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) A union and any person acting on behalf of the union shall not 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*.

12 (1) The Governor in Council may make regulations

(a) designating any bargaining unit of employees of a district health authority or the Izaak Walton Killam - Grace Health Centre for Children, Women and Families as subject to this Act;

(b) defining any word or expression used but not defined in this Act;

(c) respecting any matter or thing necessary 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 regulations within the meaning of the *Regulations Act*.

13 No order or regulation made by the Governor in Council pursuant to this Act shall be questioned or reviewed in any court and no proceedings shall be taken or order made in any court to question, review, prohibit or quash any order or regulation made by the Governor in Council pursuant to this Act.

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

SCHEDULE

Nursing Bargaining Unit

All full-time, regular part-time and casual registered and graduate nurses employed by the Queen Elizabeth II Health Sciences Centre, the Nova Scotia Hospital and the Capital District Health Authority and represented by the Nova Scotia Government Employees Union, including nurses engaged in providing addiction/drug dependency and public health programs, but excluding nurse managers and nurses above that rank, those persons excluded by clauses 2(2)(a) and (b) of the *Trade Union Act*, those persons listed in Appendix A to certification order LRB No. 4580 of the Labour Relations Board and employees included in other bargaining units.

Healthcare Bargaining Unit

All full-time, regular part-time and casual healthcare employees of the Queen Elizabeth II Health Sciences Centre, the Nova Scotia Hospital and the Capital District Health Authority represented by the Nova Scotia Government Employees Union, including healthcare employees engaged in providing addiction/drug dependency and public health programs, but excluding those persons excluded by clauses 2(2)(a) and (b) of the *Trade Union Act* and those persons listed in Appendix A to certification order LRB No. 4580 of the Labour Relations Board.

For the sake of clarity, it is noted that the healthcare employees providing addiction/drug dependency and public health programs include licensed practical nurses engaged in providing those programs.



This page and its contents published by the Office of the Legislative Counsel, Nova Scotia House of Assembly, and © 2001 Crown in right of Nova Scotia. Created June 27, 2001. Send comments to legc.office@gov.ns.ca.