

Labour Board Act

CHAPTER 37 OF THE ACTS OF 2010

as amended by

2014, c. 37, s. 21



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An Act to Establish a Unified Labour Board

Table of Contents

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

	Section
Short title.....	1
Interpretation.....	2
Labour Board.....	3
No interest inconsistent with duties.....	4
Appointments.....	5
Remuneration.....	6
Public Service Superannuation Act.....	7
Oath of office.....	8
Administration and authority.....	9
Panel of the Board.....	10
Powers, privileges and immunities of Board.....	11
Rules and regulations.....	12
Powers and duties of Chair.....	13
Duties of vice-chair.....	14
Employees.....	15
Money required to come from General Revenue Fund.....	16
Fiscal year.....	17
Official seal.....	18
Boards, panels and tribunal abolished.....	19
Membership on board, panel or tribunal continues for remainder of term.....	20
Decisions of board, panel or tribunal remain valid.....	21
Board may complete proceedings.....	22
Documentation becomes property of Board.....	23
Chair may authorize board, panel or tribunal to complete proceeding.....	24
Reference to board, panel or tribunal means Board.....	25
Civil Service Collective Bargaining Act amended.....	26-43
Corrections Act amended.....	44-64
Education Act amended.....	65-83
Labour Standards Code amended.....	84-116
Occupational Health and Safety Act amended.....	117-126
Teachers' Collective Bargaining Act amended.....	127-135
Trade Union Act amended.....	136-158
Proclamation.....	159

Short title

1 This Act may be cited as the *Labour Board Act*. 2010, c. 37, s. 1.

Interpretation

2 In this Act,

- (a) “Board” means the Labour Board established by this Act;
- (b) “Chair” means the Chair of the Board;

(c) “member”, unless the context otherwise requires, means a member of the Board, and includes the Chair and any vice-chairs of the Board;

(d) “Minister” means the Minister of Labour and Workforce Development;

(e) “vice-chair” means a vice-chair of the Board. 2010, c. 37, s. 2.

Labour Board

3 (1) There is hereby established a Labour Board consisting of

(a) a full-time Chair who is not representative of either employers or employees;

(b) one or more vice-chairs who are not representative of either employers or employees; and

(c) such other members, who are representative of either employers or employees, as the Governor in Council considers necessary from time to time to enable the Board to function effectively.

(2) The Governor in Council shall appoint the members of the Board.

(3) The Governor in Council shall designate a vice-chair as the alternative Chair to act in the absence of the Chair or in the case of a vacancy. 2010, c. 37, s. 3.

No interest inconsistent with duties

4 (1) The Chair shall not accept or hold any office, membership, employment or interest, or engage in any business activity, that is inconsistent with the proper performance of the duties and functions of the Chair.

(2) Where an interest that is prohibited under subsection (1) vests, by whatever means, in the Chair, the Chair shall disclose the interest to the Minister without delay and, within a reasonable time, either divest himself or herself of the interest or resign as Chair.

(3) Where a vice-chair or other member who is assigned to hear or is hearing any matter before the Board, either alone or as a member of a panel, holds any pecuniary or other interest that could be inconsistent with the proper performance of their duties and functions in relation to the matter, the vice-chair or other member shall disclose the interest to the Chair without delay and is ineligible to hear, or to continue to hear, the matter.

(4) Where the Chair, a vice-chair or other member fails to divest himself or herself of an interest or resign, as required by this Section, the Governor in Council may declare the office of the Chair, the vice-chair or other member vacant.

(5) The Chair shall devote the whole of the Chair's time to the performance of the Chair's duties and functions under this Act. 2010, c. 37, s. 4.

Appointments

5 (1) The Chair shall be appointed for a term not exceeding five years and may be re-appointed.

(2) Each vice-chair and the other members shall be appointed for a term not exceeding three years and may be re-appointed.

(3) The appointment of the Chair, a vice-chair or any other member may be revoked by the Governor in Council for cause. 2010, c. 37, s. 5.

Remuneration

6 The Chair, the vice-chairs and the other members of the Board shall be paid remuneration as may be fixed by the Governor in Council, and actual and reasonable expenses as may be incurred by them in the discharge of their duties. 2010, c. 37, s. 6.

Public Service Superannuation Act

7 (1) For the purpose of the *Public Service Superannuation Act*, the Chair is and is deemed to be a person employed in the public service of the Province and full-time service in employment of the Board is and is deemed to be public service.

(2) The Board shall deduct from the salary of the Chair such amount as is directed by the Governor in Council to be deducted from the salary of employees in the public service of the Province, and shall pay the same to the Minister of Finance, and such amounts when so received must be paid into and form part of the Superannuation Fund pursuant to the *Public Service Superannuation Act*.

(3) Where, by the *Public Service Superannuation Act*, a payment is directed to be made into the Superannuation Fund by the Government of the Province or by the Minister of Finance, or where by such Act a superannuation allowance or other sum is directed to be paid out of the General Revenue Fund of the Province, then, in respect of the Chair, the payment, superannuation allowance or other sum must be defrayed by the Board and forms part of the annual expenses of the Board. 2010, c. 37, s. 7.

Oath of office

8 The Chair, each vice-chair and each of the other members shall, before entering office, be sworn to the faithful performance of their duties and shall file with the Minister an oath or affirmation of office to that effect in the following form:

I _____ do solemnly swear (affirm) that I will faithfully, truly and impartially, to the best of my judgement, skill

and ability, execute and perform the duties that devolve upon me under the *Labour Board Act* (or any other Act of the Legislature) by reason of my duties as _____ and will not, except in the discharge of my duties, disclose to any person any of the evidence or other matter brought before the said Board. (In the case where an oath is taken add “So help me God”.) 2010, c. 37, s. 8.

Administration and authority

9 (1) The Minister is responsible for the administration of this Act.

(2) The Board shall perform the duties and functions required or authorized to be performed by the Board, and may exercise such powers as may be conferred on the Board, under this or any other Act of the Legislature or under any regulations duly enacted, including without limiting the generality of the foregoing,

- (a) the *Civil Service Collective Bargaining Act*;
- (b) the *Corrections Act*;
- (c) the *Highway Workers Collective Bargaining Act*;
- (d) the *Labour Standards Code*;
- (e) the *Occupational Health and Safety Act* and the *Occupational Health and Safety Administrative Penalties Regulations*;
- (ea) the *Pooled Registered Pension Plans Act*;
- (f) the *Teachers’ Collective Bargaining Act*; and
- (g) the *Trade Union Act*.

(3) The Board shall perform such other duties and functions as may be required or authorized to be performed by the Board, and may exercise such other powers as may be conferred on the Board, from time to time by the Governor in Council. 2010, c. 37, s. 9; 2014, c. 37, s. 21.

Panel of the Board

10 (1) The Board is constituted and shall act as directed from time to time by the Chair or as otherwise prescribed by this, or any other Act of the Legislature, as a panel of the Board consisting of

- (a) the Chair or a vice-chair alone, as the chair of the panel; or
- (b) the Chair or a vice-chair, as the chair of a panel, and two other members equally representative of employees and employers.

(2) Two or more panels of the Board may be constituted and may act simultaneously.

(3) A panel of the Board constitutes a quorum of the Board.

(4) Where a panel of the Board consists of more than one person, a decision of the majority of the members of a panel is the decision of the panel but if a panel consists of the Chair or a vice-chair alone, the decision of the chair of the panel is the decision of the panel.

(5) A vacancy in the Board does not impair the right of the remaining members to act.

(6) Any decision, determination, direction, declaration, order, interim order or ruling of, or any act or thing done by a panel of the Board is a decision, determination, direction, declaration, order, interim order or ruling of, or an act or thing done by, the Board.

(7) Every decision, determination, direction, declaration, order, interim order or ruling of the Board and every appointment made by the Board must be signed by the Chair, a vice-chair or a duly appointed officer of the Board and, where purporting to be so signed is presumed to have been signed by the person purporting to have signed it, without proof of the signature, authority or appointment of the person purporting to have signed it, and when adduced as evidence in any proceeding, it must be received and is, in the absence of evidence to the contrary, proof of its making and of its content. 2010, c. 37, s. 10.

Powers, privileges and immunities of Board

11 (1) The Board and each member has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*, including, but not so as to limit those powers, the power to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce any documents and things that the Board considers necessary to the full investigation of any matter within its jurisdiction.

(2) The Board may receive and accept any evidence and information on oath, affidavit or otherwise as in its discretion it may deem fit and proper, whether admissible as evidence in a court of law or not.

(3) The Board shall determine its own procedure, but shall, unless contrary authority appears in this Act or in another Act of the Legislature, in every case give an opportunity to all interested parties to present evidence and make representation. 2010, c. 37, s. 11.

Rules and regulations

12 (1) The Board may

(a) make rules governing its practice and procedure in relation to matters coming before it; and

(b) with the approval of the Governor in Council, make regulations necessary to enable it to discharge the duties imposed upon it by this Act.

(2) The Governor in Council may make regulations

(a) respecting the remuneration and expenses of the Chair, the vice-chairs and the other members;

(b) respecting the jurisdiction of the Board, and conferring additional powers, functions, duties and responsibilities upon it;

(c) respecting the keeping of a record of matters or proceedings before the Board;

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

(e) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is regulations within the meaning of the *Regulations Act*, 2010, c. 37, s. 12.

Powers and duties of Chair

13 The Chair

(a) except where otherwise prescribed by this or any other Act of the Legislature, shall, in the Chair's discretion, direct that a particular matter required or authorized to be heard, determined or otherwise dealt with by the Board, or any other act or thing required or authorized to be done by the Board, be heard, determined or otherwise dealt with or be done by a panel of the Board consisting of

(i) the Chair or a vice-chair alone, or

(ii) the Chair or a vice-chair, as the chair of a panel, and two other members of the Board equally representative of employees and employers;

(b) shall, from time to time, assign the vice-chairs and members to panels of the Board, as required, and may change an assignment;

(c) has general supervision and direction over the conduct of the affairs of the Board, and has responsibility for the administration of the Board;

(d) shall hear, determine, or otherwise deal with such matters and do such other acts or things as the Chair determines should be heard, determined or otherwise dealt with by the Chair alone or by a panel of which the Chair is the chair, and may delegate to a duly authorized officer of the Board

such functions as the Chair considers necessary for the proper functioning of the Board; and

(e) shall perform such other duties and functions as may be required or authorized to be performed by the Chair, and may exercise such other powers as may be conferred on the Chair under this or any other Act of the Legislature or by the Governor in Council. 2010, c. 37, s. 13.

Duties of vice-chair

14 A vice-chair

(a) shall hear, determine, or otherwise deal with such matters and do such other acts or things as the Chair directs in accordance with clause 13(a) should be heard, determined or otherwise dealt with by the vice-chair alone or by a panel of which the vice-chair is the chair; and

(b) shall perform such other duties and functions as may be required or authorized to be performed by the vice-chair, and may exercise such other powers as may be conferred on the vice-chair under this or any other Act of the Legislature or by the Governor in Council. 2010, c. 37, s. 14.

Employees

15 There may be employed any officers, clerks and employees who are necessary for the administration of this Act, including a Chief Executive Officer of the Board. 2010, c. 37, s. 15.

Money required to come from General Revenue Fund

16 Any money required for the administration of this Act, or for the carrying out of any of the provisions of this Act, must, in the absence of any vote of the House of Assembly available therefor, be paid out of the General Revenue Fund of the Province. 2010, c. 37, s. 16.

Fiscal year

17 The fiscal year of the Board is the same as the fiscal year of the Province. 2010, c. 37, s. 17.

Official seal

18 (1) The Board shall have an official seal.

(2) The failure to affix a seal to a decision, determination, direction, declaration, order, interim order, or ruling of the Board does not affect the validity of the decision, determination, direction, declaration, order, interim order, or ruling or any proceedings in relation to it. 2010, c. 37, s. 18.

Boards, panels and tribunal abolished

19 (1) The following boards and panels are abolished:

- (a) the Civil Service Employee Relations Board under the *Civil Service Collective Bargaining Act*;
- (b) the Construction Industry Panel under the *Trade Union Act*;
- (c) the Correctional Facilities Employee Relations Board under the *Corrections Act*;
- (d) the Highway Workers Employee Relations Board under the *Highway Workers Collective Bargaining Act*; and
- (e) the Labour Relations Board (Nova Scotia) under the *Teachers' Collective Bargaining Act* and the *Trade Union Act*.

(2) The following tribunal and panel are abolished:

- (a) the Labour Standards Tribunal under the *Labour Standards Code*; and
- (b) the Occupational Health and Safety Appeal Panel under the *Occupational Health and Safety Act* and the *Occupational Health and Safety Administrative Penalties Regulations*. 2010, c. 37, s. 19.

Membership on board, panel or tribunal continues for remainder of term

20 (1) Notwithstanding subsection 19(1), a member of a board or panel referred to in that subsection is, on the commencement of this Act, a member of the Board and holds office as a member for the remainder of the term of appointment as for the board or panel to which the member was first appointed and of which the member is, immediately before the commencement of this Act, still a member.

(2) Notwithstanding subsection 19(2), a member of the tribunal or panel referred to in that subsection is, on the abolition of the tribunal or panel, a member of the Board and holds office as a member for the remainder of the term of appointment as for the tribunal or panel to which the member was first appointed and of which the member is, immediately before the abolition of the tribunal or panel, still a member. 2010, c. 37, s. 20.

Decisions of board, panel or tribunal remain valid

21 Any decision, determination, direction, declaration, order, interim order or ruling of any of the boards, panels and tribunal abolished under Section 19 that is valid and of full force and effect immediately before the commencement of this Act continues to be valid and of full force and effect notwithstanding the abolition of the boards, panels or tribunal, and is deemed to be the decision, determination, direction, declaration, order, interim order or ruling of the Board. 2010, c. 37, s. 21.

Board may complete proceedings

22 (1) After the commencement of this Act, any proceeding, hearing, matter or thing commenced by the boards and panel abolished under subsection 19(1) that would be dealt with by the Board, if commenced after the commencement of this Act, may be dealt with and completed by the Board.

(2) After the abolition of the tribunal and panel referred to in subsection 19(2), any proceeding, hearing, matter or thing commenced by the tribunal and panel abolished in accordance with that subsection that would be dealt with by the Board, if commenced after the abolition of the tribunal and panel, may be dealt with and completed by the Board. 2010, c. 37, s. 22.

Documentation becomes property of Board

23 The documentation, information, records and files pertaining to any proceeding, hearing, matter or thing to be dealt with or be completed by the Board under Section 22 becomes the documentation, information, records and files of the Board, on the commencement of this Act in the case of the boards and panel abolished pursuant to subsection 19(1), or upon the abolition of the tribunal and panel referred to in subsection 19(2), on the date fixed by the proclamation under subsection 19(2). 2010, c. 37, s. 23.

Chair may authorize board, panel or tribunal to complete proceeding

24 (1) Notwithstanding Sections 19 and 21 and subsection 22(1), the Chair may authorize the boards or panel abolished pursuant to subsection 19(1) to deal with and complete any proceeding, hearing, matter or thing commenced by the boards or panel before the commencement of this Act.

(2) Notwithstanding Sections 19 and 21 and subsection 22(2), the Chair may authorize the tribunal or panel abolished pursuant to subsection 19(2) to deal with and complete any proceeding, hearing, matter or thing commenced by the tribunal or panel before its abolition.

(3) Any proceeding, hearing, matter or thing dealt with and completed by a board, panel or tribunal under subsection (1) or (2) must be dealt with and completed in accordance with the law as it existed immediately before the commencement of this Act or the abolition of the tribunal or panel, as the case may be, and as if the board, panel or tribunal had not been abolished.

(4) Any decision, determination, direction, declaration, order, interim order or ruling of a board, panel or tribunal made in accordance with subsection (1) or (2) is deemed to be a decision, determination, direction, declaration, order, interim order or ruling of the Board. 2010, c. 37, s. 24.

Reference to board, panel or tribunal means Board

25 Where in any enactment, other than this Act, or in any agreement, instrument or document, reference is made to any of the boards, panels or tribunal

referred to in subsections 19(1) and (2), it must be read, unless the context otherwise requires, as a reference to the Board. 2010, c. 37, s. 25.

Civil Service Collective Bargaining Act amended

26 to 43 *amendments*

Corrections Act amended

44 to 64 *amendments*

Education Act amended

65 to 83 *amendments*

Labour Standards Code amended

84 to 116 *amendments*

Occupational Health and Safety Act amended

117 to 126 *amendments*

Teachers' Collective Bargaining Act amended

127 to 135 *amendments*

Trade Union Act amended

136 to 158 *amendments*

Proclamation

159 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2010, c. 37, s. 159.

Proclaimed (except ss. 9(2)(d) & (e), 19(2), 20(2), 84, 85, 86(c), 87, 88, 89(1), (2), (4) & (6), 90-94, 95(2), 96, 97, 98(e) & (f) & 99-126)	-	February 1, 2011
In force	-	February 8, 2011
Proclaimed (ss. 9(2)(d) & (e), 19(2), 20(2), 84, 85, 86(c), 87, 88, 89(1), (2), (4) & (6), 90-94, 95(2), 96, 97, 98(e) & (f) & 99-126)	-	June 28, 2011
In force	-	June 30, 2011