

# Teachers' Collective Bargaining Act

CHAPTER 460 OF THE REVISED STATUTES, 1989

*as amended by*

1995-96, c. 1, s. 154; 2000, c. 4, ss. 78-80; 2001, c. 20;  
2010, c. 37, ss. 127-133, 135; 2018, c. 1, ss. 5-28



© 2019 Her Majesty the Queen in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax

This page is intentionally blank.

CHAPTER 460 OF THE REVISED STATUTES, 1989  
 amended 1995-96, c. 1, s. 154; 2000, c. 4, ss. 78-80; 2001, c. 20;  
 2010, c. 37, ss. 127-133, 135; 2018, c. 1, ss. 5-28

**An Act Respecting Collective  
 Bargaining for Teachers**

**Table of Contents**

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

	Section
Short title.....	1
Interpretation.....	2
Trade Union Act and Labour Board Act.....	3
Who may sign certain documents.....	4
Notice and Service.....	5
Certificate of Minister as prima facie evidence.....	6
Irregularity in proceedings.....	7
Not compellable witness.....	8
Regulations.....	9
Personnel.....	10
Administration expenses.....	11
Composition of Union.....	12
Agreement by Minister and Union.....	13
Manager may perform teacher duties.....	14
Minister may engage adviser for negotiations.....	16
Notice to commence bargaining where no agreement.....	17
Notice where agreement in force.....	18
Arbitration.....	19
Dispute between Union and education entity.....	20
Effect of notice to commence bargaining.....	21
Failure to comply with Section 21.....	22
Conciliation officer instructed to confer with parties.....	23
Report of conciliation officer.....	24
Appointment of conciliation board.....	25
Settlement by binding arbitration.....	26
Appointment of mediation officer.....	27
Parties bound by agreement.....	28
Effect of professional agreement.....	28A
Final settlement provision.....	29
Powers and duty of arbitrator or arbitration board.....	30
Final settlement provision endures after agreement.....	31
Term of agreement and revision.....	32
Duty to file copy of agreement.....	33
Strike procedures.....	34
Lockout or strike prohibited.....	35
Effect of vote accepting conciliation report.....	36
Interpretation of Sections 37 and 38.....	37
Complaint respecting work stoppage.....	38
Prohibited activity of employer.....	39
Prohibited activity of Union.....	40
Complaint of non-compliance with Section 39 or 40.....	41
Complaint pursuant to Section 41.....	42
Order to comply with Sections 39 and 40.....	43
Intimidation prohibited respecting membership.....	44
Composition of board of conciliation.....	45
Replacement of chairman and other members.....	46
Oath of office.....	47
Statement to conciliation board of matters referred.....	48
Duty of conciliation board upon appointment.....	49
Power to summon witness and admissable evidence.....	50

Right of entry and inspection.....	51
Report of findings and recommendations.....	52
Publication and delivery of report.....	53
Report and proceedings inadmissible in court.....	54
Failure to report within time limit.....	55
Agreement to be bound by conciliation report.....	56
Fees and expenses of conciliation board.....	57
Duty of Union to file documents.....	59
Enforcement of order to pay money.....	60
Prosecution against Union.....	61
Consent to prosecution.....	62
Commission of inquiry.....	63
Complaint upon violation of Act.....	64
Penalty for contravention of Act.....	65
Offence and penalty.....	66
Penalties.....	67
Failure to comply with decision or interim order.....	68
Failure to comply with Section 43 order.....	69
Failure by Union officer to comply with Section 60.....	70
Failure to comply with decision of arbitrator.....	71
Payment and disposition of fines and penalties.....	72
Contract of teacher is subject to Act.....	73
Effect of change in school board jurisdiction.....	74
Regulations Act.....	75
Conflict with Education Act.....	76

### Short title

**1** This Act may be cited as the *Teachers' Collective Bargaining Act*.  
R.S., c. 460, s. 1.

### Interpretation

**2** In this Act,

- (a) “bargaining agent” means the Union acting on behalf of the teachers
  - (i) in collective bargaining, or
  - (ii) as a party to a professional agreement with their employer;
- (b) “Board” means the Labour Board;
- (c) “collective bargaining” means negotiating with a view to the conclusion of a professional agreement or the renewal or revision thereof, as the case may be;
- (d) “conciliation board” means a board of conciliation and investigation appointed by the Minister in accordance with Section 45;
- (e) “conciliation officer” means a person whose duties include the conciliation of disputes and who is under the control and direction of the Minister;
- (f) “contract out” means make a contract or agreement in accordance with which a significant part of the work regularly done by the teachers of an employer is to be done by some other person or persons;

(g) “dispute” means any dispute or difference or apprehended dispute or difference between an employer and one or more teachers, or the bargaining agent acting on behalf of the teachers, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done by him or by the teacher or teachers or as to privileges, rights and duties of the employer or the teacher or teachers;

(ga) “education entity” means an education entity as defined in the *Education Act*;

(h) “employer” means

(i) the Minister of Education and Early Childhood Development in respect of

(A) the salaries of teachers including substitute teachers,

(B) allowances for supervisory personnel,

(C) group life insurance for teachers,

(D) medical care plans for teachers,

(E) the terms and conditions of employment that are of a general nature relating to teachers employed throughout the Province,

(F) any other matters that are ancillary to or incidental to the foregoing or that may be necessary to their implementation,

(G) subject to paragraph (H) and subsections (2) and (3) of Section 13, any other matters except those matters coming within subclause (ii), and

(H) any matter coming within subclause (ii) agreed upon by the Minister of Education and Early Childhood Development and the Union pursuant to subsection (2) of Section 13 and designated by the Minister pursuant to subsection (3) of Section 13,

(ii) the education entity in respect of

(A) sick leave for teachers,

(B) sabbatical leave for teachers,

(C) educational leave for teachers,

(D) pay periods for teachers,

(E) such of the terms and conditions of employment or any other matters, not included in a professional agreement with the Minister of Education and Early Childhood Development, that are provided for in a professional agreement with any education entity in effect upon the coming into force of this paragraph,

(F) and (G) *repealed 2001, c. 20, s. 1.*

(iii) *repealed 2018, c. 1, s. 5.*

(i) "lockout" includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his teachers done to compel his teachers, or to aid another employer to compel his teachers, to agree to terms or conditions of employment;

(ia) "manager" means a teacher as defined in the *Education Act* who

(i) is employed by an education entity or the Minister of Education and Early Childhood Development, and

(ii) holds, including in an acting capacity, a position with greater supervisory responsibility than a department head, including a position as regional executive director of education, superintendent of schools, director, subsystem supervisor, co-ordinator, principal or vice-principal,

but does not include a teacher acting as a teacher-in-charge in accordance with a professional agreement or the holder of a teaching permit issued by the Minister of Education and Early Childhood Development;

(j) "mediation officer" means a person appointed as such by the Minister;

(k) "Minister" means the Minister of Labour and Advanced Education;

(l) "parties", with reference to the appointment of, or proceedings before, an arbitration board or a conciliation board, means the parties who are engaged in the collective bargaining or the dispute in respect of which the arbitration board or conciliation board is or is not to be established;

(m) "professional agreement" means a signed agreement in writing between an employer, on the one hand, and the bargaining agent of the teachers on behalf of the teachers, on the other hand, containing terms or conditions of employment of teachers that include provisions with reference to rates of pay and hours of work;

(n) "public school" means any public school established or maintained pursuant to the *Education Act*;

(o) *repealed 2018, c. 1, s. 5.*

(p) "regulation" means regulation of the Governor in Council pursuant to this Act;

(q) "rule" means a procedural rule of the Board;

(r) *repealed 2018, c. 1, s. 5.*

(s) "school system" means all the schools under the jurisdiction of an education entity;

(t) “strike” includes a cessation of work, or refusal to work or continue to work, by teachers, in combination or in concert or in accordance with a common understanding, for the purpose of compelling their employer to agree to terms or conditions of employment or to aid other teachers in compelling their employer to agree to terms or conditions of employment;

(u) “teacher” means a teacher as defined in the *Education Act* who is employed by an education entity but does not include a manager or the holder of a teaching permit issued by the Minister of Education and Early Childhood Development;

(v) “Union” means the Nova Scotia Teachers’ Union as continued by the *Teaching Profession Act*. R.S., c. 460, s. 2; 1995-96, c. 1, s. 154; 2001, c. 20, s. 1; 2010, c. 37, s. 127; 2018, c. 1, s. 5.

### **Trade Union Act and Labour Board Act**

**3** Except where inconsistent with this Act or the regulations, the provisions of the *Trade Union Act* and the *Labour Board Act* relating to the constitution, powers, procedures and practices of the Board apply to and with respect to the Board when acting pursuant to this Act. R.S., c. 460, s. 3; 2010, c. 37, s. 128.

### **Who may sign certain documents**

**4** For the purpose of this Act, an application to the Board or any notice or any professional agreement may be signed, if it is made, given or entered into

(a) by an employer, who is the Minister of Education and Early Childhood Development, by the Minister of Education and Early Childhood Development or his Deputy Minister, or by the person or persons authorized for this purpose by the Governor in Council;

(b) by an employer, who is an education entity other than the Conseil scolaire acadien provincial, by the regional executive director of education for the education entity, or by the person or persons authorized for this purpose by the regional executive director of education;

(c) by an employer, who is the Conseil scolaire acadien provincial, by the Chair and the Secretary of the Conseil, or by the person or persons authorized for this purpose by resolution duly passed at a meeting of the Conseil;

(d) by the Union, by the President and Executive Secretary thereof, or by the person or persons authorized for this purpose by resolution duly passed at a meeting of the Executive of the Union. R.S., c. 460, s. 4; 2010, c. 37, s. 129; 2018, c. 1, s. 6.

### **Notice and Service**

**5 (1)** For the purpose of this Act, and of any proceedings taken pursuant to this Act, any notice or other communication sent through Her Majesty’s mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail.

(2) A document may be served or delivered for the purpose of this Act or any proceedings pursuant to this Act in the manner prescribed by regulation or rule. R.S., c. 460, s. 5.

#### **Certificate of Minister as prima facie evidence**

6 A certificate purporting to be signed by the Minister or his Deputy or by an official in his Department stating that a report, request or notice was or was not received or given by the Minister pursuant to this Act and, if so received or given, the date upon which it was so received or given is *prima facie* evidence of the facts stated therein without proof of the signature or of the official character of the person appearing to have signed the same. R.S., c. 460, s. 6.

#### **Irregularity in proceedings**

7 No proceedings pursuant to this Act, including arbitration or other proceedings in accordance with Section 29 are invalid by reason of any defect in form or any technical irregularity. R.S., c. 460, s. 7.

#### **Not compellable witness**

8 Notwithstanding any other enactment or law, a conciliation officer or any persons employed in the Department of Labour and Advanced Education shall not be compelled or required to give in evidence before any court, body or person having authority to receive evidence any information of any kind obtained by him for the purposes of this Act or in the course of his duties pursuant to this Act. R.S., c. 460, s. 8; 2010, c. 37, s. 130; 2018, c. 1, s. 7.

#### **Regulations**

9 The Governor in Council may make regulations as to the time within which anything authorized by this Act shall be done, and also as to any other matter or thing which appears to the Governor in Council necessary or advisable to the effectual working of this Act. R.S., c. 460, s. 9.

#### **Personnel**

10 There may be employed any officers, clerks and employees who are necessary for the administration of this Act. R.S., c. 460, s. 10.

#### **Administration expenses**

11 Any money required for the administration of this Act, or for the carrying out of any of the provisions of this Act, shall, in the absence of any vote of the Assembly available therefor, be paid out of the General Revenue Fund of the Province. R.S., c. 460, s. 11; 2018, c. 1, s. 8.

#### **Composition of Union**

12 (1) Every teacher as defined by this Act shall be a member of the Union for the purpose of this Act.

(2) For the purpose of this Act, the Union shall consist of those persons who are teachers as defined by this Act.

(3) Any manager who, immediately before August 1, 2018, was a member of the Union for the purpose of this Act ceases to be a member on that date. R.S., c. 460, s. 12; 2018, c. 1, s. 9.

#### **Agreement by Minister and Union**

**13** (1) The Union shall be the exclusive bargaining agent for the teachers with the employer.

(2) The Minister of Education and Early Childhood Development and the Union may agree in writing that specific matters contained within subclause (ii) of clause (h) of Section 2 including, for greater certainty, specific terms and conditions of employment or other matters under paragraph (E) of subclause (ii), are the subject of bargaining between the Minister of Education and Early Childhood Development and the Union.

(3) Upon receipt of a copy of an agreement made pursuant to subsection (2), the Minister shall, by order, designate the matters referred to in the agreement as matters that thereafter are to be the subject of bargaining between the Minister of Education and Early Childhood Development and the Union and the designation by the Minister is regulations within the meaning of the *Regulations Act*.

(4) Upon the Minister making an order pursuant to subsection (3), the matters referred to in the agreement are the subject of bargaining between the Minister of Education and Early Childhood Development and the Union and cease to be matters that may be the subject of bargaining between an education entity and the Union and, for the purpose of this Act, the Minister of Education and Early Childhood Development is the employer in respect of those matters.

(5) Notwithstanding clause 19(f) of the *Interpretation Act*, the Minister may not rescind, revoke, amend or vary an order made pursuant to subsection (3). R.S., c. 460, s. 13; 2001, c. 20, s. 2; 2018, c. 1, s. 10.

#### **Manager may perform teacher duties**

**14** Notwithstanding any professional agreement, a manager may perform the duties of a teacher. R.S., c. 460, s. 14; 2018, c. 1, s. 11.

**15** *repealed 2018, c. 1, s. 11.*

#### **Minister may engage adviser for negotiations**

**16** The Minister of Education and Early Childhood Development may engage the services of such persons as the Minister of Education and Early Childhood Development deems fit, particularly representatives from the Union of Nova Scotia Municipalities, to advise and assist the Minister of Education and Early Childhood Development in any negotiations respecting collective bargaining with the Union. R.S., c. 460, s. 16; 2018, c. 1, s. 12.

**Notice to commence bargaining where no agreement**

17 Where the Union is the bargaining agent of the teachers and no professional agreement with their employer binding on or entered into on behalf of the teachers is in force,

(a) the bargaining agent may, on behalf of the teachers, by notice in writing, require their employer to commence collective bargaining; or

(b) the employer may, by notice in writing, require the bargaining agent to commence collective bargaining. R.S., c. 460, s. 17.

**Notice where agreement in force**

18 Either party to a professional agreement may, within the period of two months next preceding the date of expiry of the term of, or preceding termination of the agreement, by notice in writing, require the other party to the agreement to commence collective bargaining. R.S., c. 460, s. 18.

**Arbitration**

19 (1) If the Union and an education entity are unable to reach agreement with respect to those matters for which an education entity is entitled to bargain as an employer as defined by this Act either the Union or the education entity shall give notice in writing to the other that it desires the matter to be referred to an arbitration board composed of three persons.

(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 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 arbitration board and shall within the said seven days notify in writing the other party of the name of the person so appointed.

(4) If a party fails to appoint a member to the 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 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 chairman of the arbitration board.

(6) If 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 chairman of the arbitration board.

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

(8) Every decision of the arbitration board shall be signed by the chairman and the chairman shall transmit it to the parties to be implemented and it shall be binding upon the parties.

(9) The education entity shall pay the fees and expenses of the member appointed to the arbitration board by or on behalf of the education entity, the Union shall pay the fees and expenses of the member appointed to the arbitration board by or on behalf of the Union, and the education entity and the Union shall each pay one half of the fees of, and expenses incurred by, the chairman of the arbitration board. R.S., c. 460, s. 19; 2000, c. 4, s. 78; 2018, c. 1, s. 13.

#### **Dispute between Union and education entity**

**20 (1)** The provisions of this Act authorizing a teacher to strike or authorizing the Union to declare or authorize a strike of teachers do not apply to disputes between the Union and education entities and if as a result of a dispute between the Union and the education entity there is any discontinuance or cessation of all or any part of the normal work or activity carried on by the education entity and the teachers on whose behalf the Union is the bargaining agent such discontinuance or cessation of work or activity shall be and shall be deemed to be a lockout or strike prohibited by this Act and Section 38 shall apply to that discontinuance or cessation *mutatis mutandis*.

(2) All or any cessation of work by teachers in a dispute between the Union and an education entity or between teachers and an education entity is a strike that is prohibited by this Act. R.S., c. 460, s. 20; 2018, c. 1, s. 14.

#### **Effect of notice to commence bargaining**

**21** Where notice to commence collective bargaining has been given pursuant to Section 17 or 18 or in accordance with a professional agreement which provides for the revision of a provision of the agreement,

(a) the Union and the employer shall without delay, but in any case within twenty clear days after the notice was given or such further time as the parties may agree, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reasonable effort to conclude and sign a professional agreement; and

(b) the employer shall not, without consent by the bargaining agent or by the Board, increase or decrease rates of wages or alter any other term or condition of employment of the teachers in relation to whom notice to bargain has been given until

(i) a new professional agreement has been concluded, or

(ii) the bargaining agent and the employer or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a professional agreement, and either

(A) a conciliation officer has been appointed and has failed to bring about an agreement between the parties and fourteen days have elapsed from the date on which the report of the conciliation officer was made to the Minister, or

(B) a conciliation board has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the conciliation board was received by the Minister. R.S., c. 460, s. 21.

#### **Failure to comply with Section 21**

**22 (1)** Where the Minister receives a complaint in writing from a party to collective bargaining that any other party to the collective bargaining has failed to comply with Section 21, the Minister may refer the complaint to the Board.

**(2)** Where a complaint from a party to collective bargaining is referred to the Board pursuant to subsection (1), the Board shall inquire into the complaint and may dismiss the complaint or may make an order requiring any party to the collective bargaining to do the things that, in the opinion of the Board, are necessary to secure compliance with Section 21, and may order an employer to pay to any teacher compensation not exceeding a sum which, in the opinion of the Board, is equivalent to the remuneration that would, but for a failure to comply with clause (b) of Section 21, have been paid by the employer to the teacher. R.S., c. 460, s. 22.

#### **Conciliation officer instructed to confer with parties**

**23** Where a notice to commence collective bargaining has been given in accordance with Section 21, and

(a) collective bargaining has not commenced within the time prescribed by this Act;

(b) collective bargaining has commenced and either party thereto requests the Minister in writing to instruct a conciliation officer to confer with the parties thereto to assist them to conclude a professional agreement or a renewal or revision thereof and the request is accompanied by a statement of the difficulties, if any, that have been encountered before the commencement or in the course of the collective bargaining; or

(c) in any other case in which, in the opinion of the Minister, it is advisable so to do,

the Minister may instruct a conciliation officer to confer with the parties engaged in collective bargaining. R.S., c. 460, s. 23.

**Report of conciliation officer**

**24 (1)** Where a conciliation officer has, pursuant to this Act, been instructed to confer with parties engaged in collective bargaining or to any dispute, the conciliation officer shall, within fourteen days after being so instructed or within any longer period that the Minister may from time to time allow, make a report to the Minister setting out

- (a) the matters, if any, upon which the parties have agreed;
- (b) the matters, if any, upon which the parties cannot agree; and
- (c) any other matter that in the conciliation officer's opinion is material or relevant or should be brought to the attention of the Minister.

**(2)** When a conciliation officer has made a report pursuant to subsection (1), the conciliation officer shall forthwith advise the parties to the dispute that he has made a report. R.S., c. 460, s. 24.

**Appointment of conciliation board**

**25** Where

- (a) a conciliation officer fails to bring about an agreement between the parties engaged in collective bargaining; and
- (b) within fourteen days after the conciliation officer makes his report to the Minister both parties to the dispute, either jointly or severally, make application to the Minister for the appointment of a conciliation board to endeavour to bring about agreements between them and each nominates a person who is ready and willing to act to be a member of the board,

the Minister shall appoint a board for that purpose. R.S., c. 460, s. 25.

**Settlement by binding arbitration**

**26 (1)** If the Minister of Education and Early Childhood Development and the Union wish to settle a matter for which the Minister of Education and Early Childhood Development is entitled to bargain as an employer as defined by this Act by compulsory and binding arbitration, they may do so if they both agree and if they both deliver to the Minister notice in writing of the matter and that they wish the matter to be settled by compulsory and binding arbitration and if the notice has been delivered within fourteen days after a conciliation officer has been appointed and has failed to bring about an agreement between the parties or if the notice has been delivered within seven days after a conciliation board has been appointed and has failed to bring about an agreement between the parties and in any other case upon delivery of the notices to the Minister.

**(2)** Upon delivery of the notice or notices by the Minister of Education and Early Childhood Development and the Union in accordance with subsection (1), subsections (2) to (8) of Section 19 apply to the matter being negotiated between the Minister of Education and Early Childhood Development and the

Union *mutatis mutandis* except that where the two arbitrators appointed cannot agree upon the third member and chairman, the third member and the chairman shall be appointed by the Chief Justice of Nova Scotia rather than the Minister.

(3) The Union shall pay the fees and expenses of the member appointed to the arbitration board by the Union, the Minister of Education and Early Childhood Development shall pay the fees and expenses of the member appointed to the arbitration board by the Minister of Education and Early Childhood Development, and the Union and the Minister of Education and Early Childhood Development shall each pay one half of the fees of, and expenses incurred by, the chairman of the arbitration board. R.S., c. 460, s. 26; 2000, c. 4, s. 79; 2018, c. 1, s. 15.

#### **Appointment of mediation officer**

27 (1) Notwithstanding any other provision of this Act, the Minister may appoint a person as a mediation officer at any time when the Minister is satisfied that the appointment of a mediation officer may bring about settlement of or prevent a dispute.

- (2) It is the function of a mediation officer, and he has power to
- (a) investigate the causes of an existing or potential dispute;
  - (b) attempt to bring about a settlement of the dispute or to prevent the dispute; or
  - (c) assist the Union and the employer in the development of effective labour-management relations.

(3) Subject to subsection (4), a mediation officer who makes an investigation shall make a report to the Minister.

(4) When a mediation officer is unable to effect a settlement of a dispute and the circumstances mentioned in Section 23 exist, the mediation officer may, with the consent of the Minister, make a report in accordance with Section 24 and the report shall be deemed to be a report of a conciliation officer for the purpose of this Act. R.S., c. 460, s. 27.

#### **Parties bound by agreement**

28 (1) A professional agreement entered into by the Minister of Education and Early Childhood Development as an employer and the Union as bargaining agent in respect of matters within the meaning of subclause (i) of clause (h) of Section 2 is binding upon

- (a) the bargaining agent and every teacher in the Union;
- (b) the Minister of Education and Early Childhood Development; and
- (c) an education entity.

(2) A professional agreement entered into by an education entity as an employer and the Union as bargaining agent in respect of matters within the meaning of subclause (ii) of clause (h) of Section 2 is binding upon

- (a) the bargaining agent and every teacher in the Union; and
- (b) an education entity.

(3) *repealed 2018, c. 1, s. 16.*

R.S., c. 460, s. 28; 2010, c. 37, s. 131; 2018, c. 1, s. 16.

#### **Effect of professional agreement**

**28A (1)** A professional agreement may not restrict, and is inoperative to the extent that it restricts,

- (a) a teacher from accepting a secondment with the Department of Education and Early Childhood Development; or
- (b) a teacher as defined in the *Education Act* who is employed with the Department of Education and Early Childhood Development from accepting a secondment with an education entity.

(2) While a teacher is seconded to the Department of Education and Early Childhood Development from an education entity, the teacher

- (a) remains subject to any professional agreement applicable to teachers employed by the education entity; and
- (b) is deemed not to be an employee as defined in the *Civil Service Collective Bargaining Act* for the purpose of that Act. 2018, c. 1, s. 17.

#### **Final settlement provision**

**29 (1)** Every professional agreement shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into, concerning its meaning or violation.

(2) Where a professional agreement does not contain a provision as required by this Section, it shall be deemed to contain the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration. If the parties fail to agree upon an arbitrator, the appointment shall be made by the Minister of Labour and Advanced Education for Nova Scotia upon the request of either party. The arbitrator shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any teacher or employer affected by it.

(3) Every party to and every person bound by the agreement, and every person on whose behalf the agreement was entered into, shall comply with the provision for final settlement contained in the agreement. R.S., c. 460, s. 29; 2010, c. 37, s. 132; 2018, c. 1, s. 18.

#### **Powers and duty of arbitrator or arbitration board**

**30** An arbitrator or an arbitration board appointed pursuant to this Act or to a professional agreement

(a) shall determine his or its own procedure, but shall give full opportunity to the parties to the proceedings to present evidence and make submissions to him or it;

(b) has, in relation to any proceedings before him or it, the powers conferred on the Board in relation to any proceedings before the Board by the *Labour Board Act* and the *Trade Union Act*;

(c) has power to determine any question as to whether a matter referred to him or it is arbitrable;

(d) where

(i) he or it determines that a teacher has been discharged or disciplined by an employer for cause, and

(ii) the professional agreement does not contain a specific penalty for the infraction that is the subject of the arbitration,

has power to substitute for the discharge or discipline any other penalty that to the arbitrator or arbitration board seems just and reasonable in the circumstances; and

(e) has power to treat as part of the professional agreement the provisions of any enactment of the Province governing relations between the parties to the professional agreement. R.S., c. 460, s. 30; 2010, c. 37, s. 133.

#### **Final settlement provision endures after agreement**

**31** (1) Notwithstanding anything contained in a professional agreement, the provision required to be contained therein by subsection (1) of Section 29 shall remain in force after the termination of the professional agreement and until the requirements of subsection (1) of Section 34 have been met.

(2) Where a difference arises between the parties to a professional agreement relating to a provision contained in the professional agreement during the period from the date of its termination to the date the requirements of subsection (1) of Section 34 have been met,

(a) an arbitrator or arbitration board may hear and determine the difference; and

(b) Sections 29 and 30 apply to the hearing and determination. R.S., c. 460, s. 31.

**Term of agreement and revision**

**32 (1)** Notwithstanding anything therein contained, every professional agreement shall, if for a term of less than a year, be deemed to be for a term of one year from the date upon which it came or comes into operation, or if for an indeterminate term shall be deemed to be for a term of at least one year from that date and shall not, except with the consent of the Board, be terminated by the parties thereto within a period of one year from that date.

**(2)** Nothing in this Section prevents the revision of any provisions of a professional agreement, other than a provision relating to the term of the professional agreement, that under the agreement is subject to revision during the term thereof. R.S., c. 460, s. 32.

**Duty to file copy of agreement**

**33** Each of the parties to a professional agreement shall forthwith upon its execution file one copy with the Minister and, where the Minister of Education and Early Childhood Development is not a party to the agreement, with him. R.S., c. 460, s. 33; 2018, c. 1, s. 19.

**Strike procedures**

**34 (1)** No teacher shall strike and the Union shall not declare or authorize a strike of teachers and the employer shall not declare or cause a lockout of teachers until

(a) the Union is entitled on behalf of the teachers by notice pursuant to this Act to require the employer to commence collective bargaining;

(b) the bargaining agent and the employer, or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a professional agreement or a revision thereof; and

(c) either

(i) a conciliation officer has been appointed and has failed to bring about an agreement between the parties and fourteen days have elapsed from the date on which the report of the conciliation officer was made to the Minister, or

(ii) a conciliation board has been appointed to endeavour to bring about agreement between the parties and seven days have elapsed from the date on which the report of the conciliation board was received by the Minister.

**(2)** No teacher shall strike and the Union shall not declare or authorize a strike of teachers, and the employer shall not declare or cause a lockout of teachers more than six months after the date upon which the times provided by subclause (i) or (ii) of clause (c) of subsection (1) have expired unless either party has thereafter requested conciliation services in accordance with Section 23 and the

times provided by subclause (i) or (ii) of clause (c) of subsection (1) have again expired.

**(3)** Notwithstanding anything contained in this Act,

(a) no person shall declare or authorize a strike and no teacher shall strike until after a secret vote by ballot of teachers in the unit affected as to whether to strike or not to strike has been taken and the majority of such teachers have voted in favour of a strike; and

(b) no person shall declare or authorize a strike or lockout and no teacher shall strike until forty-eight hours after receipt by the Minister of a notice of strike or lockout.

**(4)** Notwithstanding anything contained in this Act,

(a) a vote of teachers on matters arising from subclause (ii) of clause (h) of Section 2 shall be a vote of teachers employed by the affected education entity;

(b) a vote of teachers arising on matters arising from subclause (i) of clause (h) of Section 2 shall be a vote of all teachers employed in the Province.

(c) *repealed 2018, c. 1, s. 20.*

**(5) and (6)** *repealed 2018, c. 1, s. 20.*

R.S., c. 460, s. 34; 2018, c. 1, s. 20.

#### **Lockout or strike prohibited**

**35 (1)** Subject to subsection (2), where a professional agreement is in force, except in respect of a dispute that arises between the parties thereto with reference to the revision of a provision of the agreement that by the agreement is expressly subject to revision during the term of the agreement,

(a) no employer bound by or who is a party to the professional agreement shall declare or cause a lockout with respect to any teacher bound by the professional agreement or on whose behalf the professional agreement was entered into; and

(b) no teacher bound by the professional agreement or on whose behalf a professional agreement has been entered into shall go on strike and the Union shall not declare or authorize a strike of any such teacher.

**(2)** Where a dispute arises between the parties to a professional agreement with reference to a revision of a provision of the agreement in accordance with subsection (2) of Section 31, subsection (1) of Section 34 shall apply.  
R.S., c. 460, s. 35.

**Effect of vote accepting conciliation report**

**36 (1)** In any case where a vote of both employers and teachers is in favour of the acceptance of the report of a conciliation board, no employer shall cause a lockout and no teacher shall go on strike and no person shall declare or authorize a strike or lockout.

**(2)** No teacher shall strike or participate in a strike until a period of thirty days has elapsed from the expiry of any time during which a strike is prohibited by Section 34.

**(3)** Nothing in this Act shall be interpreted to prohibit the suspension or discontinuance of operations in an employer's establishment, in whole or in part, not constituting a lockout or strike. R.S., c. 460, s. 36.

**Interpretation of Sections 37 and 38**

**37 (1)** In this Section and Section 38

**(a)** "person" includes the Union, teacher, employer and any agent, attorney or counsel of a person, the Union, teacher or employer;

**(b)** "work stoppage" means any discontinuance or cessation of all or any part of the normal work or activity carried on by an employer and teachers on whose behalf the Union is the bargaining agent caused by a lockout or strike prohibited by this Act.

**(2)** No person shall cause, authorize, participate in or commit a work stoppage. R.S., c. 460, s. 37.

**Complaint respecting work stoppage**

**38 (1)** Any person who claims to be involved in or affected by acts contrary to Section 37 may make a complaint to the Board identifying the complainant and the circumstances and nature of the work stoppage.

**(2)** If the Board is satisfied after investigation of the complaint that Section 37 has not been complied with, the Board, notwithstanding any provision of this Act, may issue an interim order requiring any person named in the order to forthwith cease and desist any activity or action or to perform any act or commence any activity or action stated in the interim order.

**(3)** Where there has been a complaint pursuant to subsection (1) the Board may, before or after the making of an interim order pursuant to subsection (2), authorize an officer of the Department of Labour and Workforce Development or a person designated by the Minister to inquire into the acts complained of to endeavour to effect a settlement and to make a report to the Board.

**(4)** If the officer of the Department of Labour and Workforce Development or a person designated by the Minister is unable to effect a settlement or if the complainant or a person named in an interim order so requests in writing, the Board shall conduct a hearing for the purpose of considering evidence and rep-

resentations together with the report made in accordance with subsection (3) and shall arrive at a decision with respect to the complaint.

(5) The decision shall be in the form of and issued as an order of the Board and may

- (a) require any person to forthwith cease and desist any activity or action or to perform any act or commence any activity or action;
- (b) confirm, vary or rescind an interim order.

(6) An interim order in accordance with subsection (2) or decision of the Board in accordance with subsection (5) shall have the force and effect of law and shall be binding upon and govern the persons involved in or affected by acts contrary to Section 37 and shall bind and govern any person named in the interim order or decision.

(7) For the purpose of this Section, a person is named in an interim order or decision if the person is one of the persons included in classes or groups of persons or in a general description of persons.

(8) The Board may publish an interim order or decision in any manner the Board considers appropriate and may cause a copy of an interim order or decision to be served on, delivered to or otherwise brought to the attention of any person named in the interim order or decision.

(9) An interim order in accordance with subsection (2) is deemed to be in force until a decision in accordance with subsection (5) is made or the Board makes an order rescinding or varying the interim order and a decision in accordance with subsection (5) is deemed to be in force unless the Board makes a further order rescinding or varying the decision. R.S., c. 460, s. 38; 2010, c. 10, s. 135.

#### **Prohibited activity of employer**

39 No employer and no person acting on behalf of an employer shall

- (a) refuse to employ or to continue to employ any person or otherwise discriminate against any person in regard to employment or any term or condition of employment, because the person
  - (i) has testified or otherwise participated or may testify or otherwise participate in a proceeding pursuant to this Act,
  - (ii) has made or is about to make a disclosure that he may be required to make in a proceeding pursuant to this Act,
  - (iii) has made an application or filed a complaint pursuant to this Act,
  - (iv) has participated in a strike that is not prohibited by this Act or exercised any right pursuant to this Act;

(b) impose any condition in a contract of employment that restrains, or has the effect of restraining, a teacher from exercising any right conferred upon him by this Act;

(c) suspend, discharge or impose any financial or other penalty on a teacher or take any other disciplinary action against a teacher, by reason of his refusal to perform all or some of the duties and responsibilities of another teacher who is participating in a strike that is not prohibited by this Act;

(d) deny to any teacher any pension rights or accrued benefits to which the teacher would be entitled but for

(i) the cessation of work by the teacher as the result of a lockout or strike that is not prohibited by this Act, or

(ii) the dismissal of the teacher contrary to this Act;

(e) seek, by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from

(i) testifying or otherwise participating in a proceeding pursuant to this Act,

(ii) making a disclosure that he may be required to make in a proceeding pursuant to this Act,

(iii) making an application or filing a complaint pursuant to this Act;

(f) suspend, discharge or impose any financial or other penalty on a person employed by him, or take any other disciplinary action against such a person, by reason of that person having refused to perform an act prohibited by this Act. R.S., c. 460, s. 39.

#### **Prohibited activity of Union**

**40** The Union shall not and no person acting on behalf of the Union shall

(a) expel or suspend a teacher from membership in the Union or deny membership in the Union to any person by applying to him in a discriminatory manner the membership rules of the Union;

(b) take disciplinary action against or impose any form of penalty on a teacher by applying to him in a discriminatory manner the standards of discipline of the Union;

(c) expel or suspend a teacher from membership in the Union or take disciplinary action against or impose any form of penalty on a teacher by reason of his having refused to perform an act that is contrary to this Act; or

(d) 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 or impose a pecuniary or other penalty on a person, because he

(i) has testified or otherwise participated or may testify or otherwise participate in a proceeding pursuant to this Act,

(ii) has made or is about to make a disclosure that he may be required to make in a proceeding pursuant to this Act, or

(iii) has made an application or filed a complaint pursuant to this Act. R.S., c. 460, s. 40.

**Complaint of non-compliance with Section 39 or 40**

**41 (1)** Subject to subsections (2) to (4), any person or organization may make a complaint in writing to the Board that an employer, a person acting on behalf of an employer, the Union, a person acting on behalf of the Union or a teacher has failed to comply with Section 39 or 40.

**(2)** Subject to this Section, a complaint shall be made to the Board pursuant to subsection (1) not later than ninety days from the date on which the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaint.

**(3)** Subject to subsection (4), no complaint shall be made to the Board pursuant to subsection (1) on the ground that the Union or any person acting on behalf of the Union has failed to comply with clause (a) or (b) of Section 40 unless

(a) the complainant has presented a grievance or appeal in accordance with any procedure

(i) that has been established by the Union, and

(ii) to which the complainant has been given ready access;

(b) the Union

(i) has dealt with the grievance or appeal of the complainant in a manner unsatisfactory to him, or

(ii) has not, within six months from the date on which the complainant first presented his grievance or appeal pursuant to clause (a), dealt with his grievance or appeal; and

(c) the complaint is made to the Board not later than ninety days from the first day on which the complainant could, in accordance with clauses (a) and (b), make the complaint.

**(4)** The Board may, on application to it by a complainant, hear a complaint in respect of an alleged failure by the Union to comply with clause (a) or (b) of Section 40 that has not been presented as a grievance or appeal to the Union, if the Board is satisfied that

(a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay; or

(b) the Union has not given the complainant ready access to a grievance or appeal procedure. R.S., c. 460, s. 41.

**Complaint pursuant to Section 41**

**42 (1)** Subject to subsection (2), upon receipt of a complaint made pursuant to Section 41 the Board

(a) may assist the parties to the complaint to settle the complaint; and

(b) where the Board does not act pursuant to clause (a) or the complaint is not settled within such period as the Board considers to be reasonable in the circumstances, shall hear and determine the complaint.

**(2)** The Board may refuse to hear and determine any complaint made pursuant to Section 41 in respect of a matter that, in the opinion of the Board, could be referred by the complainant pursuant to a professional agreement to an arbitrator or arbitration board.

**(3)** Where the complainant establishes that it is reasonable to believe that there may have been failure by an employer or any person acting on behalf of an employer to comply with clause (a) of Section 39, the burden of proving there is no failure shall be upon the employer or the person acting on behalf of the employer. R.S., c. 460, s. 42.

**Order to comply with Sections 39 and 40**

**43** Where, pursuant to Section 42, the Board determines that a party to a complaint has failed to comply with Section 39 or 40, the Board may, by order, require the party to comply with the said appropriate Section and may,

(a) in respect of a failure to comply with clauses (a), (c) or (f) of Section 39, by order, require the employer to

(i) reinstate any former teacher affected by that failure as a teacher of the employer, and

(ii) pay to any teacher or former teacher affected by that failure compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would, but for that failure, have been paid by the employer to the teacher;

(b) in respect of a failure to comply with clause (e) of Section 39, by order, require an employer to rescind any disciplinary action in respect of and pay compensation to any teacher affected by the failure, not exceeding such sum as, in the opinion of the Board, is equivalent to any pecuniary or other penalty imposed on the teacher by the employer;

(c) in respect of a failure to comply with clauses (a) or (c) of Section 40, by order, require the Union to reinstate or admit a teacher as a member of the Union; and

(d) in respect of a failure to comply with clause (b), (c) or (d) of Section 40, by order, require the Union to rescind any disciplinary action taken in respect of and pay compensation to any teacher affected by the fail-

ure, not exceeding such sum as, in the opinion of the Board, is equivalent to any pecuniary or other penalty imposed on the teacher by the Union. R.S., c. 460, s. 43.

#### **Intimidation prohibited respecting membership**

**44 (1)** No person shall seek by intimidation or coercion to compel a person to become or refrain from becoming or to cease to be a member of the Union.

**(2)** Nothing in this Act shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats or undue influence. R.S., c. 460, s. 44.

#### **Composition of board of conciliation**

**45 (1)** A board of conciliation and investigation pursuant to this Act shall consist of three members appointed in the manner provided in this Section.

**(2)** Where, pursuant to Section 25 both parties to a dispute have requested the Minister to appoint a conciliation board and have submitted to him nominations of persons to be members of the board, the Minister shall forthwith appoint the persons so nominated to be members of the conciliation board.

**(3)** The two members appointed pursuant to subsection (2) shall, within five days after the day on which they are appointed, nominate a third person who is willing and ready to act to be a member and chairman of the conciliation board and the Minister shall forthwith appoint that person to be a member and to be chairman of the conciliation board.

**(4)** If the two members appointed pursuant to subsection (2) fail or neglect to make a nomination within five days after their appointment the Minister shall forthwith appoint as the third member and chairman of the conciliation board a person whom he considers fit for that purpose.

**(5)** When the conciliation board has been appointed, the Minister shall forthwith notify the parties of the names of the members of the board.

**(6)** Where the Minister has given notice to parties that a conciliation board has been appointed pursuant to this Act, it shall be conclusively presumed that the board described in the notice has been established in accordance with this Act, and no order shall be made or process entered or proceedings taken in any court to question the granting or refusal of a conciliation board, or to review, prohibit or restrain the establishment of that conciliation board or any of its proceedings. R.S., c. 460, s. 45.

#### **Replacement of chairman and other members**

**46 (1)** If the chairman of a conciliation board ceases to be a member of the board before it has completed its work, the Minister shall appoint a chairman in his place who shall be selected in the manner prescribed by subsections (3) and (4)

of Section 45 except that the other two members must nominate the third person within five days after the day upon which the Minister is advised that the chairman has ceased to be a member of the board.

(2) Upon a person other than the chairman ceasing to be a member of a conciliation board before it has completed its work, the party to the dispute by whom he was nominated shall nominate another person and the Minister shall forthwith appoint that other person to be a member of the conciliation board.

(3) If a party to a dispute who is obliged by subsection (2) to nominate a person fails to do so within five days after the day upon which the Minister is advised that the nomination must be made, the Minister shall forthwith appoint as a member of the conciliation board a person whom he considers fit for that purpose. R.S., c. 460, s. 46.

#### **Oath of office**

47 Each member of a conciliation board shall, before acting as such, take and subscribe before a person authorized to administer an oath or affirmation, and file with the Minister, an oath or affirmation in the following form:

I do solemnly swear (affirm) that I will faithfully, truly and impartially to the best of my knowledge, skill and ability, execute and perform the office of member of the Conciliation Board appointed to . . . . . 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. So help me God.

R.S., c. 460, s. 47.

#### **Statement to conciliation board of matters referred**

48 (1) Where the Minister has appointed a conciliation board, he shall forthwith deliver to it a statement of the matters referred to it, and may, either before or after the making of its report, amend or add to that statement.

(2) After a conciliation board has made its report the Minister may direct the conciliation board to reconsider and clarify or amplify the report or any part thereof or to consider and report on any new matter added to the amended statement of matters referred to it and the report of the conciliation board shall not be deemed to be received by the Minister until the reconsidered report is received. R.S., c. 460, s. 48.

#### **Duty of conciliation board upon appointment**

49 (1) A conciliation board shall, immediately after appointment of the chairman thereof, endeavour to bring about agreement between the parties in relation to the matters referred to it.

(2) Except as otherwise provided in this Act, a conciliation board may determine its own procedure, but shall give full opportunity to all parties to present evidence and make representations.

(3) The chairman may, after consultation with the other members of the board, fix the time and place of sittings of a conciliation board and shall notify the parties as to the time and place so fixed.

(4) The chairman and one other member of a conciliation board shall be a quorum, but, in the absence of a member, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

(5) The decision of a majority of the members present at a sitting of a conciliation board is the decision of the conciliation board, and in the event that the votes are equal the chairman has a casting vote.

(6) The chairman shall forward to the Minister a detailed certified statement of the sittings of the board, and of the members and witnesses present at each sitting.

(7) The report of the majority of its members is the report of the conciliation board. R.S., c. 460, s. 49.

#### **Power to summon witness and admissible evidence**

**50** (1) A conciliation board has the powers of summoning before it any witnesses and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce all documents and things which the conciliation board deems requisite to the full investigation and consideration of the matters referred to it, but the information so obtained from such documents shall not, except as the conciliation board deems expedient, be made public.

(2) A conciliation board has the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.

(3) Any member of a conciliation board may administer an oath, and the conciliation board may receive and accept any evidence on oath, affidavit or otherwise as it, in its discretion, may deem fit and proper whether admissible in evidence in a court of law or not. R.S., c. 460, s. 50.

#### **Right of entry and inspection**

**51** A conciliation board or a member of a conciliation board or any person who has been authorized for such purpose in writing by a conciliation board may, without any other warrant than this Section, at any time, enter a building, place or premises of any kind wherein work is being or has been done or commenced by teachers or in which any matter or thing is taking place or has taken place, concerning the matters referred to the conciliation board, and may inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such place, matter or thing hereinbefore mentioned, and no person shall hinder or obstruct the board or any person authorized as aforesaid in the exer-

cise of a power conferred by this Section or refuse to answer an interrogation made as aforesaid. R.S., c. 460, s. 51.

**Report of findings and recommendations**

**52** A conciliation board shall, within fourteen days after the appointment of the chairman of the board, or within a longer period that is agreed upon by the parties, or as may from time to time be allowed by the Minister, report its findings and recommendations to the Minister. R.S., c. 460, s. 52.

**Publication and delivery of report**

**53** On receipt of the report of a conciliation board the Minister shall forthwith cause a copy thereof to be sent to the parties and he may cause the report to be published in any manner that he sees fit. R.S., c. 460, s. 53.

**Report and proceedings inadmissible in court**

**54** No report of a conciliation board and no testimony or proceedings before a conciliation board is receivable in evidence in any court in Canada except in the case of a prosecution for perjury. R.S., c. 460, s. 54.

**Failure to report within time limit**

**55** Failure of a conciliation officer or conciliation board to report to the Minister within the time provided in this Act for report shall not invalidate the proceedings of the conciliation officer or conciliation board or terminate the authority of the conciliation board pursuant to this Act. R.S., c. 460, s. 55.

**Agreement to be bound by conciliation report**

**56** When a conciliation board has been appointed and at any time before or after the conciliation board has made its report, the parties so agree in writing, the recommendation of the conciliation board shall be binding on the parties and they shall give effect thereto. R.S., c. 460, s. 56.

**Fees and expenses of conciliation board**

**57** Each of the parties before a conciliation board shall pay the fees and expenses of the member appointed to the conciliation board by or on behalf of that party and each of the parties shall pay one half of the fees of, and expenses incurred by, the chairman of the conciliation board. 2000, c. 4, s. 80.

**58** *repealed 2000, c. 4, s. 80.*

**Duty of Union to file documents**

**59 (1)** The Union shall file with the Minister a copy duly certified by its proper officers to be true and correct, of its constitution, rules and by-laws, or other instruments or documents containing a full and complete statement of its objects and purposes.

(2) A general statement of the receipts and expenditures of the Union for the preceding calendar year verified by the affidavit of a responsible officer shall be transmitted to the Minister before the first day of April in every year.

(3) Every member of the Union shall, on application to the secretary or treasurer of the Union, be entitled to a copy of such statements free of charge. R.S., c. 460, s. 59.

#### **Enforcement of order to pay money**

**60** (1) Where an order of the Board made pursuant to this Act or a decision of an arbitrator pursuant to this Act requires any person, employer or other person to pay a sum of money or an amount of money computed by reference to any factor mentioned in the order or decision, the person entitled to the payment may bring an action in any court of competent jurisdiction to recover the sum of money or the amount computed in accordance with the order.

(2) In an action pursuant to subsection (1), evidence that the order of the Board or decision of the arbitrator was made shall be proof that the order or decision is valid. R.S., c. 460, s. 60.

#### **Prosecution against Union**

**61** (1) A prosecution for an offence pursuant to this Act may be brought against the Union in the name of the Union and for the purpose of such a prosecution the Union shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of the Union within the scope of its authority to act on behalf of the Union shall be deemed to be an act or thing done or omitted by the Union.

(2) In any prosecution pursuant to this Act against an employer, the act or omission of any person employed in a confidential capacity in matters relating to labour relations or of any person who exercises management functions shall be deemed to be the act or omission of the employer by whom such person was employed, unless and until it is proved that such act or omission was without the knowledge or consent of the employer.

(3) An information or complaint in respect of a contravention of this Act may be for one or more offences, and no information, complaint, warrant, conviction or other proceeding in a prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S., c. 460, s. 61.

#### **Consent to prosecution**

**62** (1) No prosecution for an offence pursuant to this Act shall be instituted except with the consent in writing of the Minister.

(2) A consent by the Minister indicating that he has consented to the prosecution of a person named therein for an offence pursuant to this Act alleged to have been committed, or in the case of a continuing offence, alleged to

have commenced, on a date therein set out, shall be a sufficient consent for the purposes of this Section to the prosecution of the person for any offence pursuant to this Act committed by or commencing on that date.

(3) This Section does not apply to a prosecution instituted by the Minister or the Attorney General. R.S., c. 460, s. 62.

### **Commission of inquiry**

**63** (1) The Minister may either upon application or of his own initiative, where he deems it expedient, make or cause to be made any inquiries he thinks fit regarding teacher-employer matters, and may do such things as seem calculated to maintain, secure and to promote conditions favourable to settlement of disputes.

(2) For any of the purposes of subsection (1) or where a dispute or difference between employers and teachers exists or is apprehended, the Minister may refer the matters involved to a commission, to be designated as a "commission of inquiry" for investigation thereof, as the Minister deems expedient, and for report thereon, and shall furnish the commission with a statement of the matters concerning which the inquiry is to be made and, in the case of an inquiry involving any particular persons or parties, shall advise such persons or parties of the appointment.

(3) Immediately following its appointment a commission of inquiry shall inquire into matters referred to it by the Minister and endeavour to carry out its terms of reference and, in the case of a dispute or difference in which a settlement has not been effected in the meantime, the report of the result of its inquiries, including its recommendations, shall be made to the Minister within fourteen days of its appointment or such extension thereof as the Minister may from time to time grant.

(4) Upon receipt of a report of a commission of inquiry relating to any dispute or difference between employers and teachers, the Minister shall furnish a copy to each of the parties affected and shall publish the same in such manner as he sees fit.

(5) A commission of inquiry shall consist of one or more members appointed by the Minister and Sections 50 and 51 shall apply as though enacted in respect of that commission and the commission may determine its own procedure but shall give full opportunity to all parties to present evidence and make representations.

(6) The Minister may provide a commission of inquiry with a secretary, stenographer and such clerical or other assistance as to the Minister seems necessary for the performance of its duties and fix their remuneration.

(7) The chairman and the other members of a commission of inquiry shall be paid such remuneration as the Minister determines and his actual and reasonable travelling and living expenses for each day he is absent from his place of residence in connection with the work of the commission.

(8) All expenses of a commission of inquiry shall be allowed and paid upon the presentation of an account therefor, approved by the chairman of the commission. R.S., c. 460, s. 63.

#### **Complaint upon violation of Act**

64 (1) A person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Minister and the Minister, upon receipt of the complaint, may require a commission of inquiry to investigate and make a report to him in respect of the alleged violation.

(2) Upon receipt of a report pursuant to subsection (1), the Minister shall furnish a copy to each of the parties affected and, if the Minister considers it desirable to do so, may publish the same in any manner that he sees fit.

(3) The Minister shall take into account any report made pursuant to this Section or any action taken by the Board upon a complaint referred to it pursuant to this Act in granting or refusing to grant consent to prosecute pursuant to Section 62. R.S., c. 460, s. 64.

#### **Penalty for contravention of Act**

65 Every person or the Union who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act to be done by him is guilty of an offence and, except where some other penalty is by this Act provided for the act, refusal or neglect, is liable on summary conviction

(a) if an individual, to a fine not exceeding one thousand dollars;  
or

(b) if an education entity or the Union, to a fine not exceeding one hundred thousand dollars. R.S., c. 460, s. 65; 2018, c. 1, s. 21.

#### **Offence and penalty**

66 (1) Every employer and every person acting on behalf of an employer who increases or decreases a wage rate or alters any term or condition of employment contrary to clause (b) of Section 21 is guilty of an offence and liable on summary conviction to a fine not exceeding

(a) five dollars in respect of each teacher whose wage rate was so increased or decreased or whose term or condition of employment was so altered; or

(b) two hundred and fifty dollars,

whichever is the lesser, for each day during which such increase, decrease or alteration continues contrary to this Act.

(2) Every employer, the Union or other person in respect of whom an order is made pursuant to subsection (2) of Section 22 who fails to comply with the order is guilty of an offence and liable on summary conviction to a penalty not

exceeding one thousand dollars in the case of an individual or one hundred thousand dollars in any other case. R.S., c. 460, s. 66; 2018, c. 1, s. 22.

### Penalties

**67 (1)** Every employer who declares or causes a lockout contrary to this Act is liable upon summary conviction to a penalty not exceeding ten thousand dollars for each day that the lockout exists.

**(2)** Every person acting on behalf of an employer who declares or causes a lockout contrary to this Act is liable upon summary conviction to a penalty not exceeding ten thousand dollars for each day that the lockout exists.

**(3)** If the Union declares or authorizes a strike contrary to this Act, it is liable upon summary conviction to a penalty not exceeding ten thousand dollars for each day that the strike exists.

**(4)** Every officer or representative of the Union who declares or authorizes a strike contrary to this Act is liable upon summary conviction to a penalty not exceeding ten thousand dollars for each day that the strike exists.

**(5)** Any number of such offences arising out of the same declaring or causing or authorizing may be charged against one person in one information or in separate informations and, if charged in one information, the judge of the provincial court may in one conviction impose as a single penalty the cumulative fines, or terms of imprisonment in default of payment, and no conviction or dismissal in respect of any such offence shall afford a plea of *autrefois convict* or *autrefois acquit* in respect of an information charging an offence on a day subsequent to the day or days in respect of which any such conviction or acquittal was made. R.S., c. 460, s. 67; 2018, c. 1, s. 23.

### Failure to comply with decision or interim order

**68 (1)** Every person who, knowing that he is required to perform any act or to cease or desist from any act by virtue of an interim order or decision of the Board made pursuant to Section 38,

(a) fails to perform any act required by the interim order or decision; or

(b) fails to cease or desist from any act required by the interim order or decision,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding one thousand dollars, in the case of an individual, or one hundred thousand dollars in any other case.

**(2)** Subject to subsection (3), evidence that an interim order or decision was made pursuant to Section 38 shall be proof that the person accused had knowledge of the order or decision and the requirements thereof unless the contrary is proved by the person accused.

(3) In a prosecution for an offence under subsection (1), evidence that an interim order or decision made pursuant to Section 38 was served on or delivered to or otherwise brought to the attention of the person accused shall be conclusive proof that the person accused had knowledge of the interim order or decision.

(4) Each day that a person commits an offence under subsection (1) constitutes a separate offence.

(5) An information charging an offence under subsection (1) may contain two or more counts charging the offence on each day that it was alleged to be committed. R.S., c. 460, s. 68; 2018, c. 1, s. 24.

#### **Failure to comply with Section 43 order**

69 Every person, employer or the Union who fails to comply with an order made under Section 43 is guilty of an offence and liable on summary conviction to a penalty not exceeding one thousand dollars in the case of an individual or one hundred thousand dollars in any other case. R.S., c. 460, s. 69; 2018, c. 1, s. 25.

#### **Failure by Union officer to comply with Section 60**

70 Every officer of the Union who fails to comply with Section 60 is liable to a penalty not exceeding one hundred dollars. R.S., c. 460, s. 70.

#### **Failure to comply with decision of arbitrator**

71 (1) Every person, employer or the Union who fails to comply with a decision of an arbitrator made as required by Section 29 is guilty of an offence and liable on summary conviction to a penalty not exceeding one thousand dollars in the case of an individual or one hundred thousand dollars in any other case.

(2) In any prosecution under this Section, in addition to any other method by which the decision of an arbitrator may be proved, the evidence of the arbitrator that he made the decision and communicated the decision to the person, employer or the Union charged shall be conclusive proof that the decision was made and the person, employer, or the Union accused had knowledge of the decision. R.S., c. 460, s. 71; 2018, c. 1, s. 26.

#### **Payment and disposition of fines and penalties**

72 All fines and penalties imposed under this Act shall be payable to the Minister of Finance and Treasury Board to and for the public uses of the Province. R.S., c. 460, s. 72; 2018, c. 1, s. 27.

#### **Contract of teacher is subject to Act**

73 For the purposes of this Act, a teacher's individual contract of employment shall be subject to the provisions of this Act and be deemed to include all the applicable provisions hereof. R.S., c. 460, s. 73.

**Effect of change in school board jurisdiction**

**74** In the event of amalgamation, annexation or other change in education entity jurisdiction, professional agreements affecting teachers covered by such amalgamation, annexation or other change in education entity jurisdiction shall continue in full force and effect and the education entity employing such teachers affected shall be deemed to be the employer under the existing professional agreement affecting such teachers for the duration of the agreement or until a new professional agreement is reached between the Union and the employer. R.S., c. 460, s. 74; 2018, c. 1, s. 28.

**Regulations Act**

**75** Regulations made pursuant to Section 9 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 460, s. 75.

**Conflict with Education Act**

**76** Where there is a conflict between the provisions of this Act and the *Education Act*, the provisions of the *Education Act* shall prevail. R.S., c. 460, s. 76.

---