

President  
of the Treasury Board



Président  
du Conseil du Trésor

Ottawa, Canada K1A 0R5

JUN 03 2016

To: Head of Bargaining Agents:

This purpose of this letter is to confirm the Government of Canada's intention to table legislation in the fall 2016 session of Parliament, which would repeal all of Bill C-4, Division 17 (*Economic Action Plan 2013 Act, No. 2*), with the exception of sections 295 and 296, the compensation and research functions of the Public Service Labour Relations and Employment Board (PSLREB). Division 17 of Bill C-4 had introduced changes to provisions of the *Public Service Labour Relations Act* (PSLRA). This letter serves to confirm the interim measures that will facilitate the current round of collective bargaining.

The Government of Canada will table legislation in the fall to restore the public service labour relations regime that existed prior to the legislative changes introduced in 2013. Some of the most contentious changes for bargaining agents were: allowing the employer the ability to designate essential services unilaterally, making conciliation/strike the default conflict resolution process, and prescribing new preponderant factors that Public Interest Commissions (PIC) and arbitration boards must consider when making recommendations or awards.

The following interim measures will be effective for the current round of bargaining and would cease once new legislation is passed.

These interim measures are meant to support a timely resolution of this round of bargaining. While the measures must be permissible under the current legislation, they are meant to reflect, to the extent possible, the spirit of the pre-Bill C-4 regime.

1. Choice of Dispute Resolution Method:

All bargaining units within the core public administration and/or separate agencies that are currently on the conciliation/strike route may request to switch to either arbitration under PSLRA s. 104(1) or "binding conciliation" of all matters under PSLRA s. 182. The employer shall accept such a request, so long as it is made by no later than close of business on September 1, 2016. Any request made after this date will be considered on a case-by-case basis.

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Any bargaining unit within the core public administration and/or a separate agency that is currently on the arbitration route by agreement of the parties (PSLRA s. 104(1)) may request to switch to “binding conciliation” of all matters under PSLRA s. 182. The employer shall accept such a request, so long as it is made by no later than close of business on September 1, 2016. Any request after this date will be considered on a case-by-case basis.

With respect to bargaining units on the arbitration route pursuant to PSLRA s. 104(2), should the parties reach an impasse in negotiations, the employer undertakes not to request arbitration before the legislation is passed on the understanding that the bargaining agent undertakes not to allege that this constitutes an unfair labour practice pursuant to section 106 of the PSLRA.

2. Preponderant Arbitration / Conciliation Factors:

Bargaining agents within the core public administration and separate agencies may submit to a PIC or arbitration board that the Commission or Board, as a truly independent third party, is free to weigh the factors as it sees fit without regard to preponderance. The employer shall not object to this submission, nor will it argue that any factor is “preponderant.”

The employer also undertakes to advise the Commission or Board that Canada’s fiscal circumstances relative to its stated budgetary policies are not a material factor. However, the Government of Canada retains the right to make arguments on the state of the Canadian economy, as well as the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians.

As the “binding conciliation” process under PSLRA s. 182 allows the parties to agree on all aspects of the process, the employer agrees that the factors found in the pre Bill C-4 legislation (i.e., former PSLRA s. 148) shall be used for this process and if any disputes arise with respect to the administration of the “binding conciliation” process either party may apply to the Chair of the PSLREB, or their designate, for a timely resolution of the issue(s).

3. Essential Services:

For the core public administration, the employer shall issue a directive to each department advising that any employee occupying a position designated as essential, shall not be assigned non-essential work in the event of a strike. This directive shall be issued on or before June 30, 2016 and again once any bargaining unit is in a legal strike position.

For bargaining units within the core public administration that remain on the conciliation/strike route, a process will be put into place to review the current list of essential services designations. The process will have reasonable specific time periods determined in consultation with the applicable bargaining agent. The process will allow bargaining agents to dispute positions on the current list. The parties would then negotiate in order to resolve as many disputed positions as possible. The employer will consider the greater use of bundling as appropriate. The parties agree to refer any remaining disputed positions to a neutral third-party to make a final recommendation. The parties agree to accept the recommendations of the neutral third party. If a neutral third party cannot be agreed upon, the parties may apply to the Chair of the PSLREB, or their designate, to appoint a neutral third party with relevant essential services experience.

Separate agencies will be advised to follow the same measures for positions designated as essential within their organizations.

The parties agree that the essential service designations will not be binding or precedent setting once the new legislation is passed.

In closing, I want to reiterate that the Government of Canada is committed to restoring fair and balanced labour laws that recognize the important role of unions in protecting the rights of workers.

Yours sincerely,

A handwritten signature in black ink that reads "Scott Brison". The signature is fluid and cursive, with "Scott" on top and "Brison" below it, both starting with a capital letter.

The Honourable Scott Brison, P.C., M.P.