

## **Protecting Public Services Act, 2012**

### EXPLANATORY NOTE

The Bill implements measures concerning compensation restraint in the public sector and concerning collective bargaining and interest arbitration in the public sector. The major elements of the Bill are described below.

#### **SCHEDULE 1 PUBLIC SECTOR COMPENSATION RESTRAINT ACT, 2012**

The Schedule enacts the *Public Sector Compensation Restraint Act, 2012*.

The Act applies to the employers described in Schedule 1 and to certain employees and office holders of those employers. Excluded from the application of the Act are employees and office holders who are represented for collective bargaining purposes by a bargaining organization described in Schedule 2. Some additional exclusions are specified in the Act and others may be specified by regulation. (See sections 2, 3 and 4.)

A permanent cap on the salary of certain employees and office holders is established. Persons who become employees or office holders on or after the date the provision comes into force are subject to the salary cap. Employees and office holders who accept a new position or are elected or appointed to a new office with the employer on or after that date are also subject to the salary cap. The maximum salary is twice the amount of the Premier's salary or such other amount as may be specified by regulation. (See section 5.)

Temporary restraint measures are imposed with respect to the compensation of certain employees and office holders. Those restraint measures include a freeze on an employee's or office holder's rate of pay and on his or her benefits, perquisites and other payments, as they existed on *[day before intro date]*. The restraint measures also include restrictions with respect to performance pay. Certain exceptions are authorized. The restraint measures take effect when the applicable provisions of the Act come into force and they expire two years later. (See sections 6 to 12.)

Anti-avoidance measures are established. (See sections 13 and 14.)

Employers may be required to submit compliance reports and to conduct compensation studies. (See sections 15 and 16.)

Consequential amendments are made to other Acts. The *Public Sector Compensation Restraint to Protect Public Services Act, 2010* is repealed.

## **SCHEDULE 2**

### **RESPECTING COLLECTIVE BARGAINING ACT (PUBLIC SECTOR), 2012**

The Schedule enacts the *Respecting Collective Bargaining Act (Public Sector), 2012*.

The Act applies to the employers described in Schedule 1, the bargaining organizations described in Schedule 2 and the employees in bargaining units represented by those bargaining organizations. Some exceptions are specified in the Act and others may be specified by regulation. (See section 2.)

For each bargaining unit, sections 5 to 15 apply to the first collective agreement that is confirmed or imposed on or after the day that subsection 3 (2) of the Act comes into force and before a specified termination date. The termination date cannot be earlier than the second anniversary of that proclamation date or later than the date on which the Public Accounts are tabled in the Assembly disclosing that the Province does not have a deficit. (See section 3.)

All employers are required to negotiate for collective agreements that are consistent with the Province's goals to eliminate the deficit and protect the delivery of public services. (See section 4.)

Mandates may be issued by the Management Board of Cabinet setting out criteria that may be used to determine whether a collective agreement is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services. Different mandates may be issued with respect to different sectors, classes of employers or particular employers and classes of employees. (See section 5.)

If a mandate applies with respect to a collective agreement, the collective agreement does not come into operation unless it is confirmed under the Act or is imposed under the Act. (See section 6.)

If a mandate applies with respect to a collective agreement, it must have a minimum term of two years. (See section 7.)

A review process is established for the collective agreements to which a mandate applies. The Minister reviews each collective agreement to determine whether, in his or her opinion, it complies with the criteria set out in the applicable mandate or is otherwise consistent with the Province's goals to eliminate the deficit and protect the delivery of public services. After reviewing a collective agreement, the Minister may confirm it, refer it back to the parties for amendment or notify the parties that a collective agreement may be imposed under the Act. (See sections 8 to 12.)

A collective agreement may be imposed under the Act in specified circumstances. (See sections 13 and 14.) The parties must be consulted, or be given an opportunity to be consulted, about the terms of the collective agreement. Such a collective agreement binds the employer, the bargaining organization and the employees in the bargaining unit. (See section 15.)

Anti-avoidance measures are established. (See sections 16 to 18.) For example, employers are prohibited from providing compensation before, during or after the term of a collective agreement for compensation that an employee will not, does not or did not receive as a result of this Act. A contravention of an anti-avoidance measure may result in the imposition of a collective agreement, or the imposition of terms of a collective agreement, in specified circumstances.

### **SCHEDULE 3**

#### **AMBULANCE SERVICES COLLECTIVE BARGAINING ACT, 2001**

The Schedule amends the interest arbitration scheme in the *Ambulance Services Collective Bargaining Act, 2001*.

The Act is amended to require a party to an arbitration to make submissions to the arbitrator on matters in respect of which it intends to request written reasons, and to require the arbitrator to give a decision within a 16-month time frame. On either party's request, the arbitrator must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

Related and consequential amendments are also made to the Act.

### **SCHEDULE 4**

#### **FIRE PROTECTION AND PREVENTION ACT, 1997**

The Schedule amends the interest arbitration scheme in the *Fire Protection and Prevention Act, 1997*.

The Act is amended to require a party to an arbitration to make submissions to the board of arbitration on matters in respect of which it intends to request written reasons, and to require the board to give a decision within a 16-month time frame. On either party's request, the board must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

Related and consequential amendments are also made to the Act.

**SCHEDULE 5**  
**HOSPITAL LABOUR DISPUTES ARBITRATION ACT**

The Schedule amends the interest arbitration scheme in the *Hospital Labour Disputes Arbitration Act*.

The Act is amended to require a party to an arbitration to make submissions to the board of arbitration on matters in respect of which it intends to request written reasons, and to require the board to give a decision within a 16-month time frame. On either party's request, the board must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

Related and consequential amendments are also made to the Act.

**SCHEDULE 6**  
**POLICE SERVICES ACT**

The Schedule amends the interest arbitration scheme in the *Police Services Act*.

The Act is amended to require a party to an arbitration to make submissions to the board of arbitration on matters in respect of which it intends to request written reasons, and to require the board to give a decision within a 16-month time frame. On either party's request, the board must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

Related and consequential amendments are also made to the Act.

**SCHEDULE 7**  
**TORONTO TRANSIT COMMISSION LABOUR DISPUTES RESOLUTION ACT, 2011**

The Schedule amends the interest arbitration scheme in the *Toronto Transit Commission Labour Disputes Resolution Act, 2011*.

The Act is amended to require a party to an arbitration to make submissions to the arbitrator on matters in respect of which it intends to request written reasons, and to require the arbitrator to give a decision within a 16-month time frame. On either party's request, the arbitrator must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

Related and consequential amendments are also made to the Act.

**SCHEDULE 8**  
**ONTARIO PROVINCIAL POLICE COLLECTIVE BARGAINING ACT, 2006**

The Schedule amends the interest arbitration scheme in the *Ontario Provincial Police Collective Bargaining Act, 2006*.

The Act is amended to require a party to an arbitration to make submissions to the arbitrator on matters in respect of which it intends to request written reasons, and to require the arbitrator to give a decision within a 16-month time frame. On either party's request, the arbitrator must provide written reasons that clearly demonstrate consideration of the criteria on which submissions were made. A mechanism for resolution by the Ontario Labour Relations Board is provided to operate if no decision has been given within the 16-month time frame.

The Act is also amended to align its collective bargaining and grievance framework more closely with the *Police Services Act*, the *Labour Relations Act, 1995* and the *Crown Employees Collective Bargaining Act, 1993*.

Related and consequential amendments are also made to the Act.

**An Act respecting compensation restraint, collective bargaining and interest arbitration in the public sector**

Note: This Act amends or repeals more than one Act. For the legislative history of these Acts, see the Table of Consolidated Public Statutes – Detailed Legislative History at [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

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**Preamble**

The Government recognizes the importance, to the people of Ontario, of public services and the gains made over the course of the last nine years to repair and strengthen those services. The Government also recognizes the critical role that public sector employees and management play in delivering these services in schools, universities, colleges, hospitals, long-term care homes, the Ontario Public Service and other public sector organizations.

As outlined in the Government's 2012 Budget, it is the Government's objective to protect these strengthened public services and the individuals who deliver them as it moves to contain costs and eliminate the deficit by 2017-18.

More than half of every dollar spent by the Province is applied to public sector compensation. Given the fiscal challenge the Province is facing, compensation costs must be managed if the Government is to protect public services in a fiscally responsible manner.

The Assembly has taken measures in connection with compensation for teachers and other staff in Ontario's publicly funded school system and the Government has taken measures to address costs relating to payments for physician services. This Act contains measures to address compensation in the Broader Public Sector.

Capping management compensation will ensure fair and consistent application of fiscal restraint to employees who do not collectively bargain.

Compensation for most public sector employees is determined through collective bargaining. To facilitate collective bargaining outcomes consistent with the objectives of protecting public services and responsible fiscal management, the Government has repeatedly called upon public sector employers and bargaining agents to negotiate reasonable restraint in compensation. However, the Government is concerned that without the measures set out in this Act, public sector employers, bargaining agents and interest arbitrators may not achieve bargained or arbitrated outcomes that meet these objectives.

The Government believes that the public interest requires the adoption, on an exceptional and temporary basis, of measures set out in this Act, which seek to respect the collective bargaining process, to encourage responsible bargaining, and to ensure that future bargained and arbitrated outcomes are consistent with the objectives of protecting public services and responsible fiscal management.

For employers and bargaining agents who are subject to compulsory interest arbitration, this Act contains procedural changes to the arbitration process to provide for greater transparency and accountability.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### **Contents of this Act**

- 1. This Act consists of this section, sections 2 and 3 and the Schedules to this Act.**

#### **Commencement**

- 2. (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

#### **Same**

- (2) The Schedules to this Act come into force as provided in each Schedule.**

#### **Same**

- (3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.**

**Short title**

**3. The short title of this Act is the *Protecting Public Services Act, 2012*.**

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# SCHEDULE 1

## PUBLIC SECTOR COMPENSATION RESTRAINT ACT, 2012

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#### INTERPRETATION

### Interpretation

1. (1) In this Act,

“compensation” means all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle him or her to be paid, and includes discretionary payments; (“rémunération”)

“compensation plan” means the provisions, however established, for the determination and administration of a person’s compensation; (“régime de rémunération”)

“directive” means a directive of the Management Board of Cabinet issued under this Act; (“”)

“Minister” means the minister to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“pay range” means a range of rates of pay; (“échelle salariale”)

“performance pay” means compensation paid by an employer to an employee or office holder in respect of an assessment of his or her performance; (“prime de rendement”)

“permanent salary cap” means the maximum amount that an employer is permitted to pay an employee or office holder as described in section 5; (“plafond salarial permanent”)

“rate of pay” means the rate of remuneration or, where no such rate exists, any fixed or ascertainable amount of remuneration; (“taux de salaire”)

“regulation” means a regulation made under this Act; (“règlement”)

“restraint period” means, with respect to a temporary restraint measure, the period described in subsection 6 (3); (“période de restriction”)

“temporary restraint measure” means a requirement imposed by any of sections 7 to 12 with respect to an employee or office holder. (“mesure de restriction temporaire”)

### **Deemed employees**

(2) For the purposes of this Act, the directors, members and officers of an employer are deemed to be employees of the employer.

### **Employer of office holders**

(3) A reference in this Act to the employer of an office holder is a reference to the employer to which the office holder is elected or appointed, and the use of this terminology is not intended to create a deemed employment relationship between them for the purposes of this or any other Act or any law.

### **Transition, new application to employer**

(4) If this Act does not apply to an employer on the date on which subsection 2 (1) comes into force but applies to the employer on a later date,

- (a) references in this Act to *[day before intro date]* and *[intro date]* are deemed to be references to the day on which this Act begins to apply to the employer and to the following day; and
- (b) if this Act begins to apply to the employer during the restraint period, the restraint period in relation to the employer begins on the day on which the Act begins to apply to the employer.

### **Transition, new application to position, office**

(5) If this Act does not apply to a position or office on the day on which subsection 3 (1) comes into force but applies to the position or office on a later date,

- (a) references in this Act to *[day before intro date]* and *[intro date]* in provisions that relate to the position or office are deemed to be references to the day on which this Act begins to apply to the position or office and to the following day; and
- (b) if this Act begins to apply to an employee or office holder in the position or office during the restraint period, the restraint period for him or her begins on the day on which the Act begins to apply to the position or office.

## APPLICATION

### **Application to employers**

2. (1) This Act applies to the employers described in Schedule 1, unless a regulation specifies otherwise.

### **Exceptions**

(2) This Act does not apply to the following employers:

1. Municipalities.
2. Local boards as defined in subsection 1 (1) of the *Municipal Act, 2001*.
3. Every authority, board, commission, corporation, office or organization of persons some or all of whose members, directors or officers are appointed or chosen by or under the authority of the council of a municipality, other than one described in Schedule 1.

### **Certain boards of health**

(3) Despite subsection (2), this Act applies to a board of health within the meaning of the *Health Protection and Promotion Act* that is a municipality or a local board, unless a regulation specifies otherwise.

### **Certain long-term care homes**

(4) Despite subsection (2), this Act applies to a municipality or board of management that maintains a long-term care home approved under Part VIII of the *Long-Term Care Homes Act, 2007*, unless a regulation specifies otherwise.

### **Application to employees**

3. (1) This Act applies to the employees of the employers to whom this Act applies, but not to employees who are represented for the purpose of collectively bargaining terms and conditions of employment relating to compensation by a bargaining organization described in Schedule 2.

### **Exceptions**

(2) This Act does not apply to such employees or classes of employees as may be specified by regulation.

### **Certain school board employees**

(3) The temporary restraint measures in this Act do not apply to employees of a board within the meaning of the *Education Act* who are parties to an employment contract to which section 2 of the *Putting Students First Act, 2012* applies.

### **Employees of certain boards of health**

(4) If this Act applies to a municipality because it is, itself, or acts as a board of health, this Act applies only in respect of the employees who provide services to the board of health or to the municipality acting as the board of health.

### **Employees of certain long-term care homes**

(5) If this Act applies to a municipality because the municipality itself maintains a long-term care home approved under Part VIII of the *Long-Term Care Homes Act, 2007*, this Act applies only in respect of the employees who provide services to the long-term care home.

### **Application to office holders**

4. (1) This Act applies to every person who is elected or appointed under the authority of an Act of Ontario to a position with an employer to whom this Act applies.

### **Exceptions**

(2) This Act does not apply to judges, deputy judges, justices of the peace, masters or case management masters.

**Same**

(3) This Act does not apply to such office holders or classes of office holders as may be specified by regulation.

**PERMANENT SALARY CAP****Maximum salary****Application**

5. (1) This section applies with respect to the following persons:

1. A person who, on or after the day this subsection comes into force, becomes an employee of an employer to whom this Act applies.
2. A person who, on or after the day this subsection comes into force, becomes an office holder of such an employer.
3. An employee of such an employer who, on or after the day this subsection comes into force, assumes a new position with the employer.
4. An office holder of such an employer who, on or after the day this subsection comes into force, is elected or appointed to a different office with the employer.

**Maximum amount**

(2) The maximum amount the employer is permitted to pay to the employee or office holder in the new position or office as annual salary, including any performance pay or bonuses, is an amount equal to twice the annual salary of the Premier or an amount equal to such other amount as may be specified by regulation.

**Interpretation, Premier's annual salary**

(3) The annual salary of the Premier is the sum of his or her annual salary as a member of the Assembly, as described in section 3 of the *Executive Council Act*, his or her annual salary as a minister with portfolio under subsection 3 (1) of that Act and his or her annual salary as Premier and President of the Executive Council under subsection 3 (2) of that Act.

**Exception**

(4) If, in the opinion of the Lieutenant Governor in Council, an exception to subsection (2) is appropriate for a position or office because of labour market conditions, the Lieutenant Governor in Council may, by regulation, provide for a higher maximum amount for the position or office.

## TEMPORARY RESTRAINT MEASURES

### **Application of temporary restraint measures**

6. (1) The temporary restraint measures imposed by sections 7 to 12 apply with respect to every employee or office holder who is eligible, under a compensation plan as it existed on *[day before intro date]*, to receive performance pay.

### **Exception**

(2) A regulation made by the Minister may exempt a position or office from one or more temporary restraint measures and may impose conditions or restrictions with respect to the exemption.

### **Restraint period**

(3) The temporary restraint measures apply during the period that begins on the date on which this subsection comes into force and ends on the second anniversary of that date.

### **No increase in rate of pay**

7. (1) The rate of pay for an employee or office holder that is in effect on *[day before intro date]* cannot be increased during the restraint period.

### **Same**

(2) For greater certainty, even if the rate of pay falls within a pay range that is in effect for a particular position or office on *[day before intro date]*, the employee's or office holder's rate of pay cannot be increased within that pay range during the restraint period.

### **Exceptions**

(3) Despite subsection (1), an employee's or office holder's rate of pay may be increased within the applicable pay range in effect on *[day before intro date]* if his or her job responsibilities increase substantially.

### **Same, increase in minimum wage**

(4) If, after *[day before intro date]*, an employee's or office holder's rate of pay falls below the minimum wage established under Part IX of the *Employment Standards Act, 2000*, the rate of pay may be increased to match the minimum wage.

### **Restrictions re performance pay**

#### **No performance pay, certain individuals**

8. (1) If an employee or office holder did not receive any performance pay from the employer during the 12 months before *[intro date]*, no performance pay may be paid to him or her during the restraint period.

### **Same**

(2) If an employee or office holder received performance pay from the employer during the 12 months before *[intro date]* and the performance pay increased his or her rate of pay, no

performance pay may be paid to him or her during the restraint period, except as otherwise specified in subsection (5).

**No increase in individual's earning envelope**

(3) If an employee or office holder received performance pay from the employer during the 12 months before *[intro date]* but the performance pay did not increase his or her rate of pay, the maximum amount of performance pay that may be paid to him or her during the restraint period is the amount determined under subsection (4).

**Maximum amount**

(4) The maximum amount of performance pay that may be paid to an employee or office holder described in subsection (3) during each of the consecutive 12-month periods during the restraint period is the amount of the performance pay received by the employee or office holder during the 12 months before *[intro date]*.

**Same**

(5) If an employee or office holder received performance pay from the employer during the 12 months before *[intro date]*, a portion of which increased his or her rate of pay and a portion of which did not increase his or her rate of pay, subsections (3) and (4) apply with respect to the portion that did not increase his or her rate of pay.

**No increase in benefits, perquisites and payments**

9. (1) A benefit, perquisite or payment provided to an employee or office holder under a compensation plan as it existed on *[day before intro date]* cannot be increased during the restraint period.

**No new or additional benefits, etc.**

(2) No new or additional benefits, perquisites or payments may be provided to an employee or office holder during the restraint period.

**Exceptions**

(3) A benefit or perquisite may be increased, or an additional benefit or perquisite provided, to an employee or office holder during the restraint period in recognition of either of the following matters only and only if it is authorized under the compensation plan as it existed on *[day before intro date]*:

1. His or her length of time in employment or in office.
2. His or her successful completion of a program or course of professional or technical education.

**Time off**

(4) For greater certainty, time off is a benefit for the purposes of this section.

### **Effect of cost increases**

(5) If the employer's cost of providing a benefit, perquisite or payment under a compensation plan as it existed on *[day before intro date]* increases after that date, the increase in the employer's cost does not constitute an increase in the benefit, perquisite or payment.

### **Interpretation**

(6) Nothing in this section prohibits an employer from amending the compensation plan of an employee to whom subsection 8 (3) or (5) applies by changing the terms and conditions regarding the payment of performance pay if the amount that is paid to the employee complies with subsection 8 (4).

### **Renewal of contract, etc.**

#### **Employees**

**10.** (1) The renewal of an employee's contract cannot, during the restraint period, increase the rate of pay or any benefit, perquisite or payment provided to the employee as they existed under a compensation plan on *[day before intro date]*.

#### **Office holders**

(2) The re-election of an office holder or the renewal of an office holder's appointment cannot, during the restraint period, increase the rate of pay or any benefit, perquisite or payment provided to the office holder as they existed under a compensation plan on *[day before intro date]*.

### **Restrictions re performance pay**

(3) Section 8 prevails over the terms of a compensation plan as it existed on *[day before intro date]* with respect to an employee's or office holder's performance pay, if any, during the restraint period.

### **Interpretation**

(4) If the employee remains employed in the same position but has a new employment contract, or if the office holder remains in the same office but has a new appointment, the new contract or appointment is deemed to be a renewal for the purposes of this section.

### **New position with current employer**

#### **Employee**

**11.** (1) The rate of pay and the benefits, perquisites and payments provided during the restraint period for an employee who assumes a new position during the restraint period must be no greater than those provided on *[day before intro date]* for an employee in a similar position with the same employer.

#### **Office holder**

(2) The rate of pay and the benefits, perquisites and payments provided during the restraint period for an office holder who is elected or appointed to a different office during the restraint

period must be no greater than those provided on *[day before intro date]* for an office holder in a similar position with the same employer.

**No performance pay, certain individuals**

(3) If subsection 8 (1) or (2) applied to the employee or office holder in his or her previous position or office, no performance pay may be paid to him or her during the restraint period.

**No increase in individual's earnings envelope**

(4) If subsection 8 (3) or (5) applied to the employee or office holder in his or her previous position or office, the maximum amount of performance pay that may be paid to him or her in the new position or office during the restraint period is the same as the maximum amount that could be paid to him or her in the previous position or office.

**New employees, office holders**

**Employees**

**12.** (1) The rate of pay and the benefits, perquisites and payments provided during the restraint period for a person who becomes an employee after *[day before intro date]* and before the expiry of the restraint period must be no greater than those provided on *[day before intro date]* for an employee in a similar position with the same employer.

**Office holders**

(2) The rate of pay and the benefits, perquisites and payments provided during the restraint period for a person who becomes an office holder after *[day before intro date]* and before the expiry of the restraint period must be no greater than those provided on *[day before intro date]* for other holders of the same or a similar office.

**No performance pay**

(3) No performance pay may be paid to the employee or office holder during the restraint period.

**Interpretation**

(4) The temporary restraint measures apply, with necessary modifications, with respect to the employee or office holder.

ANTI-AVOIDANCE MEASURES

**Restrictions re other compensation measures**

**13.** (1) An employer shall not provide compensation before or after the restraint period to an employee or office holder for compensation that the employee or office holder will not, does not or did not receive as a result of the temporary restraint measures in this Act.

**Same, transition**

(2) Despite the repeal of Part II.1 of the *Broader Public Sector Accountability Act, 2010*, an employer cannot provide compensation to an employee or office holder for compensation that he or she did not receive as a result of the restraint measures under that Part.

**Same, transition**

(3) Despite the repeal of the *Public Sector Compensation Restraint to Protect Public Services Act, 2010*, a compensation plan cannot provide compensation to an employee or office holder for compensation that he or she did not receive as a result of the restraint measures in that Act.

**Bona fide restructuring**

14. An employer shall not, before the expiry of the restraint period, carry out any restructuring that would result in a temporary restraint measure not applying to one or more employees or office holders to whom it would otherwise have applied, unless the restructuring is carried out solely for a bone fide purpose other than to prevent the temporary restraint measures from applying to one or more employees or office holders.

## REPORTS AND STUDIES

**Compliance reports by employers**

15. (1) An employer to whom this Act applies shall give the Minister such reports as may be specified by directive concerning the employer's compliance with the permanent salary cap and with the temporary restraint measures.

**Same**

(2) Each report must be submitted in such form and manner as may be specified by the directive and within the period specified by the directive.

**Same**

(3) Each report must include a statement signed by the employer's highest ranking officer certifying whether the employer has complied with the permanent salary cap and the temporary restraint measures throughout the reporting period.

**Compensation studies**

16. (1) An employer to whom this Act applies shall conduct such compensation studies as may be specified by directive for the purpose of determining the appropriate compensation for positions and offices that may be subject to the permanent salary cap.

**Same**

(2) A directive about compensation studies may include such requirements as the Management Board of Cabinet considers appropriate including,

- (a) specifying the types of compensation that must be dealt with in the studies, the information that must be included, the factors that must be taken into account in conducting the studies and the frequency with which the studies must be conducted;
- (b) requiring employers to prepare reports about the results of their compensation studies and specifying the information that must be included in the reports, the persons to whom the reports must be submitted and the form, manner, timing and other requirements relating to the submission of the reports;
- (c) requiring employers to post the reports and specifying the manner, timing and other requirements relating to the posting of the reports.

#### GENERAL

#### **Rights not reduced**

**17.** (1) Nothing in this Act or in a regulation or directive shall be interpreted or applied so as to reduce a right or entitlement under the *Human Rights Code*.

#### **Same**

(2) Nothing in this Act or in a regulation or directive shall be interpreted or applied so as to reduce a right or entitlement provided under section 42 or 44 of the *Employment Standards Act, 2000*.

#### **Same**

(3) Nothing in this Act or in a regulation or directive shall be interpreted or applied so as to reduce a right or entitlement under the *Pay Equity Act*.

#### **No constructive dismissal**

**18.** (1) An employer shall not be considered to have constructively dismissed an employee under clause 56 (1) (b) or 63 (1) (b) of the *Employment Standards Act, 2000* or under the common law as a result of having done anything required by this Act or a regulation or as a result of not having done anything prohibited by this Act or a regulation.

#### **Same**

(2) Nothing in subsection (1) shall be read as suggesting that an employer's compliance with the law can be the basis for a finding of constructive dismissal.

#### **No expropriation or injurious affection**

**19.** Nothing done or not done in accordance with this Act or a regulation or directive constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

**No cause of action re enactment of Act, etc.**

**20.** (1) No cause of action arises against the Crown or any of the Crown's ministers, agents, appointees and employees or against an employer to whom this Act applies,

- (a) as a direct or indirect result of the enactment or repeal of any provision of this Act;
- (b) as a direct or indirect result of the making or revocation of any provision of a regulation or directive; or
- (c) as a direct or indirect result of anything done or not done in order to comply with this Act or a regulation or directive.

**Same**

(2) Without limiting the generality of subsection (1), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of earnings, loss of revenue and loss of profit or any other remedy or relief.

**Proceedings barred**

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort, trust, fiduciary obligation or otherwise, that is directly or indirectly based on or related to anything referred to in clause (1) (a), (b) or (c) may be brought or maintained against the Crown or any of the Crown's ministers, agents, appointees and employees or against an employer to whom this Act applies.

**Proceedings deemed to be dismissed**

(4) Any proceeding referred to in subsection (1) commenced before this section comes into force is deemed to have been dismissed, without costs, on the date on which this section comes into force.

**Rights preserved**

(5) Subsections (1) to (4) do not prevent the Attorney General from bringing an application or commencing proceedings to require an employer to comply with this Act or a regulation or directive.

**Conflict with this Act**

**21.** This Act prevails over any provision of a compensation plan and, if there is a conflict between this Act and a compensation plan, the compensation plan is inoperative to the extent of the conflict. *French team: See PSCRPSAA s. 12 (1)*

**Information for employers, etc.**

**22.** The Management Board of Cabinet may provide information and education for employers, employees, office holders and the public about the requirements of this Act.

**Directives**

**23.** (1) The Management Board of Cabinet may issue directives with respect to any matter that, in this Act, is described as being done by directive.

**Compliance**

(2) Every employer to whom a directive applies shall comply with it.

**Public inspection**

(3) The Minister shall ensure that the directives are readily available for inspection by the public by posting them on a public website.

**Non-application of *Legislation Act, 2006, Part III***

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to directives.

**Regulations**

**24.** (1) The Lieutenant Governor in Council may make regulations with respect to any matter that, in this Act, is described as being done by regulation, except where otherwise specified.

**Same, Minister**

(2) The Minister may make regulations with respect to any matter that, in this Act, is described as being done by a regulation made by the Minister.

**Retroactivity**

(3) A regulation may be made effective as of a date before the date on which it is filed.

**COMPLEMENTARY AMENDMENTS AND REPEALS*****Broader Public Sector Accountability Act, 2010***

**25.** (1) Part II.1 of the *Broader Public Sector Accountability Act, 2010* is repealed.

**Same**

(2) Clause 23 (1) (e) of the Act is repealed.

***Excellent Care for All Act, 2010***

**26.** Subsections 9 (6) to (9) of the *Excellent Care for All Act, 2010* are repealed and the following substituted:

***Public Sector Compensation Restraint Act, 2012***

(6) The *Public Sector Compensation Restraint Act, 2012* applies to the compensation plans of executives.

***Public Sector Compensation Restraint to Protect Public Services Act, 2010***

**27. The *Public Sector Compensation Restraint to Protect Public Services Act, 2010* is repealed.**

***Putting Students First Act, 2012***

**28. Subsection 2 (7) of the *Putting Students First Act, 2012* is repealed.**

**COMMENCEMENT AND SHORT TITLE**

**Commencement**

**29. The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**Short title**

**30. The short title of the Act set out in this Schedule is the *Public Sector Compensation Restraint Act, 2012*.**

**SCHEDULE 1  
EMPLOYERS**

1. The Crown in right of Ontario, every agency thereof and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.
2. The Office of the Lieutenant Governor of Ontario, the Office of the Assembly, and the offices of persons appointed on an address of the Assembly.
3. Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements.
4. Every board within the meaning of the *Education Act*.
5. Every public hospital within the meaning of the *Public Hospitals Act*.
6. Every board of health within the meaning of the *Health Protection and Promotion Act*.
7. Every licensee under the *Long-Term Care Homes Act, 2007*, other than a licensee that carries on its activities for the purpose of gain or profit to its members or shareholders.

8. Every community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*.
9. Every entity that provides a service directly to the public that is wholly or partly funded by a community care access corporation and that does not carry on its activities for the purpose of gain or profit to its members or shareholders.
10. Hydro One Inc., each of its subsidiaries, Ontario Power Generation Inc., each of its subsidiaries, Independent Electricity System Operator and each of its subsidiaries.
11. Every authority, board, commission, corporation, office or organization of persons, other than one described in paragraphs 1 to 9, that satisfies the following conditions:
  - i. It does not carry on its activities for the purpose of gain or profit to its members or shareholders.
  - ii. In 2011 (or in such later year as may be specified by regulation) it received at least \$1,000,000 in funding from the Government of Ontario, as determined for the purposes of the *Public Sector Salary Disclosure Act, 1996*.
12. Every other authority, board, commission, corporation, office or organization of persons that is specified by regulation.

## SCHEDULE 2 BARGAINING ORGANIZATIONS

1. A trade union certified or voluntarily recognized under the *Labour Relations Act, 1995*.
2. An organization that represents employees under the *Crown Employees Collective Bargaining Act, 1993*.
3. An organization that is designated to represent employees under the *Education Act*.
4. An employee organization as defined in section 1 of the *Provincial Schools Negotiations Act*.
5. An organization that represents employees under the *Colleges Collective Bargaining Act, 2008*.
6. The Association as defined in section 1 of the *Ontario Provincial Police Collective Bargaining Act, 2006*.

7. An organization that collectively bargains, with the employer, terms and conditions of employment relating to compensation.
8. An organization that has or establishes a framework for collectively bargaining, with the employer, terms and conditions of employment relating to compensation.
9. Another organization that is specified by regulation.

DRAFT

## SCHEDULE 2 RESPECTING COLLECTIVE BARGAINING ACT (PUBLIC SECTOR), 2012

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## INTERPRETATION

### **Interpretation**

1. (1) In this Act,

“mandate” means, in relation to a collective agreement, a mandate issued by the Management Board of Cabinet under section 5; (“instruction”)

“Minister” means the minister to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“parties” means, in relation to a collective agreement, the employer and the bargaining organization. (“parties”)

### **Same**

(2) Expressions used in this Act have the same meaning as in the *Labour Relations Act, 1995* unless the context requires otherwise.

### **When collective agreement is settled**

(3) For the purposes of this Act, a collective agreement is considered to have been settled on the day indicated below:

1. If ratification by one or both of the parties is required, the collective agreement is settled on the day on which the collective agreement has been ratified by one or both of the parties, as the case may be.
2. If a collective agreement is determined in whole or in part by arbitration, the collective agreement is settled on the day on which the arbitrator or arbitration board gives a decision.
3. If it is automatically renewed under its terms, the renewed collective agreement is settled on the date of the automatic renewal.
4. If it is implemented by order under clause 10 (a) of the *Ontario Provincial Police Collective Bargaining Act, 2006* or under section 153 of the *Public Service of Ontario Act, 2006*, on the effective date of the order.
5. In any other case, the collective agreement is settled on the day on which it is executed.

### **Deemed collective agreement re certain municipal employees**

(4) The following rules apply with respect to a collective agreement that applies to employees of a municipality who provide services to a board of health referred to in subsection

2 (4) or who provide services to a long-term care home referred to in subsection 2 (5) if the collective agreement also applies to other employees of the municipality:

1. To the extent that the collective agreement applies to other employees of the municipality, this Act does not affect the operation of the collective agreement.
2. For the purposes of this Act, the collective agreement is deemed to consist only of the provisions that apply to the employees who provide services to a board of health or a long-term care home, as the case may be, and the collective agreement is deemed to relate only to those employees.
3. For the purposes of this Act, the deemed collective agreement described in paragraph 2 constitutes the collective agreement.

#### APPLICATION

#### **Application to employers, bargaining organizations, employees**

##### **Employers**

2. (1) This Act applies to the employers described in Schedule 1, unless a regulation specifies otherwise.

##### **Bargaining organizations and employees**

(2) This Act applies to the bargaining organizations described in Schedule 2 that represent employees of any of those employers for the purpose of collectively bargaining terms and conditions of employment relating to compensation and it applies to the employees of those employers who are represented by those bargaining organizations, unless a regulation specifies otherwise.

##### **Exceptions, employers**

(3) This Act does not apply to the following employers:

1. Boards as defined in the *Education Act*.
2. The Provincial Schools Authority continued by subsection 2 (1) of the *Provincial Schools Negotiations Act*.
3. Municipalities.
4. Local boards as defined in subsection 1 (1) of the *Municipal Act, 2001*.
5. Every authority, board, commission, corporation, office or organization of persons some or all of whose members, directors or officers are appointed or chosen by or under the authority of the council of a municipality, other than one described in Schedule 1.

### **Boards of health**

(4) Despite subsection (3), this Act applies to a board of health within the meaning of the *Health Protection and Promotion Act* that is a municipality or a local board, unless a regulation specifies otherwise. However, if a municipality itself is or acts as the board of health, this Act applies only in respect of the employees who provide services to the board of health or to the municipality acting as the board of health.

### **Long-term care homes**

(5) Despite subsection (3), this Act applies to a municipality or board of management that maintains a long-term care home approved under Part VIII of the *Long-Term Care Homes Act, 2007*, unless a regulation specifies otherwise. However, if the municipality itself maintains a long-term care home approved under Part VIII of that Act, this Act applies only in respect of the employees who provide services to the long-term care home.

### **Certain other employers and employees**

(6) Despite subsection (2), for an employer described in paragraph 7 of Schedule 1, this Act applies in respect of the following employees:

1. Every employee who is represented by a bargaining organization and provides, directly to the public, a service that is wholly or partly funded by a community care access corporation.
2. Every other employee who is a member of the same bargaining unit as an employee described in paragraph 1.

### **Application to collective bargaining relationships, collective agreements**

3. (1) This Act applies with respect to a collective bargaining relationship between an employer and a bargaining organization.

### **Collective agreements**

(2) Sections 5 to 15 apply only with respect to the first collective agreement confirmed or imposed between an employer and a bargaining organization in respect of a bargaining unit on or after the day this subsection comes into force and before the termination date described in subsection (3).

### **Termination date**

(3) The termination date is to be specified by regulation and,

- (a) it cannot be earlier than the second anniversary of the day on which subsection (2) comes into force; and

- (b) in any event, it cannot be later than the date on which the Public Accounts for a fiscal year are laid before the Assembly under the *Financial Administration Act* disclosing that the Province did not have a deficit in that fiscal year.

## MANDATE RE PROVINCE'S GOALS

### **Employers' duty re negotiations**

4. When engaging in collective bargaining, each employer is required to negotiate for collective agreements that are consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Mandates and criteria**

5. (1) The Management Board of Cabinet may issue one or more mandates setting out criteria that may be used to determine whether a collective agreement is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Same**

(2) Different mandates may be issued with respect to different sectors, classes of employers or particular employers, classes of employees and the corresponding bargaining organizations.

### **Criteria**

(3) The criteria may address matters of compensation and service delivery and such other matters as the Management Board of Cabinet considers appropriate.

### **Transition**

(4) Without limiting the generality of subsection (3), the criteria may have effect with respect to a period before the date on which this subsection comes into force, if a collective agreement to which the mandate applies has effect before that date.

### **Public inspection**

(5) The Minister shall ensure that the mandates are readily available for inspection by the public by posting them on a public website.

### **Non-application of *Legislation Act, 2006, Part III***

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to mandates.

### **Effect of mandates**

6. If a mandate applies with respect to a collective agreement, the collective agreement does not come into operation unless it is confirmed under section 11 or is imposed under this Act.

### **Minimum term of certain collective agreements**

7. (1) If a mandate applies with respect to a collective agreement, the term of operation of the collective agreement must be at least two years, despite subsection 58 (1) of the *Labour Relations Act, 1995*.

### **Same**

(2) A collective agreement that provides for a shorter term is deemed to provide for a term of two years.

## REVIEW OF CERTAIN COLLECTIVE AGREEMENTS

### **Collection of preliminary information**

8. (1) If a mandate applies with respect to a collective agreement, the Minister may require the employer to give him or her a copy of the most recent prior collective agreement, if any, and to provide such other information as the Minister may request concerning the employer's costs associated with that collective agreement in its final year and the restrictions that it imposed on the employer's operations.

### **Certificate re compliance**

(2) If the employer provides other information pursuant to a request under subsection (1), the information must be accompanied by a certificate of the employer stating that the information is complete and accurate.

### **Deadline**

(3) The employer shall give the most recent prior collective agreement, the information and the certificate to the Minister by the deadline specified by him or her.

### **Submission of collective agreement for review**

9. (1) If a mandate applies with respect to a collective agreement, the employer shall give a copy of the collective agreement to the Minister promptly after it is settled.

### **Certificate re compliance with mandate**

(2) The collective agreement must be accompanied by a certificate of the employer stating whether the collective agreement complies with the criteria set out in the mandate.

### **Notice from Minister**

(3) The Minister shall promptly notify the employer and the bargaining organization that the collective agreement has been received for review.

### **Review of collective agreement**

10. (1) Upon receiving a collective agreement, the Minister shall review it to determine whether, in his or her opinion, it complies with the criteria set out in the applicable mandate or is otherwise consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Additional information**

(2) The employer shall give the Minister such additional information relating to the collective agreement as he or she may request, by the deadline specified by the Minister.

**Certificate re compliance**

(3) If the employer provides additional information pursuant to a request under subsection (2), the information must be accompanied by a certificate of the employer stating that the information is complete and accurate.

**Submissions, etc.**

(4) The parties may make written submissions to the Minister within the period specified by him or her.

**Decisions following review**

11. (1) After reviewing a collective agreement, the Minister may make any of the decisions described in this section.

**Confirmation of collective agreement**

(2) The Minister shall confirm the collective agreement if, in his or her opinion, the collective agreement complies with the criteria set out in the applicable mandate or is otherwise consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Referral back for amendment**

(3) The Minister may refer a collective agreement back to the parties for amendment if, in his or her opinion, the collective agreement is not consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Notice re imposition of collective agreement**

(4) If it appears to the Minister that the parties are not likely to be able to amend their collective agreement so that it is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services, the Minister shall notify them that a collective agreement may be imposed under this Act.

**Same, mandatory consultation**

(5) If the Minister notifies the parties that a collective agreement may be imposed under this Act, the Minister shall also invite them, in writing, to participate in a consultation about proposed terms of a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Deemed confirmation of collective agreement**

(6) A collective agreement is deemed to have been confirmed if no decision is issued within 40 days (excluding Saturdays, Sundays and holidays) after the Minister receives the collective

agreement for review, or within such shorter period as may be specified by a regulation made by the Minister.

**Same**

(7) If, when the collective agreement is given to the Minister for review, it is not accompanied by the employer's certificate required by subsection 9 (2), the 40-day period described in subsection (6) begins when the Minister receives the employer's certificate.

**Effect of referral back for amendment**

**12.** (1) This section applies if, after being reviewed by the Minister, a collective agreement is referred back to the parties for amendment.

**Stage of bargaining**

(2) When the collective agreement is referred back to the parties for amendment, the following rules apply:

1. If some or all of the terms of the collective agreement being referred back were determined by arbitration, the decision of the arbitrator or the arbitration board ceases to be binding, the collective agreement is deemed not to have been settled, the appointment of a conciliation officer is deemed not to have been made, any report of a conciliation officer is deemed not to have been made and the parties may resume negotiations.
2. In any other case, the collective agreement being referred back is deemed not to have been settled and the parties return to the same stage in bargaining they were at immediately before the collective agreement was settled.

**Resubmission of amended agreement**

(3) If the parties amend the collective agreement, the employer shall give a copy of the amended collective agreement to the Minister promptly after it is settled.

**Same**

(4) Sections 9, 10 and 11 apply, with necessary modifications, with respect to the amended collective agreement.

**Where agreement not amended**

(5) If the employer gives written notice to the Minister that the collective agreement will not be amended, the Minister may notify the parties that a collective agreement may be imposed under this Act and shall also invite them, in writing, to participate in a consultation about proposed terms of a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Deemed notice**

(6) The employer is deemed to have notified the Minister that the collective agreement will not be amended if the Minister does not receive a copy of the amended collective agreement from the employer within 40 days (excluding Saturdays, Sundays and holidays) after referring the original collective agreement back to the parties for amendment, or within such shorter period as may be specified by a regulation made by the Minister.

### IMPOSITION OF CERTAIN COLLECTIVE AGREEMENTS

**Imposition of collective agreement following review**

**13.** (1) This section applies if, after reviewing a collective agreement, the Minister notifies the parties under subsection 11 (4) or 12 (5) that a collective agreement may be imposed under this Act.

**Same**

(2) After consulting with the parties about proposed terms of a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services, or after affording them an opportunity to participate in such a consultation, the Minister may impose a collective agreement that, in his or her opinion, is consistent with the Province's goals.

**Restriction**

(3) The Minister shall not impose a collective agreement unless it appears to him or her that the parties are not likely to be able to amend their collective agreement so that it is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Imposition of collective agreement in other circumstances**

**14.** (1) This section applies if all of the following circumstances exist:

1. An employer and a bargaining organization have not settled a collective agreement following the expiry of a collective agreement or following the acquisition of bargaining rights by the bargaining organization for employees of the employer.
2. A mandate applies with respect to their collective agreement.

**Request for information**

(2) The Minister may request information from the employer about the conduct of negotiations between the parties, and the employer shall comply with the request within the period specified by the Minister.

**Mandatory consultation**

(3) If it appears to the Minister that the parties may not make a collective agreement that is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services, the Minister shall invite them, in writing, to participate in a consultation about whether

he or she should impose a collective agreement and about proposed terms of a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Imposition**

(4) After consulting with the parties, or after affording them an opportunity to participate in such a consultation, the Minister may impose a collective agreement that, in his or her opinion, is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Restriction**

(5) However, the Minister shall not impose a collective agreement unless it appears to him or her that the parties are not likely to be able to reach a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Effect of imposed collective agreement**

**15.** (1) A collective agreement imposed under this Act is a collective agreement for all purposes and binds the employer, the bargaining organization and the employees who are represented by the bargaining organization.

### **Transition**

(2) A collective agreement imposed under this Act may have effect with respect to a period before the date on which this subsection comes into force.

## **ANTI-AVOIDANCE MEASURES**

### **Restrictions re other compensation measures**

**16.** (1) An employer shall not provide compensation before, during or after the term of a collective agreement to an employee for compensation that the employee will not, does not or did not receive as a result of this Act.

### **Same**

(2) A collective agreement settled before, on or after the day on which this subsection comes into force shall not provide compensation to an employee for compensation that the employee will not, does not or did not receive as a result of this Act.

### **Restriction re amendments to collective agreements**

**17.** (1) A collective agreement that has been confirmed under section 11 or imposed under this Act cannot be amended in such a way that the collective agreement, as amended,

- (a) does not comply with the criteria set out in the applicable mandate if, before being amended, the collective agreement complied with those criteria; or

- (b) is not consistent with the Province's goals to eliminate the deficit and protect the delivery of public services if, before being amended, the collective agreement did not comply with the criteria set out in the applicable mandate but was otherwise consistent with the Province's goals.

### **Request for information**

(2) The Minister may request information from the employer about amendments to a collective agreement that has been confirmed under section 11 or imposed under this Act, and the employer shall comply with the request within the period specified by the Minister.

### **Minister's decisions**

(3) If it appears to the Minister that the collective agreement, as amended, would be inconsistent with the Province's goals to eliminate the deficit and protect the delivery of public services, the Minister may make one or more of the following decisions:

1. Declare all or part of the amendments to be inoperative, to the extent of the inconsistency.
2. Refer the amendments back to the parties for further consideration.
3. Notify the parties that the Minister may amend the agreement so that it is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Mandatory consultation**

(4) If the Minister notifies the parties that he or she may amend the agreement, the Minister shall also invite them, in writing, to participate in a consultation about proposed amendments.

### **Amendment by Minister**

(5) After consulting with the parties about proposed amendments, or after affording them an opportunity to participate in such a consultation, the Minister may amend the collective agreement in such a way that the collective agreement, as amended, is consistent in his or her opinion with the Province's goals to eliminate the deficit and protect the delivery of public services.

### **Same**

(6) If the Minister amends a collective agreement, the collective agreement is deemed to have been imposed under this Act.

### **Restrictions before collective agreement is confirmed or imposed**

**18.** (1) An employer and a bargaining organization cannot agree to implement, before a collective agreement is confirmed or imposed, terms and conditions that would not comply with the criteria set out in the applicable mandate for a collective agreement.

**Request for information**

(2) The Minister may request information from the employer about terms and conditions that the parties have agreed to implement before a collective agreement is confirmed or imposed, and the employer shall comply with the request within the period specified by the Minister.

**Mandatory consultation**

(3) If it appears to the Minister that the parties have contravened subsection (1), the Minister may invite them, in writing, to participate in a consultation about whether he or she should impose a collective agreement and about proposed terms of a collective agreement that would be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

**Imposition of collective agreement**

(4) After consulting with the parties, or after affording them an opportunity to participate in such a consultation, the Minister may impose a collective agreement that, in his or her opinion, is consistent with the Province's goals to eliminate the deficit and protect the delivery of public services.

## ADMINISTRATION AND ENFORCEMENT

**Consultations re proposed terms of collective agreement**

**19.** (1) A process for consulting with employers and bargaining organizations about the proposed terms of a collective agreement may be established by a regulation made by the Minister, and different processes may be established for consultations under sections 11, 12, 13, 14, 17 and 18 and for consultations in different sectors or with different classes of employers.

**Same**

(2) This section shall not be interpreted as requiring a consultation process to be established by regulation or as requiring consultation to occur.

**Subdelegation**

(3) The regulation may permit the Minister to delegate his or her powers and duties under the regulation to any person or entity and to impose conditions and restrictions with respect to the delegation.

**Declaration re application of Act**

**20.** (1) An employer or a bargaining organization may apply to the Ontario Labour Relations Board for an order declaring whether this Act applies to the employer or bargaining organization.

**Same**

(2) Promptly after making the application, the applicant shall deliver a copy of the application and supporting documents to the Minister.

**Order**

(3) The Board may make an order declaring whether this Act applies to the employer or bargaining organization, and the order is final and binds the applicant and such other persons as the Board may specify.

**Reconsideration**

(4) However, the Board may reconsider any such order and may vary or revoke it.

**Procedural matters**

(5) Section 110, subsections 111 (1) and (2) and sections 112 and 114 of the *Labour Relations Act, 1995* apply, with necessary modifications, with respect to an application under subsection (1), and rules may be made under subsection 110 (18) of that Act in respect of applications made under subsection (1).

**Delegation of Minister's authority**

**21.** (1) The Minister may, in writing, delegate any of his or her powers and duties under sections 8 to 18, other than the power to make a regulation, to any person or entity and may impose conditions and restrictions with respect to the delegation.

**Same**

(2) A delegation may apply with respect to a particular collective agreement or a class of collective agreements.

## GENERAL

**Notice of proceedings**

**22.** Notice of any proceeding related to this Act must be served on the Minister.

**Rights not reduced**

**23.** (1) Nothing in this Act or in a regulation or mandate shall be interpreted or applied so as to reduce a right or entitlement under the *Human Rights Code*.

**Same**

(2) Nothing in this Act or in a regulation or mandate shall be interpreted or applied so as to reduce a right or entitlement provided under section 42 or 44 of the *Employment Standards Act, 2000*.

**Same**

(3) Nothing in this Act or in a regulation or mandate shall be interpreted or applied so as to reduce a right or entitlement under the *Pay Equity Act*.

### **Restrictions re jurisdiction, Ontario Labour Relations Board**

**24.** (1) The Ontario Labour Relations Board cannot inquire into, or make a decision concerning, the constitutional validity of a provision of this Act, a regulation, a mandate, a Minister's decision or a collective agreement imposed under this Act.

#### **Same**

(2) The Board cannot inquire into, or make a decision concerning, an allegation that a provision of this Act, a regulation, a mandate, a Minister's decision or a collective agreement imposed under this Act is in conflict with the *Human Rights Code*.

### **Restrictions re jurisdiction, arbitrators**

**25.** (1) An arbitrator or arbitration board cannot inquire into, or make a decision concerning, the constitutional validity of a provision of this Act, a regulation, a mandate, a Minister's decision or a collective agreement imposed under this Act.

#### **Same**

(2) An arbitrator or arbitration board cannot inquire into, or make a decision concerning, an allegation that a provision of this Act, a regulation, a mandate, a Minister's decision or a collective agreement imposed under this Act is in conflict with the *Human Rights Code*.

### **Deadline extensions for interest arbitration**

**26.** (1) This section applies with respect to arbitration under the *Ambulance Services Collective Bargaining Act, 2001*, the *Hospital Labour Disputes Arbitration Act* or the *Ontario Provincial Police Collective Bargaining Act, 2006* of some or all of the terms of a collective agreement that must be submitted under section 9 of this Act for review.

#### **Same**

(2) A regulation made by the Minister may extend a time period specified under any of those statutes either before or after it expires, and may impose conditions and restrictions with respect to the extension.

### **Restrictions on review by court Minister's decisions, etc.**

**27.** (1) No action, decision, failure to take action or failure to make a decision under this Act by the Minister or his or her delegate shall be questioned or reviewed in any court.

#### **Same**

(2) No steps shall be taken to have a court question, review, prohibit or restrain any consultation, review or confirmation process required by regulation or initiated under this Act at the Minister's discretion.

### **Mandates**

(3) No mandate issued under this Act shall be questioned or reviewed in any court.

**Ontario Labour Relations Board decisions, etc.**

(4) Section 116 of the *Labour Relations Act, 1995* (Board's orders not subject to review) applies, with necessary modifications, with respect to a decision, order, direction, declaration or ruling of the Ontario Labour Relations Board under this Act.

**No cause of action**

**28.** (1) No cause of action arises and no civil proceeding shall be brought or maintained against the Crown, members of the Executive Council, or employees or agents of the Crown or of the Executive Council as a direct or indirect result of,

- (a) the enactment or repeal of any provision of this Act;
- (b) the making or revocation of any provision of a regulation made, or a mandate issued under this Act; or
- (c) anything done or not done under this Act or the regulations or a mandate.

**No remedy**

(2) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything referred to in clause (1) (a), (b) or (c).

**Same**

(3) Subsection (1) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day this Act comes into force.

**Proceedings set aside**

(4) Any proceeding referred to in subsection (1) commenced before the day this Act comes into force is deemed to have been dismissed, without costs, on the day this Act comes into force.

**No action for good faith acts**

**29.** (1) No cause of action arises and no civil proceeding shall be brought or maintained against an employer or an officer, employee or agent acting on behalf of an employer for any act done in good faith in the exercise or performance or the intended exercise or performance of a duty under this Act, a regulation or a mandate or for any neglect or default in the exercise or performance in good faith of such a duty.

**Same**

(2) Subsection (1) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day this Act comes into force.

### Proceedings set aside

(3) Any proceeding referred to in subsection (1) commenced before the day this Act comes into force shall be deemed to have been dismissed, without costs, on the day this Act comes into force.

### Transitional matters

**30.** For the purposes of this Act, a regulation made by the Minister may address any issue related to the application of any provision of the *Labour Relations Act, 1995* that arises,

- (a) as a result of a collective agreement being confirmed or imposed under this Act within 90 days before the collective agreement expires; or
- (b) as a result of a collective agreement being confirmed or imposed under this Act after the period during which that collective agreement applies has expired.

### Regulations

**31.** (1) The Lieutenant Governor in Council may make regulations with respect to any matter that, in this Act, is described as being done by regulation, except where otherwise specified.

### Same, Minister

(2) The Minister may make regulations with respect to any matter that, in this Act, is described as being done by a regulation made by the Minister.

## COMMENCEMENT AND SHORT TITLE

### Commencement

**32.** This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

### Short title

**33.** The short title of the Act set out in this Schedule is the *Respecting Collective Bargaining Act (Public Sector), 2012*.

## SCHEDULE 1 EMPLOYERS

1. The Crown in right of Ontario, every agency thereof and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.
2. Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the

enrolments of which are counted for purposes of calculating annual operating grants and entitlements.

3. Every public hospital within the meaning of the *Public Hospitals Act*.
4. Every board of health within the meaning of the *Health Protection and Promotion Act*.
5. Every licensee under the *Long-Term Care Homes Act, 2007*.
6. Every community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*.
7. Every entity that provides a service directly to the public that is wholly or partly funded by a community care access corporation.
8. Hydro One Inc., each of its subsidiaries, Ontario Power Generation Inc., each of its subsidiaries, Independent Electricity System Operator and each of its subsidiaries.
9. Every authority, board, commission, corporation, office or organization of persons, other than one described in paragraphs 1 to 8, that satisfies all of the following conditions:
  - i. It does not carry on its activities for the purpose of gain or profit to its members or shareholders.
  - ii. It received at least \$1,000,000 in funding from the Government of Ontario, as determined for the purposes of the *Public Sector Salary Disclosure Act, 1996*, during the preceding year.
10. Every other authority, board, commission, corporation, office or organization of persons that is prescribed for the purposes of this Schedule.

## SCHEDULE 2 BARGAINING ORGANIZATIONS

1. A trade union certified or voluntarily recognized under the *Labour Relations Act, 1995*.
2. An organization that represents employees under the *Crown Employees Collective Bargaining Act, 1993*.
3. An organization that represents employees under the *Colleges Collective Bargaining Act, 2008*.

4. The Association as defined in section 1 of the *Ontario Provincial Police Collective Bargaining Act, 2006*.
5. An organization that collectively bargains, with the employer, terms and conditions of employment relating to compensation.
6. An organization that has or establishes a framework for collectively bargaining, with the employer, terms and conditions of employment relating to compensation.
7. Another organization that is prescribed for the purposes of this Schedule.

**SCHEDULE 3**  
**AMBULANCE SERVICES COLLECTIVE BARGAINING ACT, 2001**

**1. Subsection 1 (1) of the *Ambulance Services Collective Bargaining Act, 2001* is amended by adding the following definition:**

“referral date” means the date on which an order made by the Board under clause 18 (8) (d) with respect to a bargaining unit of ambulance workers is deemed to have been released, in accordance with subsection 23 (9). (“date de renvoi”)

**2. (1) Section 21 of the Act is amended by adding the following subsections:**

**Submissions re criteria**

(3.1) A party shall make submissions to the arbitrator on any of the criteria set out in subsection (2) in respect of which the party intends to request written reasons from the arbitrator.

**Reasons**

(3.2) When the arbitrator gives a decision, he or she shall provide written reasons upon the request of either party.

**Same**

(3.3) The written reasons must clearly demonstrate that the arbitrator has considered the criteria on which a party has made submissions under subsection (3.1), and may deal with other matters as the arbitrator considers appropriate.

**(2) Subsection 21 (7) of the Act is repealed and the following substituted:**

**Procedure**

(7) The *Arbitration Act, 1991* does not apply with respect to,

- (a) arbitration proceedings under this Act;
- (b) an application under subsection (15);
- (c) matters that are deemed to have been referred to the Board under subsection (17).

**(3) Subsections 21 (9) and (10) of the Act are repealed.**

**(4) Section 21 of the Act is amended by adding the following subsections:**

**Time for final submissions**

(12) If the arbitrator has not given his or her decision on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the arbitrator, including,

- (a) any submissions required by subsection (3.1); and
- (b) a list of any matters that the parties have already agreed upon.

**Time for decision**

(13) The arbitrator shall give his or her decision on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (15).

**Same**

(14) The 16-month deadline applies,

- (a) even if a replacement has been appointed under subsection 20 (4);
- (b) even if one or both of the parties fail to make final written submissions in accordance with subsection (12).

**Application to Board for extension**

(15) The parties may jointly apply to the Board for an order extending the 16-month deadline, and in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

**Termination of arbitrator's appointment**

(16) The arbitrator's appointment is immediately terminated if he or she fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.

2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the arbitrator has not given his or her decision before the expiry of the extension period.

**Deemed referral to Board**

(17) If the arbitrator's appointment is terminated under subsection (16), all outstanding matters in dispute are immediately deemed to have been referred to the Board for its decision.

**Final submissions**

(18) Within seven days after the deemed referral, the parties shall file their final written submissions with the Board.

**Same**

(19) A party that made final written submissions to the arbitrator in accordance with subsection (12) shall file the same submissions with the Board, and they constitute the party's final written submissions under subsection (18).

**Same**

(20) A party that did not make final written submissions to the arbitrator in accordance with subsection (12) shall file final written submissions with the Board, including, at a minimum, any submissions required by subsection (3.1), and they constitute the party's final written submissions under subsection (18).

**Board decision if submissions filed**

(21) If one or both parties file final written submissions under subsection (18), the Board shall make its decision on the basis of those submissions, unless the Board believes that it is necessary or advisable in the circumstances to order otherwise.

**Board powers if no submissions filed**

(22) If neither party files final written submissions under subsection (18), the Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (24) it believes is necessary or advisable, in the circumstances, to assist it in making a decision under subsection (17).
2. Take any actions and make any orders that meet both of the following conditions:
  - i. the Board believes they are necessary or advisable, in the circumstances, and
  - ii. they are authorized by a regulation made under clause 29 (1) (h).

### **Filing order in court**

(23) An order of the Board made under subsection (22) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

### **Board rules of practice**

(24) Without limiting the generality of subsection 23 (1), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of applications made under subsection (15) and matters referred to the Board under subsection (17); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (15) and in respect of matters referred to it under subsection (17), including rules about mediation, about expediting proceedings and about dispensing with hearings.

### **Time for Board decision**

(25) The Board shall give its decision within two months after the date final written submissions are required to be filed under subsection (18).

### **Board decision and reasons**

(26) Subsections (2), (3.2) and (3.3) apply to the Board's decision, with necessary modifications.

### **Execution of agreement**

(27) Subsections 22 (3), (4), (5) and (6) apply to the Board's decision, with necessary modifications.

### **Fees**

(28) The Lieutenant Governor in Council may, by order, establish a schedule,

- (a) setting out fees to be paid by parties in proceedings under subsection (17); and
- (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

### **No participation if fees unpaid**

(29) A party may participate in a proceeding under subsection (17) only if its fees have been paid in accordance with the schedule.

### **Fees to Consolidated Revenue Fund**

(30) If the schedule makes fees payable to the Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

### **Schedule not a regulation**

(31) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

## Publication

(32) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

### 3. Subsection 23 (9) of the Act is repealed and the following substituted:

#### Application of other provisions

(9) Subsections 96 (4), (6) and (7) and sections 120, 121, 122 and 123 of the *Labour Relations Act, 1995* apply, with necessary modifications, to the Board and anything it does under this Act.

#### Non-application of *Statutory Powers Procedure Act*

(10) The *Statutory Powers Procedure Act* does not apply with respect to,

- (a) arbitration proceedings under this Act;
- (b) an application under subsection 21 (15);
- (c) a matter that is deemed to have been referred to the Board under subsection 21 (17).

### 4. The Act is amended by adding the following section:

#### Transition

**28.1** (1) Subsections 21 (3.1) to (3.3) and (12) to (32), subsection 23 (9), as re-enacted by section 3 of Schedule 3 to the *Protecting Public Services Act, 2012*, and subsection 23 (10) apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

#### Same

(2) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the arbitrator on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 21 (12); and
- (b) the arbitrator shall give his or her decision on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 21 (13).

### 5. (1) Subsection 29 (1) of the Act is amended by adding the following clauses:

- (h) for the purposes of paragraph 2 of subsection 21 (22), authorizing actions that the Board may take and orders that it may make;

- (i) dealing with any transitional matters relating to the enactment of Schedule 3 to the *Protecting Public Services Act, 2012*.

**(2) Section 29 of the Act is amended by adding the following subsections:**

**Scope of authorizing regulation**

(5) Without limiting the generality of clause (1) (h), a regulation made under that clause may authorize the Board to,

- (a) make its own inquiries about the factors set out in paragraphs 1 to 7 of subsection 21 (2);
- (b) order that the collective agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;
- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (6).

**Test for order under cl. (5) (c)**

(6) The Board may make an order under clause (5) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

**Commencement**

**6. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 4**  
**FIRE PROTECTION AND PREVENTION ACT, 1997**

**1. Subsection 41 (1) of the *Fire Protection and Prevention Act, 1997* is amended by adding the following definition:**

“referral date” means the date on which the notice from the Minister informing the parties that the conciliation officer has been unable to effect a collective agreement is deemed to have been released, in accordance with paragraph 4 of subsection 49 (5). (“date de renvoi”)

**2. Subsection 49 (5) of the Act is amended by adding the following paragraph:**

4. Clauses 122 (2) (a) and (b), in respect of a notice from the Minister of a report of a conciliation officer.

**3. (1) Subsection 50.2 (13) of the Act is amended by striking out “within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6)”.**

**(2) Subsection 50.2 (14) of the Act is amended by striking out “within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6)”.**

**(3) Subsection 50.2 (15) of the Act is amended by striking out “within the time set out in subsection 50.5 (5) or within the time extended under subsection 50.5 (6)”.**

**(4) Subsection 50.2 (20) of the Act is repealed.**

**4. (1) Section 50.5 of the Act is amended by adding the following subsections:**

**Submissions re criteria**

(3.1) A party shall make submissions to the board of arbitration on any of the criteria set out in subsection (2) in respect of which the party intends to request written reasons from the board.

**Reasons**

(3.2) When the board of arbitration gives its decision, it shall provide written reasons upon the request of either party.

**Same**

(3.3) The written reasons must clearly demonstrate that the board of arbitration has considered the criteria on which a party has made submissions under subsection (3.1), and may deal with other matters as the board considers appropriate.

**(2) Subsections 50.5 (5) and (6) of the Act are repealed and the following substituted:**

**Time for final submissions**

(5) If the board of arbitration has not given its decision on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the board, including,

- (a) any submissions required by subsection (3.1); and
- (b) a list of any matters that the parties have already agreed upon.

**Time for decision**

(6) The board of arbitration shall give its decision on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (6.3).

**Same**

(6.1) The 16-month deadline applies,

- (a) even if replacements have been appointed under one or more of subsections 50.2 (12), (13), (14), (15), (19) and (28);
- (b) even if one or both of the parties fail to make final written submissions in accordance with subsection (5).

**Same**

(6.2) Even if subsection 50.6 (2) applies after the referral date, it does not operate so as to extend the 16-month deadline and, despite the operation of that subsection, the board shall give its decision on or before the date that is 16 months after the referral date.

**Application to Board for extension**

(6.3) The parties may jointly apply to the Board for an order extending the 16-month deadline and, in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

### **Termination of board of arbitration**

(6.4) The appointment of the board of arbitration is immediately terminated if it fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.
2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the board of arbitration has not given its decision before the expiry of the extension period.

### **Deemed referral to Board**

(6.5) If the appointment of the board of arbitration is terminated under subsection (6.4), all outstanding matters in dispute are immediately deemed to have been referred to the Board for its decision.

### **Final submissions**

(6.6) Within seven days after the deemed referral, the parties shall file their final written submissions with the Board.

### **Same**

(6.7) A party that made final written submissions to the board of arbitration in accordance with subsection (5) shall file the same submissions with the Board, and they constitute the party's final written submissions under subsection (6.6).

### **Same**

(6.8) A party that did not make final written submissions to the board of arbitration in accordance with subsection (5) shall file final written submissions with the Board, including, at a minimum, any submissions required by subsection (3.1), and they constitute the party's final written submissions under subsection (6.6).

### **Board decision if submissions filed**

(6.9) If one or both parties file final written submissions under subsection (6.6), the Board shall make its decision on the basis of those submissions, unless the Board believes that it is necessary or advisable in the circumstances to order otherwise.

### **Board powers if no submissions filed**

(6.10) If neither party files final written submissions under subsection (6.6), the Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (6.12) it believes is necessary or advisable, in the circumstances, to assist it in making a decision under subsection (6.5).

2. Take any actions and make any orders that meet both of the following conditions:
  - i. The Board believes they are necessary or advisable, in the circumstances.
  - ii. They are authorized by a regulation made under clause 57.1 (1) (a).

### **Filing order in court**

(6.11) An order of the Board made under subsection (6.10) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

### **Board rules of practice**

(6.12) Without limiting the generality of subsection 41 (3), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of applications made under subsection (6.3) and matters referred to the Board under subsection (6.5); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (6.3) and in respect of matters referred to it under subsection (6.5), including rules about mediation, about expediting proceedings and about dispensing with hearings.

### **Time for Board decision**

(6.13) The Board shall give its decision within two months after the date final written submissions are required to be filed under subsection (6.6).

### **Board decision, reasons and enforcement**

(6.14) Subsections (2), (3.2), (3.3) and (8) apply to the Board's decision, with necessary modifications.

### **Execution of agreement**

(6.15) Subsections 50.6 (5), (6) and (7) apply to the Board's decision, with necessary modifications.

### **Fees**

(6.16) The Lieutenant Governor in Council may, by order, establish a schedule,

- (a) setting out fees to be paid by parties in proceedings under subsection (6.5); and
- (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

### **No participation if fees unpaid**

(6.17) A party may participate in a proceeding under subsection (6.5) only if its fees have been paid in accordance with the schedule.

### **Fees to Consolidated Revenue Fund**

(6.18) If the schedule makes fees payable to the Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

### **Schedule not a regulation**

(6.19) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

### **Publication**

(6.20) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

### **(3) Subsection 50.5 (9) of the Act is repealed and the following substituted:**

#### **Non-application**

(9) The *Arbitration Act, 1991* and the *Statutory Powers Procedure Act* do not apply with respect to,

- (a) an arbitration under this Part;
- (b) an application under subsection (6.3);
- (c) a matter that is deemed to have been referred to the Board under subsection (6.5).

### **5. The Act is amended by adding the following section:**

#### **Transition**

**50.9** (1) Subsections 50.5 (3.1) to (3.3) and (5) to (6.20) apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

#### **Same**

(2) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the board of arbitration on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 50.5 (5); and
- (b) the board of arbitration shall give its decision on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 50.5 (6).

### **6. Part IX of the Act is amended by adding the following section:**

**Regulations, Lieutenant Governor in Council**

**57.1** (1) The Lieutenant Governor in Council may make regulations,

- (a) for the purposes of paragraph 2 of subsection 50.5 (6.10), authorizing actions that the Board may take and orders that it may make;
- (b) dealing with any transitional matters relating to the enactment of Schedule 4 to the *Protecting Public Services Act, 2012*.

**Scope of authorizing regulation**

(2) Without limiting the generality of clause (1) (a), a regulation made under that clause may authorize the Board to,

- (a) make its own inquiries about the criteria set out in subsection 50.5 (2);
- (b) order that the collective agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;
- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (3).

**Test for order under cl. (2) (c)**

(3) The Board may make an order under clause (2) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

**Commencement**

**7. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 5  
HOSPITAL LABOUR DISPUTES ARBITRATION ACT**

**1. Subsection 1 (1) of the *Hospital Labour Disputes Arbitration Act* is amended by adding the following definition:**

“referral date” means the date on which the notice from the Minister informing the parties that the conciliation officer has been unable to effect a collective agreement is deemed to have been received, in accordance with section 15. (“date de renvoi”)

**2. Section 2 of the Act is amended by adding the following subsection:**

**Same**

(2.1) Sections 110, 111 and 112, subsections 114 (1) and (3), and sections 116, 117, 118, 120, 121, 122 and 123 of the *Labour Relations Act, 1995* apply, with necessary modifications, to the Board and anything it does under this Act.

**3. (1) Subsection 6 (9) of the Act is amended by striking out “within the time set out in subsection 9 (4) or within the time extended under subsection 9 (5)”.**

**(2) Subsection 6 (10) of the Act is amended by striking out “within the time set out in subsection 9 (4) or within the time extended under subsection 9 (5)”.**

**(3) Subsection 6 (11) of the Act is amended by striking out “within the time set out in subsection 9 (4) or within the time extended under subsection 9 (5)”.**

**(4) Subsection 6 (15) of the Act is repealed.**

**4. (1) Section 9 of the Act is amended by adding the following subsections:**

**Submissions re criteria**

(1.4) A party shall make submissions to the board of arbitration on any of the criteria set out in subsection (1.1) in respect of which the party intends to request written reasons from the board.

**Reasons**

(1.5) When the board of arbitration gives its decision, it shall provide written reasons upon the request of either party.

**Same**

(1.6) The written reasons must clearly demonstrate that the board of arbitration has considered the criteria on which a party has made submissions under subsection (1.4), and may deal with other matters as the board considers appropriate.

**(2) Subsection 9 (3) of the Act is repealed and the following substituted:**

**Procedure**

(3) The *Arbitration Act, 1991* does not apply with respect to,

- (a) an arbitration under this Act;
- (b) an application under subsection (8);
- (c) a matter that is deemed to have been referred to the Board under subsection (10).

**(3) Subsections 9 (4) and (5) of the Act are repealed and the following substituted:**

**Time for final submissions**

(4) If the board of arbitration has not given its decision on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the board, including,

- (a) any submissions required by subsection (1.4); and
- (b) a list of any matters that the parties have already agreed upon.

**Time for decision**

(5) The board of arbitration shall give its decision on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (8).

**Same**

(6) The 16-month deadline applies,

- (a) even if replacements have been appointed under one or more of subsections 6 (8), (9), (10), (11), (14) and (18.4);
- (b) even if one or both of the parties fail to make final written submissions in accordance with subsection (4).

**Same**

(7) Even if subsection 10 (2) applies after the referral date, it does not operate so as to extend the 16-month deadline and, despite the operation of that subsection, the board shall give its decision on or before the date that is 16 months after the referral date.

**Application to OLRB for extension**

(8) The parties may jointly apply to the Ontario Labour Relations Board for an order extending the 16-month deadline, and in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

### **Termination of board of arbitration**

(9) The appointment of the board of arbitration is immediately terminated if it fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.
2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the board of arbitration has not given its decision before the expiry of the extension period.

### **Deemed referral to OLRB**

(10) If the appointment of the board of arbitration is terminated under subsection (9), all outstanding matters in dispute are immediately deemed to have been referred to the Ontario Labour Relations Board for its decision.

### **Final submissions**

(11) Within seven days after the deemed referral, the parties shall file their final written submissions with the Ontario Labour Relations Board.

### **Same**

(12) A party that made final written submissions to the board of arbitration in accordance with subsection (4) shall file the same submissions with the Ontario Labour Relations Board, and they constitute the party's final written submissions under subsection (11).

### **Same**

(13) A party that did not make final written submissions to the board of arbitration in accordance with subsection (4) shall file final written submissions with the Ontario Labour Relations Board, including, at a minimum, any submissions required by subsection (1.4), and they constitute the party's final written submissions under subsection (11).

**OLRB decision if submissions filed**

(14) If one or both parties file final written submissions under subsection (11), the Ontario Labour Relations Board shall make its decision on the basis of those submissions, unless the Board believes that it is necessary or advisable in the circumstances to order otherwise.

**OLRB powers if no submissions filed**

(15) If neither party files final written submissions under subsection (11), the Ontario Labour Relations Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (17) it believes is necessary or advisable, in the circumstances, to assist it in making a decision under subsection (10).
2. Take any actions and make any orders that meet both of the following conditions:
  - i. the Board believes they are necessary or advisable, in the circumstances, and
  - ii. they are authorized by a regulation made under clause 19 (1) (d.1).

**Filing order in court**

(16) An order of the Ontario Labour Relations Board made under subsection (15) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

**Board rules of practice**

(17) Without limiting the generality of subsection 2 (2.1), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of applications made under subsection (8) and matters referred to the Ontario Labour Relations Board under subsection (10); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (8) and in respect of matters referred to it under subsection (10), including rules about mediation, about expediting proceedings and about dispensing with hearings.

**Time for OLRB decision**

(18) The Ontario Labour Relations Board shall give its decision within two months after the date final written submissions are required to be filed under subsection (11).

**OLRB decision, reasons and filing**

(19) Subsections (1.1), (1.5) and (1.6) and section 16 apply to the Ontario Labour Relations Board's decision, with necessary modifications.

**Execution of agreement**

(20) Subsections 10 (5) to (13) apply to the Ontario Labour Relations Board's decision, with necessary modifications.

**Fees**

(21) The Lieutenant Governor in Council may, by order, establish a schedule,

- (a) setting out fees to be paid by parties in proceedings under subsection (10); and
- (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

**No participation if fees unpaid**

(22) A party may participate in a proceeding under subsection (10) only if its fees have been paid in accordance with the schedule.

**Fees to Consolidated Revenue Fund**

(23) If the schedule makes fees payable to the Ontario Labour Relations Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

**Schedule not a regulation**

(24) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

**Publication**

(25) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

**5. The Act is amended by adding the following section:****Transition**

**17.1** (1) Subsections 9 (1.4) to (1.6) and (4) to (25) apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

**Same**

(2) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the board of arbitration on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 9 (4); and

- (b) the board of arbitration shall give its decision on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 9 (5).

**6. Section 18 of the Act is repealed and the following substituted:**

**Procedure**

**18.** The *Statutory Powers Procedure Act* does not apply to,

- (a) proceedings before a board of arbitration established under this Act;
- (b) an application under subsection 9 (8);
- (c) a matter that is deemed to have been referred to the Board under subsection 9 (10).

**7. (1) Section 19 of the Act is amended by adding the following clauses:**

- (d.1) for the purposes of paragraph 2 of subsection 9 (15), authorizing actions that the Ontario Labour Relations Board may take and orders that it may make;
- (d.2) dealing with any transitional matters relating to the enactment of Schedule 5 to the *Protecting Public Services Act, 2012*.

**(2) Section 19 of the Act is amended by adding the following subsections:**

**Scope of authorizing regulation**

(2) Without limiting the generality of clause (1) (d.1), a regulation made under that clause may authorize the Ontario Labour Relations Board to,

- (a) make its own inquiries about the criteria set out in subsection 9 (1.1);
- (b) order that the collective agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;
- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (3).

**Test for order under cl. (2) (c)**

(3) The Ontario Labour Relations Board may make an order under clause (2) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

**Commencement**

**8. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

DRAFT

**SCHEDULE 6  
POLICE SERVICES ACT**

**1. Section 114 of the *Police Services Act* is amended by adding the following definition:**

“referral date” means the date on which the notice from the Solicitor General informing the parties that the conciliation officer has been unable to effect an agreement is deemed to have been released, in accordance with subsection 121 (7); (“date de renvoi”)

**2. Subsections 121 (2), (3), (4) and (5) of the Act are repealed and the following substituted:**

**Duty of conciliation officer**

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement.

**Report to Solicitor General**

(3) Within 14 days after being appointed, the conciliation officer shall report the results of his or her endeavour to the Solicitor General in writing.

**Time may be extended**

(4) The 14-day period may be extended,

- (a) by the parties jointly; or
- (b) by the Solicitor General, if the conciliation officer advises him or her that, with an extension, an agreement may be made within a reasonable period of time.

**Notice to parties**

(5) The Solicitor General shall promptly, by notice in writing, inform the parties of the conciliation officer’s report.

**Notice to Arbitration Commission**

(6) If the Solicitor General’s notice informs the parties that the conciliation officer has been unable to effect an agreement, the Solicitor General shall provide a copy of the notice to the chair of the Arbitration Commission.

**Time of release of notice**

(7) The Solicitor General’s notice to the parties informing them of the conciliation officer’s report,

- (a) if sent by mail and addressed to a party’s last known address, is deemed to have been released on the second day after the day on which it was mailed; or

- (b) if delivered to a party's last known address, is deemed to have been released on the day after the day on which it was delivered.

**3. (1) Subsection 122 (1) of the Act is repealed and the following substituted:**

**Arbitration**

(1) If the Solicitor General informs the parties under subsection 121 (5) that the conciliation officer has been unable to effect an agreement, the matters remaining in dispute between the parties shall be decided by arbitration in accordance with this section.

**(2) Subsections 122 (3.5) and (3.6) of the Act are repealed.**

**(3) Section 122 of the Act is amended by adding the following subsections:**

**Submissions re criteria**

(5.3) A party shall make submissions to the arbitration board on any of the criteria set out in subsection (5) in respect of which the party intends to request written reasons from the board.

**Reasons**

(5.4) When the arbitration board gives its decision or award, it shall provide written reasons upon the request of either party.

**Same**

(5.5) The written reasons must clearly demonstrate that the arbitration board has considered the criteria on which a party has made submissions under subsection (5.3), and may deal with other matters as the board considers appropriate.

**Time for final submissions**

(5.6) If the arbitration board has not given its decision or award on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the board, including,

- (a) any submissions required by subsection (5.3); and
- (b) a list of any matters that the parties have already agreed upon.

**Time for decision or award**

(5.7) The arbitration board shall give its decision or award on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (5.9).

**Same**

(5.8) The 16-month deadline applies even if one or both of the parties fail to make final written submissions in accordance with subsection (5.6).

### **Application to OLRB for extension**

(5.9) The parties may jointly apply to the Ontario Labour Relations Board for an order extending the 16-month deadline, and in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

### **Termination of arbitration board**

(5.10) The appointment of the arbitration board is immediately terminated if it fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.
2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the arbitration board has not given its decision or award before the expiry of the extension period.

### **Deemed referral to OLRB**

(5.11) If the appointment of the arbitration board is terminated under subsection (5.10), all outstanding matters in dispute are immediately deemed to have been referred to the Ontario Labour Relations Board for its decision or award.

### **Final submissions**

(5.12) Within seven days after the deemed referral, the parties shall file their final written submissions with the Ontario Labour Relations Board.

### **Same**

(5.13) A party that made final written submissions to the arbitration board in accordance with subsection (5.6) shall file the same submissions with the Ontario Labour Relations Board, and they constitute the party's final written submissions under subsection (5.12).

**Same**

(5.14) A party that did not make final written submissions to the arbitration board in accordance with subsection (5.6) shall file written submissions with the Ontario Labour Relations Board, including, at a minimum, any submissions required by subsection (5.3), and they constitute the party's final written submissions under subsection (5.12).

**OLRB decision or award if submissions filed**

(5.15) If one or both parties file final written submissions under subsection (5.12), the Ontario Labour Relations Board shall give its decision or award on the basis of those submissions, unless the Board believes it is necessary or advisable, in the circumstances, to order otherwise.

**OLRB powers if no submissions filed**

(5.16) If neither party files final written submissions under subsection (5.12), the Ontario Labour Relations Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (5.18) it believes is necessary or advisable, in the circumstances, to assist it in making a decision or award under subsection (5.11).
2. Take any actions and make any orders that meet both of the following conditions:
  - i. the Board believes they are necessary or advisable, in the circumstances, and
  - ii. they are authorized by a regulation made under clause 122.3 (1) (a).

**Filing order in court**

(5.17) An order of the Ontario Labour Relations Board made under subsection (5.16) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

**OLRB rules of practice**

(5.18) Without limiting the generality of subsection (7), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of applications made under subsection (5.9) and matters referred to the Ontario Labour Relations Board under subsection (5.11); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (5.9) and in respect of matters referred to it under subsection (5.11), including rules about mediation, about expediting proceedings and about dispensing with hearings.

**Time for OLRB decision or award**

(5.19) The Ontario Labour Relations Board shall give its decision or award within two months after the date final written submissions are required to be filed under subsection (5.12).

**Criteria, reasons and filing**

(5.20) Subsections (5), (5.4), (5.5) and (6) apply to the Ontario Labour Relations Board's decision or award, with necessary modifications.

**Fees**

(5.21) The Lieutenant Governor in Council may, by order, establish a schedule,

- (a) setting out fees to be paid by parties in proceedings under subsection (5.11); and
- (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

**No participation if fees unpaid**

(5.22) A party may participate in a proceeding under subsection (5.11) only if its fees have been paid in accordance with the schedule.

**Fees to Consolidated Revenue Fund**

(5.23) If the schedule makes fees payable to the Ontario Labour Relations Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

**Schedule not a regulation**

(5.24) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

**Publication**

(5.25) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

**Application of *Labour Relations Act, 1995***

(7) Sections 110, 111 and 112, subsections 114 (1) and (3), and sections 116, 117, 118, 120, 121, 122 and 123 of the *Labour Relations Act, 1995* apply, with necessary modifications, to the Ontario Labour Relations Board and anything it does under this Act.

**4. The Act is amended by adding the following sections:****Transition**

**122.2** (1) Subsection 122 (1), as re-enacted by subsection 3 (1) of Schedule 6 to the *Protecting Public Services Act, 2012*, subsections 122 (5.3) to (5.25), and section 125, as amended by section 5 of Schedule 6 to the *Protecting Public Services Act, 2012*, apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

**Same**

(2) Sections 121 and 122, as they read immediately before (*intro date of bill*), continue to apply if the referral date falls before (*intro date of bill*).

**Same**

(3) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the arbitration board on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 122 (5.6); and
- (b) the arbitration board shall give its decision or award on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 122 (5.7).

**Regulations**

**122.3** (1) The Lieutenant Governor in Council may make regulations,

- (a) for the purposes of paragraph 2 of subsection 122 (5.16), authorizing actions that the Ontario Labour Relations Board may take and orders that it may make;
- (b) dealing with any transitional matters relating to the enactment of Schedule 6 to the *Protecting Public Services Act, 2012*.

**Scope of authorizing regulation**

(2) Without limiting the generality of clause (1) (a), a regulation made under that clause may authorize the Ontario Labour Relations Board to,

- (a) make its own inquiries about the criteria set out in subsection 122 (5);
- (b) order that the agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;
- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (3).

**Test for order under cl. (2) (c)**

(3) The Ontario Labour Relations Board may make an order under clause (2) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

5. Section 125 of the Act is amended by striking out “mentioned in this Part” at the end and substituting “mentioned in this Part, except any periods of time mentioned in subsections 122 (5.3) to (5.25)”.

6. Section 127 of the Act is repealed and the following substituted:

**Non-application of *Arbitration Act, 1991***

127. The *Arbitration Act, 1991* does not apply with respect to,

- (a) an arbitration under this Part;
- (b) an application under subsection 122 (5.9); or
- (c) a matter that is deemed to have been referred to the Ontario Labour Relations Board under subsection 122 (5.11).

**Non-application of *SPPA***

127.1 The *Statutory Powers Procedure Act* does not apply to,

- (a) an arbitration under this Part;
- (b) an application under subsection 122 (5.9); or
- (c) a matter that is deemed to have been referred to the Ontario Labour Relations Board under subsection 122 (5.11).

**Commencement**

7. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

## SCHEDULE 7

### TORONTO TRANSIT COMMISSION LABOUR DISPUTES RESOLUTION ACT, 2011

**1. Subsection 1 (1) of the *Toronto Transit Commission Labour Disputes Resolution Act, 2011* is amended by adding the following definitions:**

“Board” means the Ontario Labour Relations Board; (“Commission”)

“referral date” means the date on which the notice from the Minister informing the parties that the conciliation officer has been unable to effect a collective agreement is deemed to have been received, in accordance with section 18. (“date de renvoi”)

**2. Section 2 of the Act is amended by adding the following subsection:**

**Same**

(3) Sections 110, 111 and 112, subsections 114 (1) and (3), and sections 116, 117, 118, 120, 121, 122 and 123 of the *Labour Relations Act, 1995* apply, with necessary modifications, to the Board and to anything it does under this Act.

**3. Subsection 7 (3) of the Act is repealed.**

**4. (1) Section 10 of the Act is amended by adding the following subsections:**

**Submissions re criteria**

(2.1) A party shall make submissions to the arbitrator on any of the criteria set out in subsection (2) in respect of which the party intends to request written reasons from the arbitrator.

**Reasons**

(2.2) When the arbitrator makes an award, he or she shall provide written reasons upon the request of either party.

**Same**

(2.3) The written reasons must clearly demonstrate that the arbitrator has considered the criteria on which a party has made submissions under subsection (2.1), and may deal with other matters as the arbitrator considers appropriate.

**(2) Subsections 10 (6) and (7) of the Act are repealed and the following substituted:**

**Time for final submissions**

(6) If the arbitrator has not made an award on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the arbitrator, including,

- (a) any submissions required by subsection (2.1); and
- (b) a list of any matters that the parties have already agreed upon.

**Time for award**

(7) The arbitrator shall make an award on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (9).

**Same**

- (8) The 16-month deadline applies,
  - (a) even if replacements have been appointed under subsection 5 (5) or 8 (4) or both;
  - (b) even if one or both of the parties fail to make final written submissions in accordance with subsection (6).

**Application to Board for extension**

(9) The parties may jointly apply to the Board for an order extending the 16-month deadline, and in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

**Termination of arbitrator's appointment**

(10) The arbitrator's appointment is immediately terminated if he or she fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.
2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the arbitrator has not made an award before the expiry of the extension period.

**Deemed referral to Board**

(11) If the arbitrator's appointment is terminated under subsection (10), all outstanding matters in dispute are immediately deemed to have been referred to the Board for an award.

**Final submissions**

(12) Within seven days after the deemed referral, the parties shall file their final written submissions with the Board.

**Same**

(13) A party that made final written submissions to the arbitrator in accordance with subsection (6) shall file the same submissions with the Board, and they constitute the party's final written submissions under subsection (12).

**Same**

(14) A party that did not make final written submissions to the arbitrator in accordance with subsection (6) shall file final written submissions with the Board, including, at a minimum, any submissions required by subsection (2.1), and they constitute the party's final written submissions under subsection (12).

**Board award if submissions filed**

(15) If one or both parties file final written submissions under subsection (12), the Board shall make its award on the basis of those submissions, unless the Board believes that it is necessary or advisable, in the circumstances, to order otherwise.

**Board powers if no submissions filed**

(16) If neither party files final written submissions under subsection (12), the Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (18) it believes is necessary or advisable, in the circumstances, to assist it in making an award under subsection (11).
2. Take any actions and make any orders that meet both of the following conditions:
  - i. the Board believes they are necessary or advisable, in the circumstances, and
  - ii. they are authorized by a regulation made under clause 21.1 (1) (a).

**Filing order in court**

(17) An order of the Board made under subsection (16) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

**Board rules of practice**

(18) Without limiting the generality of subsection 2 (3), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of

applications made under subsection (9) and matters referred to the Board under subsection (11); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (9) and in respect of matters referred to it under subsection (11), including rules about mediation, about expediting proceedings and about dispensing with hearings.

**Time for Board award**

(19) The Board shall make its award within two months after the date final written submissions are required to be filed under subsection (12).

**Board award, reasons and filing**

(20) Subsections (2), (2.2) and (2.3) and section 19 apply to the Board's award, with necessary modifications.

**Execution of agreement**

(21) Subsections 13 (5), (6) and (7) apply to the Board's award, with necessary modifications.

**Fees**

(22) The Lieutenant Governor in Council may, by order, establish a schedule,

- (a) setting out fees to be paid by parties in proceedings under subsection (11); and
- (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

**No participation if fees unpaid**

(23) A party may participate in a proceeding under subsection (11) only if its fees have been paid in accordance with the schedule.

**Fees to Consolidated Revenue Fund**

(24) If the schedule makes fees payable to the Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

**Schedule not a regulation**

(25) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

**Publication**

(26) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

**5. The Act is amended by adding the following section:**

### **Transition**

**20.1** (1) Subsections 10 (2.1) to (2.3) and (6) to (26) apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

### **Same**

(2) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the arbitrator on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 10 (6); and
- (b) the arbitrator shall give his or her decision on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 10 (7).

### **6. The Act is amended by adding the following section:**

#### **Regulations, Lieutenant Governor in Council**

**21.1** (1) The Lieutenant Governor in Council may make regulations,

- (a) for the purposes of paragraph 2 of subsection 10 (16), authorizing actions that the Board may take and orders that it may make;
- (b) dealing with any transitional matters relating to the enactment of Schedule 7 to the *Protecting Public Services Act, 2012*.

#### **Scope of authorizing regulation**

(2) Without limiting the generality of clause (1) (a), a regulation made under that clause may authorize the Board to,

- (a) make its own inquiries about the criteria set out in subsection 10 (2);
- (b) order that the collective agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;
- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (3).

#### **Test for order under cl. (2) (c)**

(3) The Board may make an order under clause (2) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

**Commencement**

**7. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

DRAFT

**SCHEDULE 8**  
**ONTARIO PROVINCIAL POLICE COLLECTIVE BARGAINING ACT, 2006**

**1. (1) The heading immediately before section 1 and section 1 of the *Ontario Provincial Police Collective Bargaining Act, 2006* are repealed and the following substituted:**

DEFINITIONS

**Definitions**

**1.** In this Act,

“agreement” means an agreement in writing between the parties; (“convention”)

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 131 (1) of the *Police Services Act*; (“Commission d’arbitrage”)

“Association” means the Ontario Provincial Police Association; (“association”)

“bargaining unit” means a bargaining unit described in subsection 2 (1); (“unité de négociation”)

“employer” means the Crown in right of Ontario as represented by the Minister of Government Services; (“employeur”)

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“Negotiating Committee” means the Ontario Provincial Police Negotiating Committee continued under section 3; (“comité de négociation”)

“party” means the Association, on the one hand, or the employer, on the other hand, and

“parties” means the two of them; (“partie”, “parties”)

“public servant” has the same meaning as in the *Public Service of Ontario Act, 2006*; (“fonctionnaire”)

“referral date” means the date on which the notice from the Minister informing the parties that the conciliation officer has been unable to effect an agreement is deemed to have been released, in accordance with subsection 2.2 (7). (“date de renvoi”)

**(2) Section 1 of the Act, as re-enacted by subsection (1), is amended by adding the following definition:**

“commissioned officer” means a police officer of the Ontario Provincial Police named to the rank of commissioned officer under subsection 18 (3) of the *Police Services Act*; (“officier”)

**(3) The definition of “Negotiating Committee” in section 1 of the Act, as re-enacted by subsection (1), is repealed.**

**2. The Act is amended by adding the following heading immediately before section 1.1:**

COLLECTIVE BARGAINING

**3. (1) Subsection 2 (1) of the Act is amended by striking out “This Act applies to persons who are part of the following bargaining units” in the portion before paragraph 1 and substituting “The following bargaining units are bargaining units for the purposes of this Act”.**

**(2) Subsections 2 (2), (3) and (4) of the Act are repealed and the following substituted:**

**Bargaining agent**

(2) The Association is the exclusive bargaining agent for employees in a bargaining unit, except with respect to matters that are exclusively the function of the employer.

**Limitation**

(3) Without limiting the generality of subsection (2), the matters about which the Association may bargain with the employer on behalf of employees in a bargaining unit include the following:

1. Rates of remuneration.
2. Hours of work.
3. Overtime and other premium allowance for work performed.
4. The rate payable to an employee for kilometres travelled when the employee is required to use his or her own automobile on the employer’s business.
5. Benefits pertaining to time not worked by employees, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance.
6. The procedures applicable to the processing of grievances.
7. The methods of effecting promotions, demotions, transfers, lay-offs or reappointments.

8. The conditions applicable to leaves of absence, other than for an elective public office, political activities or training and development.
9. The manner in which the parties carry out their functions and obligations under the *Pay Equity Act*.

### **Questions as to bargaining unit**

(4) If, in the course of bargaining for an agreement or during the period of operation of an agreement, a question arises as to whether a public servant is a person described in paragraph 2 of subsection (1), the question may be referred to the Ontario Labour Relations Board, and the decision of the Board is final.

### **4. The Act is amended by adding the following sections:**

#### **Notice of desire to bargain**

**2.1** (1) If no agreement exists or at any time after 90 days before an agreement expires, either party to an existing agreement may give notice in writing to the other party of its desire to bargain with a view to making an agreement, renewing an existing agreement, with or without modifications, or making a new agreement.

#### **Obligation to bargain**

(2) Within 15 days after a notice of desire to bargain is given or within a longer period agreed on by the parties, the parties shall commence bargaining and shall bargain in good faith and make every reasonable effort to come to an agreement.

### **CONCILIATION**

#### **Appointment of conciliation officer**

**2.2** (1) The Minister shall appoint a conciliation officer, at a party's request, if notice of desire to bargain has been given under section 2.1.

#### **Duty of conciliation officer**

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement.

#### **Report to Minister**

(3) Within 14 days after being appointed, the conciliation officer shall report the results of his or her endeavour to the Minister in writing.

#### **Extension of time**

(4) The 14-day period may be extended,

- (a) by the parties jointly; or

- (b) by the Minister, if the conciliation officer advises him or her that, with an extension, an agreement may be made within a reasonable period of time.

### **Notice to parties**

(5) The Minister shall promptly, by notice in writing, inform the parties of the conciliation officer's report.

### **Notice to Arbitration Commission**

(6) If the Minister's notice informs the parties that the conciliation officer has been unable to effect an agreement, the Minister shall provide a copy of the notice to the chair of the Arbitration Commission.

### **Time of release of notice**

- (7) The Minister's notice to parties informing them of the conciliation officer's report,
  - (a) if sent by mail and addressed to the employer or Association at its last known address, is deemed to have been released on the second day after the day on which it was mailed; or
  - (b) if delivered to the employer or Association at its last known address, is deemed to have been released on the day after the day on which it was delivered.

## ARBITRATION

### **Arbitration**

**2.3** If the Minister informs the parties under subsection 2.2 (5) that the conciliation officer has been unable to effect an agreement, the matters remaining in dispute between the parties shall be decided by a single arbitrator.

### **Selection of arbitrator**

**2.4** (1) The parties shall jointly appoint an arbitrator.

### **Same**

(2) If one or both of the parties advise the chair of the Arbitration Commission that the parties are unable to jointly appoint an arbitrator, the chair of the Commission shall appoint an arbitrator and shall promptly give written notice to the parties of the name and contact information of the person appointed.

### **Powers of arbitrator**

**2.5** An arbitrator has the power,

- (a) to require any party to furnish particulars before or during a hearing;

- (b) to require any party to produce documents or things that may be relevant to the matter and to do so before or during the hearing;
- (c) to fix dates for the commencement and continuation of hearings;
- (d) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases;
- (e) to administer oaths and affirmations;
- (f) to accept oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;
- (g) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to the arbitrator and inspect and view any work, material, machinery, appliance or article in the premises, and interrogate any person respecting any such thing or any such differences;
- (h) to authorize any person to do anything that the arbitrator may do under clause (g) and report on it to the arbitrator;
- (i) to make interim orders concerning procedural matters; and
- (j) to interpret and apply human rights and other employment-related statutes, despite any conflict between those statutes and the terms of the agreement.

### **Method of arbitration**

#### **Selection by parties**

**2.6** (1) If an arbitrator is appointed by the parties, the parties shall select the method of arbitration.

#### **Default method**

(2) The method of arbitration shall be mediation-arbitration unless the parties select a different method of arbitration.

#### **Selection by chair**

(3) If an arbitrator is appointed by the chair of the Arbitration Commission, the chair shall select the method of arbitration.

#### **Same, mediation-arbitration**

(4) The method of arbitration selected shall be mediation-arbitration unless the chair is of the view that another method is more appropriate.

**Same, final offer selection**

(5) The method of arbitration selected shall not be final offer selection without mediation and it shall not be mediation-final offer selection unless the chair is of the view that it is the most appropriate method having regard to the nature of the dispute.

**Same**

(6) If mediation-final offer selection is the method selected, the arbitrator shall be the mediator.

**Procedure**

**2.7** (1) The arbitrator shall commence proceedings within 30 days after he or she is appointed.

**Time for submission of information**

(2) If the method of arbitration is mediation-arbitration or mediation-final offer selection, the arbitrator may, after consulting with the parties, set a date after which a party may not submit information to the arbitrator, unless,

- (a) the information was not available prior to that date;
- (b) the arbitrator permits the submission of the information; and
- (c) the other party is given an opportunity to make submissions concerning the information.

**Procedure**

(3) The arbitrator shall determine his or her own procedure and shall give full opportunity to the parties to make their submissions and present their cases, but may impose such limits on the submissions of the parties and the presentation of their cases as the arbitrator considers appropriate.

**Consolidation of disputes**

(4) Disputes may be arbitrated together only if all the parties to the disputes agree.

**Criteria**

(5) In making a decision on the matters in dispute, the arbitrator shall take into consideration all the factors he or she considers relevant, including the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the arbitrator's decision, if current funding and taxation levels are not increased.
3. The economic situation in Ontario.

4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.

**Restriction**

(6) Nothing in subsection (5) affects the powers of the arbitrator.

**Limits on arbitrator's power**

(7) In making a decision under this section, an arbitrator shall not require the parties to include in an agreement a term that,

- (a) requires the employer to guarantee an offer of a job for employees whose positions have been or may be eliminated or that otherwise compels the employer to continue to employ them;
- (b) requires the creation of a new classification of employees, the alteration of an existing classification or a change to be made in the classification of an employee; or
- (c) would require for its implementation, either directly or indirectly, the enactment or amendment of legislation, except for the purpose of appropriating money for its implementation.

**Submissions re criteria**

(8) A party shall make submissions to the arbitrator on any of the criteria set out in subsection (5) in respect of which the party intends to request reasons from the arbitrator.

**Reasons**

(9) When the arbitrator gives a decision, he or she shall provide written reasons upon the request of either party.

**Same**

(10) The written reasons must clearly demonstrate that the arbitrator has considered the criteria on which a party has made submissions under subsection (8), and may deal with other matters as the arbitrator considers appropriate.

**Time for final submissions**

(11) If the arbitrator has not given his or her decision on or before the date that is 14 months after the referral date, each of the parties shall, on or before the date that is 15 months after the referral date, make its final written submissions to the arbitrator, including,

- (a) any submissions required by subsection (8); and

- (b) a list of any matters that the parties have already agreed upon.

**Time for decision**

(12) The arbitrator shall give his or her decision on or before the date that is 16 months after the referral date, unless an extension is obtained under subsection (15).

**Same**

(13) The 16-month deadline applies even if one or both of the parties fail to make final written submissions in accordance with subsection (11).

**Filing of decision**

(14) The arbitrator shall promptly file a copy of his or her decision with the Arbitration Commission.

**Application to OLRB for extension**

(15) The parties may jointly apply to the Ontario Labour Relations Board for an order extending the 16-month deadline, and in that case the following rules apply:

1. The application must be filed with the Board before the 16-month deadline expires.
2. The Board,
  - i. must deal with the application on an expedited basis,
  - ii. may grant only one extension in each arbitration proceeding, and
  - iii. may grant an extension only in exceptional circumstances.
3. The extension, if granted, must not exceed two months after the date that is 16 months after the referral date.

**Termination of arbitrator**

(16) The appointment of the arbitrator is immediately terminated if he or she fails to comply with the 16-month deadline and one of the following conditions exists:

1. No application has been made for an extension.
2. An application for an extension has been dismissed.
3. An application for an extension has been granted but the arbitrator has not given his or her decision before the expiry of the extension period.

**Deemed referral to OLRB**

(17) If the appointment of the arbitrator is terminated under subsection (16), all outstanding matters in dispute are immediately deemed to have been referred to the Ontario Labour Relations Board for its decision.

**Final submissions**

(18) Within seven days after the deemed referral, the parties shall file their final written submissions with the Ontario Labour Relations Board.

**Same**

(19) A party that made final written submissions to the arbitrator in accordance with subsection (11) shall file the same submissions with the Ontario Labour Relations Board, and they constitute the party's final written submissions under subsection (18).

**Same**

(20) A party that did not make final written submissions to the arbitrator in accordance with subsection (11) shall file written submissions with the Ontario Labour Relations Board, including, at a minimum, any submissions required by subsection (8), and they constitute the party's final written submissions under subsection (18).

**OLRB decision if submissions filed**

(21) If one or both parties file final written submissions under subsection (18), the Ontario Labour Relations Board shall give its decision on the basis of those submissions, unless the Board believes it is necessary or advisable in the circumstances to order otherwise.

**OLRB powers if no submissions filed**

(22) If neither party files final written submissions under subsection (18), the Ontario Labour Relations Board may, on its own initiative, do one or both of the following:

1. Take whatever action authorized by subsection (24) it believes is necessary or advisable, in the circumstances, to assist it in making a decision under subsection (17).
2. Take any actions and make any orders that meet both of the following conditions:
  - i. the Board believes they are necessary or advisable, in the circumstances, and
  - ii. they are authorized by a regulation made under clause 11 (1) (a).

**Filing order in court**

(23) An order of the Ontario Labour Relations Board made under subsection (22) may be filed in the Superior Court of Justice and it shall be entered in the same way and is enforceable as such.

**OLRB rules of practice**

(24) Without limiting the generality of subsection 21 (3.1), subsections 110 (17) to (22) and 111 (2) of the *Labour Relations Act, 1995* apply, with necessary modifications, in respect of applications made under subsection (15) and matters referred to the Ontario Labour Relations Board under subsection (17); for greater certainty, the Board has authority to make rules in respect of applications made under subsection (15) and in respect of matters referred to it under subsection (17), including rules about mediation, about expediting proceedings and about dispensing with hearings.

**Time for OLRB decision**

(25) The Ontario Labour Relations Board shall give its decision within two months after the date final written submissions are required to be filed under subsection (18).

**Criteria, reasons and filing**

(26) Subsections (5), (9), (10) and (14) apply to the Ontario Labour Relations Board's decision, with necessary modifications.

**Fees**

- (27) The Lieutenant Governor in Council may, by order, establish a schedule,
- (a) setting out fees to be paid by parties in proceedings under subsection (17); and
  - (b) specifying when the fees are due, to whom they shall be paid and the required form of payment.

**No participation if fees unpaid**

(28) A party may participate in a proceeding under subsection (17) only if its fees have been paid in accordance with the schedule.

**Fees to Consolidated Revenue Fund**

(29) If the schedule makes fees payable to the Ontario Labour Relations Board, they shall be paid to the Board for payment into the Consolidated Revenue Fund.

**Schedule not a regulation**

(30) The schedule of fees is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

**Publication**

(31) The schedule of fees shall be published on a government website and may be published in any other way the Lieutenant Governor in Council considers advisable.

**Non-application of *Arbitration Act, 1991***

(32) The *Arbitration Act, 1991* does not apply with respect to,

- (a) an arbitration under this section or sections 2.3, 2.4, 2.5 or 2.6;
- (b) an application under subsection (15); or
- (c) a matter that is deemed to have been referred to the Ontario Labour Relations Board under subsection (17).

### **Non-application of SPPA**

(33) The *Statutory Powers Procedure Act* does not apply with respect to,

- (a) the proceedings or decisions of an arbitrator under this section;
- (b) an application under subsection (15); or
- (c) a matter that is deemed to have been referred to the Ontario Labour Relations Board under subsection (17).

### **Transition**

**2.8** (1) Sections 2.3 and 2.7, as enacted by section 4 of Schedule 8 to the *Protecting Public Services Act, 2012*, apply only to arbitration proceedings in which the referral date falls on or after (*intro date of bill*).

### **Same**

(2) Sections 5 and 6, as they read immediately before (*intro date of bill*), continue to apply if the referral date falls before (*intro date of bill*).

### **Same**

(3) If the referral date falls on or after (*intro date of bill*) but before the date on which this subsection comes into force,

- (a) the parties shall make their final written submissions to the arbitrator on or before the date that is 15 months after the date on which this subsection comes into force, not as provided in subsection 2.7 (11); and
- (b) the arbitrator shall give his or her decision on or before the date that is 16 months after the date on which this subsection comes into force, not as provided in subsection 2.7 (12).

## **5. Sections 3 and 4 of the Act are repealed and the following substituted:**

### **Continued operation during negotiations**

**3.** After the expiry of an agreement between the parties, the terms and conditions of employment under the agreement continue to apply to the parties until the expired agreement is renewed, with or without modifications, or a new agreement is made.

## GRIEVANCE ARBITRATION

### **Arbitration**

4. (1) Every agreement shall provide for the final and binding settlement by arbitration of any grievance,

- (a) concerning working conditions or terms of employment; and
- (b) concerning the interpretation or clarification of any clause in an agreement.

### **Limitation**

(2) Despite subsection (1), the following grievances may not be dealt with by arbitration under this section:

1. A grievance to which the *Police Services Act* or the code of conduct contained in the regulations made under that Act applies.
2. A grievance that relates to pensions for employees in a bargaining unit.
3. A grievance that relates to supplemental pension benefits prescribed under section 11 for employees in a bargaining unit.
4. A grievance that requires the creation of a new classification of employees in a bargaining unit, the alteration of an existing classification of employees in a bargaining unit or a change in the classification of any employee in a bargaining unit.

**6. Sections 5 and 6 of the Act are repealed.**

**7. The Act is amended by adding the following sections:**

### **Selection of arbitrator**

5. (1) The parties shall jointly appoint an arbitrator.

### **Same**

(2) If one or both of the parties advise the chair of the Arbitration Commission that the parties are unable to jointly appoint an arbitrator, the chair of the Commission shall appoint an arbitrator and shall promptly give written notice to the parties of the name and contact information of the person appointed.

### **Powers of arbitrator**

6. An arbitrator has the power,

- (a) to require any party to furnish particulars before or during a hearing;

- (b) to require any party to produce documents or things that may be relevant to the matter and to do so before or during the hearing;
- (c) to fix dates for the commencement and continuation of hearings;
- (d) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases;
- (e) to administer oaths and affirmations;
- (f) to accept oral or written evidence as the arbitrator in his or her discretion considers proper, whether admissible in a court of law or not;
- (g) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to the arbitrator and inspect and view any work, material, machinery, appliance or article in the premises, and interrogate any person respecting any such thing or any such differences;
- (h) to authorize any person to do anything that the arbitrator may do under clause (g) and report on it to the arbitrator;
- (i) to make interim orders concerning procedural matters; and
- (j) to interpret and apply human rights and other employment-related statutes, despite any conflict between those statutes and the terms of the agreement.

### **Procedure**

**6.1** (1) Subject to subsections (2), (3), (4) and (5), the arbitrator shall determine his or her own procedure and shall give full opportunity to the parties to make their submissions and present their cases, but may impose such limits on the submissions of the parties and the presentation of their cases as the arbitrator considers appropriate.

### **Time for decision**

(2) An arbitrator shall make an award within 90 days after he or she is appointed.

### **Same**

(3) The parties may agree to extend the time described in subsection (2), either before or after the time has passed.

### **Non-application of *Arbitration Act, 1991***

(4) The *Arbitration Act, 1991* does not apply with respect to an arbitration under this section or sections 4, 5 or 6 or to an agreement made under any of those sections.

### **Non-application of SPPA**

(5) The *Statutory Powers Procedure Act* does not apply with respect to the proceedings or decisions of an arbitrator under this section.

## MISCELLANEOUS

### **Commissioned Officers Association**

**6.2** The Commissioned Officers Association represents the commissioned officers of the Ontario Provincial Police below the rank of Deputy Commissioner.

### **8. Section 10 of the Act is repealed and the following substituted:**

#### **Implementation of agreements, etc.**

**10.** The Minister of Government Services or such other minister as may be designated under the *Executive Council Act* for the purposes of this section shall by order implement,

- (a) agreements and awards made in accordance with the collective bargaining procedures applicable to public servants employed under Part III of the *Public Service of Ontario Act, 2006* who are represented by the Association;
- (b) decisions of an arbitrator under section 2.7; and
- (c) a decision of the Ontario Labour Relations Board under section 2.7.

### **9. (1) Clause 11 (a) of the Act is repealed and the following substituted:**

- (a) for the purposes of paragraph 2 of subsection 2.7 (22), authorizing actions that the Ontario Labour Relations Board may take and orders that it may make;
- (a.1) dealing with any transitional matters relating to the enactment of Schedule 8 to the *Protecting Public Services Act, 2012*;

### **(2) Section 11 of the Act is amended by adding the following subsections:**

#### **Scope of authorizing regulation**

(2) Without limiting the generality of clause (1) (a), a regulation made under that clause may authorize the Ontario Labour Relations Board to,

- (a) make its own inquiries about the criteria set out in subsection 2.7 (5);
- (b) order that the agreement that most recently applied to the parties is extended for one year from the date on which it expired or would otherwise expire;

- (c) address, by order, any issue related to or arising as a result of an order being made under clause (b), subject to subsection (3).

**Test for order under cl. (2) (c)**

(3) The Ontario Labour Relations Board may make an order under clause (2) (c) only if the Board believes it is necessary or advisable to do so, in the circumstances, in order to serve a labour relations purpose.

**10. (1) The heading before section 21 of the Act is repealed.**

**(2) Section 21 of the Act is amended by adding the following subsection:**

**Same**

(3.1) Sections 110, 111 and 112, subsections 114 (1) and (3), and sections 116, 117, 118, 120, 121, 122 and 123 of the *Labour Relations Act, 1995* apply, with necessary modifications, to the Ontario Labour Relations Board and anything it does under section 2.7.

**Commencement**

**11. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**