



BILL NO. 131

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

An Act to Implement the North American Agreement on Labour Cooperation

CHAPTER 6
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 27, 2008**

The Honourable Mark Parent
Minister of Labour and Workforce Development

*Halifax, Nova Scotia
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An Act to Implement the North American Agreement on Labour Cooperation

Be it enacted by the Governor and Assembly as follows:

WHEREAS the Government of Canada has entered into the North American Agreement on Labor Cooperation with the Government of the United Mexican States and the Government of the United States of America which commits all three countries to close cooperation on labour issues and provide for the effective enforcement of laws relating to the protection of labour standards;

AND WHEREAS the provinces of Canada have significant constitutional authority with respect to the enactment and enforcement of legislation in relation to the protection of labour standards;

AND WHEREAS the Agreement specifically provides and will provide for the separate accession of each of the governments of the provinces of Canada and the Government of Canada and the governments of the provinces of Canada cannot claim the full benefit of the Agreement unless they introduce measures to provide for the implementation of the Agreement;

AND WHEREAS the Government of Canada and the governments of the provinces of Canada, including the Government of Nova Scotia, have negotiated the Canadian Intergovernmental Agreement Regarding the North American Agreement on Labor Cooperation setting out the means whereby the North American Agreement with other countries can best be implemented in the interests of all Canadians;

THEREFORE be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *North American Labor Cooperation Agreement Implementation Act*.

2 In this Act,

(a) “appropriate Commission” means, in respect of a panel determination as defined in Annex 41A of the North American Labor Cooperation Agreement, the Commission for Labour Cooperation established under Article 8 of that Agreement;

(b) “Canadian Intergovernmental Labour Agreement” means the Canadian Intergovernmental Agreement Regarding the North American Agreement on Labor Cooperation signed by the Government of Canada on May 23, 1995;

(c) “North American Labor Cooperation Agreement” means the North American Agreement on Labor Cooperation entered into between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America and signed on September 14, 1993, as amended from time to time in accordance with Article 52 of that Agreement;

(d) “panel” means an arbitral panel convened under Article 29 of the North American Labor Cooperation Agreement;

(e) “panel determination” means a panel determination as defined in Annex 41A of the North American Labor Cooperation Agreement.

3 (1) The Government of the Province may accede to the Canadian Intergovernmental Labour Agreement by passing an order in council.

(2) An appropriate Commission may file a certified copy of a panel determination in the Supreme Court of Nova Scotia and, on being filed, the determination is enforceable as an order of that Court.

4 (1) A panel determination that is made an order of the Supreme Court of Nova Scotia is enforceable against Her Majesty in right of the Province in the same manner as any other order of that Court under the *Proceedings Against the Crown Act*.

(2) Proceedings for enforcement of a panel determination that is made an order of the Supreme Court of Nova Scotia under Section 3 may be taken against Her Majesty in right of the Province only in that Court and only by the appropriate Commission.

(3) In no case may proceedings be taken against a minister of the Crown or an official in that person’s official or personal capacity.

(4) Any proceedings referred to in subsection (2) must be heard and determined in a summary way.

(5) Where any question of fact or of the interpretation of a panel determination arises in any proceedings referred to in subsection (2), the Supreme Court of Nova Scotia shall refer the question to the panel that made the determination, and the decision of the panel on the question is binding on that Court.

(6) No person or body may intervene in any proceedings referred to in subsection (2).

5 (1) Panel determinations, including panel determinations that are enforceable as orders of the Supreme Court of Nova Scotia under Section 3, and orders and decisions made by the Supreme Court of Nova Scotia in any proceedings referred to in subsection 4(2) are final and binding and are not subject to appeal to any court.

(2) Subject to Section 4, no panel determination, including a panel determination that is made enforceable as an order of the Supreme Court of Nova Scotia, no determination or proceedings of a panel made or carried on or purporting to be made or carried on under the North American Labor Cooperation Agreement, no order or decision made by the Supreme Court of Nova Scotia in any proceeding referred to in subsection 4(2) and no proceeding of that Court made or carried on or purporting to be made or carried on under that subsection may be

(a) questioned, reviewed, set aside, removed, prohibited or restrained; or

(b) made the subject of any proceeding in, or any process or order of, any court, whether by way of or in the nature of an application for judicial review, injunction, certiorari, prohibition, quo warranto, mandamus, declaration or otherwise,

on any ground, including the ground that the determination, proceeding, order or decision is beyond the jurisdiction of the panel or the Supreme Court of Nova Scotia, as the case may be, or that, in the course of any proceeding, the panel or the Supreme Court of Nova Scotia for any reason exceeded or lost its jurisdiction.

6 (1) Where

(a) the Government of Canada withdraws from the North American Labor Cooperation Agreement under Article 54 of that Agreement; or

(b) the Government of the Province withdraws from the Canadian Intergovernmental Labour Agreement under Article 14 of that Agreement and thereby signifies its unwillingness to be further bound by the terms of the North American Labor Cooperation Agreement,

the Attorney General shall file a notice of the withdrawal in the Supreme Court of Nova Scotia setting out the agreement from which Canada has withdrawn or in respect of which the Government of the Province signifies its unwillingness to be further bound, and the date on which the withdrawal is effective.

(2) A panel determination made under an agreement referred to in a notice filed under subsection (1) may not be enforced under this Act as of the date of withdrawal set out in the notice.

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