



CARRIED

BILL NO. 7

Government Bill

*1st Session, 61st General Assembly
Nova Scotia
58 Elizabeth II, 2009*

An Act to Amend Chapter 475 of the Revised Statutes, 1989, the Trade Union Act

REPRINTED WITH CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE BY THE
MINISTER OF LABOUR AND WORKFORCE DEVELOPMENT

The Honourable Marilyn More
Minister of Labour and Workforce Development

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

**An Act to Amend Chapter 475
of the Revised Statutes, 1989,
the Trade Union Act, and Other
Statutes Respecting Labour Relations**

Be it enacted by the Governor and Assembly as follows:

1 Section 9 of Chapter 475 of the Revised Statutes, 1989, the *Trade Union Act*, is amended by

- (a) adding “(1)” immediately after the Section number;
- (b) adding “, mediation officer” immediately after “officer” in the second line;
and
- (c) adding the following subsection:

(2) Notwithstanding any other enactment or law, an arbitrator, mediator-arbitrator or member of an arbitration board appointed pursuant to this Act or a collective agreement, whether selected with or without the consent of the parties involved, shall not be compelled or required to give in evidence before any court, body or person having authority to receive evidence, any information of any kind obtained by him or her for the purpose of this Act or in the course of his or her duties under this Act.

2 Clause 19(1)(k) of Chapter 475, as amended by Chapter 61 of the Acts of 2005, is further amended by striking out “56A” in the third line and substituting “54A”.

3 Chapter 475 is further amended by adding immediately after Section 46C the following heading and Section:

MEDIATION-ARBITRATION

46D (1) Notwithstanding any grievance or arbitration provision contained in a collective agreement or deemed to be contained in a collective agreement under subsection (2) of Section 42, the parties to a collective agreement may, at any time, agree to refer one or more grievances to a mediator-arbitrator, for the purpose of resolving the grievances in an expeditious and informal manner.

(2) Where the parties to a collective agreement wish to make use of a mediator-arbitrator but are unable to agree upon one, the Minister shall appoint a mediator-arbitrator upon the request of the parties.

(3) A mediator-arbitrator appointed under this Section shall attempt to assist the parties to the collective agreement to settle the grievance by mediation.

(4) Where the parties to the collective agreement are not able to settle a grievance by mediation, the mediator-arbitrator shall attempt to assist the parties to agree upon the material facts in the dispute and shall then determine the grievance by arbitration.

(5) When determining a grievance by arbitration, a mediator-arbitrator may limit the nature and extent of evidence and submissions and may impose such conditions as the mediator-arbitrator considers appropriate.

(6) A mediator-arbitrator shall deliver a decision within thirty days after completing an arbitration of a grievance.

(7) Sections 43 and 44 apply *mutatis mutandis* to a mediator-arbitrator and a settlement, determination or decision under this Section.

4 Section 21 of Chapter 71 of the Revised Statutes, 1989, the Civil Service Collective Bargaining Act, is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) Notwithstanding any other enactment or law, an adjudicator, mediator-adjudicator or member of an adjudication board appointed pursuant to this Act or a collective agreement, whether selected with or without the consent of the parties involved, shall not be compelled or required to give in evidence before any court, body or person having authority to receive evidence, any information of any kind obtained by him or her for the purpose of this Act or in the course of his or her duties under this Act.

5 Chapter 71 is further amended by adding immediately after Section 37 the following Section:

37A (1) Notwithstanding any grievance or adjudication provision contained in a collective agreement or deemed to be contained in a collective agreement under subsection (2) of Section 33, the parties to a collective agreement may, at any time, agree to refer one or more grievances to a mediator-adjudicator for the purpose of resolving the grievances in an expeditious and informal manner.

(2) Where the parties to a collective agreement wish to make use of a mediator-adjudicator but are unable to agree upon one, the Board shall appoint a mediator-adjudicator upon the request of the parties.

(3) A mediator-adjudicator appointed under this Section shall attempt to assist the parties to the collective agreement to settle the grievance by mediation.

(4) Where the parties to the collective agreement are not able to settle a grievance by mediation, the mediator-adjudicator shall attempt to assist the parties to agree upon the material facts in the dispute and shall then determine the grievance by adjudication.

(5) When determining a grievance by adjudication, a mediator-adjudicator may limit the nature and extent of evidence and submissions and may impose such conditions as the mediator-adjudicator considers appropriate.

(6) A mediator-adjudicator shall deliver a decision within thirty days after completing an adjudication of a grievance.

(7) Section 37 applies *mutatis mutandis* to a mediator-adjudicator and a settlement or decision under this Section.

6 Paragraph 16 of Schedule A to Chapter 103 of the Revised Statutes, 1989, the Corrections Act, is amended by

(a) adding “(1)” immediately after the Paragraph number; and

(b) adding the following Paragraph:

(2) Notwithstanding any other enactment or law, an adjudicator, mediator-adjudicator or member of an adjudication board appointed by the Board pursuant to this Act or a collective agreement, whether selected with or without the consent of the parties involved, shall not be compelled or required to give in evidence before any court, body or person having authority to receive evidence, any information of any kind obtained by him or her for the purpose of this Act or in the course of his or her duties under this Act.

7 Schedule A to Chapter 103, as amended by Chapter 4 of the Acts of 2005, is further amended by adding immediately after Paragraph 33 the following Paragraph:

33A (1) Notwithstanding any grievance or adjudication provision contained in a collective agreement or deemed to be contained in a collective agreement under subparagraph 29(2), the parties to a collective agreement may, at any time, agree to refer one or more grievances to a mediator-adjudicator for the purpose of resolving the grievances in an expeditious and informal manner.

(2) Where the parties to a collective agreement wish to make use of a mediator-adjudicator but are unable to agree upon one, the Board shall appoint a mediator-adjudicator upon the request of the parties.

(3) A mediator-adjudicator appointed under this Paragraph shall attempt to assist the parties to the collective agreement to settle the grievance by mediation.

(4) Where the parties to the collective agreement are not able to settle a grievance by mediation, the mediator-adjudicator shall attempt to assist the parties to agree upon the material facts in the dispute and shall then determine the grievance by adjudication.

(5) When determining a grievance by adjudication, a mediator-adjudicator may limit the nature and extent of evidence and submissions and may impose such conditions as the mediator-adjudicator considers appropriate.

(6) A mediator-adjudicator shall deliver a decision within thirty days after completing an adjudication of a grievance.

(7) Paragraph 33 applies *mutatis mutandis* to a mediator-adjudicator and a settlement or decision under this Paragraph.

8 Section 23 of Chapter 1 of the Acts of 1997, the Highway Workers Collective Bargaining Act, is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) Notwithstanding any other enactment or law, an adjudicator, mediator-adjudicator or member of an adjudication board appointed pursuant to this

Act or a collective agreement, whether selected with or without the consent of the parties involved, shall not be compelled or required to give in evidence before any court, body or person having authority to receive evidence, any information of any kind obtained by him or her for the purpose of this Act or in the course of his or her duties under this Act.

9 Chapter 1 is further amended by adding immediately after Section 39 the following Section:

39A (1) Notwithstanding any grievance or adjudication provision contained in a collective agreement or deemed to be contained in a collective agreement under subsection 35(2), the parties to a collective agreement may, at any time, agree to refer one or more grievances to a mediator-adjudicator for the purpose of resolving the grievances in an expeditious and informal manner.

(2) Where the parties to a collective agreement wish to make use of a mediator- adjudicator but are unable to agree upon one, the Board shall appoint a mediator-adjudicator upon the request of the parties.

(3) A mediator-adjudicator appointed under this Section shall attempt to assist the parties to the collective agreement to settle the grievance by mediation.

(4) Where the parties to the collective agreement are not able to settle a grievance by mediation, the mediator-adjudicator shall attempt to assist the parties to agree upon the material facts in the dispute and shall then determine the grievance by adjudication.

(5) When determining a grievance by adjudication, a mediator-adjudicator may limit the nature and extent of evidence and submissions and may impose such conditions as the mediator-adjudicator considers appropriate.

(6) A mediator-adjudicator shall deliver a decision within thirty days after completing an adjudication of a grievance.

(7) Section 39 applies to *mutatis mutandis* to a mediator-adjudicator and a settlement or decision under this Section.

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