



PUBLIC SERVICE MODERNIZATION ACT (PSMA) AN OVERVIEW OF CHANGES UNDER THE ACT ¹

The *Public Service Modernization Act (PSMA)* brought a number of changes to Labour Relations through the *Public Service Labour Relations Act (PSLRA)* and to Staffing with changes to the *Public Service Employment Act (PSEA)*.

Labour Relations

Grievances

The *PSLRA* brought a number of changes to the grievance system. There are now three types of grievances: individual, group and policy. **Individual** grievances are much like the past; **group** grievances and **policy** grievances. (For more details consult the *Info Key Kit* sheet on Grievances.)

Adjudicators can now award interest in cases of termination, demotion, suspension or financial penalty. They can also interpret and apply the *Canadian Human Rights Act*, and award damages set out in the *CHRC Act* for pain and suffering (maximum of \$20,000) and punitive damages (maximum of \$20,000). (For more detail consult the *Info Key Kit* sheet on *Canadian Human Rights Act*)

Alternate Dispute Resolution/Informal Conflict Management Systems (ICMS)

Deputy heads must, in consultation with the union, establish an information conflict management system. ICMS can apply to any workplace conflict but does not override the grievance process. It is strictly voluntary and individuals have a right to have a union or other representative present. The Union must be notified if the subject-matter of the ICMS involves the interpretation or application of the collective agreement.

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¹ *PSMA Course Handouts*, PSAC Education, April 2005

Consultation and Co-development

It is now mandatory for each deputy head to establish a union-management consultation committee. This includes all Treasury Board departments and separate employers. For many workplaces, UMCC or similar committees are already in place and functioning.

Essential Services

There has been a change in the way essential services. (For more detail consult the *Info Key Kit* sheet on Essential Services)

Strikes

The Union is now required to hold a strike vote among all employees in the bargaining unit – not just Union members. Excluded employees are not covered by this, but members who have been suspended or had their membership revoked are. Every employee must be given a reasonable opportunity to vote and to be informed of the result of the vote.

Unfair Labour Practices

The *PSLRA* now says that a Union cannot expel, suspend, discipline, deny membership, or apply its rules, in a discriminatory manner; after having exhausted the appeals under the Union constitution(s), an individual may also file a complaint with the Board alleging a violation of this provision.

Two-tier Bargaining

This happens during the regular bargaining process. It allows for a single or several Departments to become actively involved in the bargaining process. It only applies to Treasury Board, not separate employers. It is not clear how the issues dealt with through this process will be dealt with in the event of impasse - whether at conciliation or at arbitration.

Staffing

There is a new definition of merit that radically changes the basis for appointments. Relative merit is gone, merit now only means that the person meets the essential qualifications of the position and has certain other “assets” that the department considers important for its current or future needs. (For more detail consult the *Info Key Kit* sheet on *Public Service Employment Act (PSEA)*).

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