

HEALTH SECTOR (FACILITIES SUBSECTOR) COLLECTIVE AGREEMENT ACT

CHAPTER 19

Assented to April 29, 2004

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SCHEDULE

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

“**association of unions**” means the association of trade unions formed under section 19.9 of the *Health Authorities Act* for the health services and support–facilities subsector bargaining unit;

“**Code**” means the *Labour Relations Code*;

“**employee**” means a person who is an employee of an employer and is represented by a trade union;

“**employer**” means an employer in the facilities subsector that is a member of HEABC;

“**facilities subsector**” has the same meaning as in section 19.1 of the *Health Authorities Act*;

“**former collective agreement**” means the collective agreement between HEABC and the association of unions that was in effect immediately before March 31,

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2004, including any letter of understanding or other agreement between the parties that was part of the collective agreement at that time;

“**HEABC**” means the Health Employers Association of British Columbia;

“**parties**” means HEABC and the association of unions;

“**trade unions**” means a trade union that is a member of the association of unions.

Application of the Code

- 2** (1) The Code and the regulations made under it apply in respect of the matters to which this Act applies, but if there is a conflict or an inconsistency between this Act and those enactments, this Act applies.
- (2) The Labour Relations Board has exclusive jurisdiction to decide a question arising under this Act, including any question of a conflict or an inconsistency referred to in subsection (1).

Collective agreement continued

- 3** (1) The following are deemed to constitute a collective agreement between HEABC and the association of unions:
- (a) the former collective agreement, as amended by the provisions referred to in paragraphs (b) to (e);
 - (b) effective 90 days after the date on which this Act comes into force, employer proposal #20-A to revise Article 20.02 of the collective agreement (*Implementation of the 37.5 hour work week*) tabled by HEABC with the association of unions on February 19, 2004;
 - (c) the provisions set out in the Schedule;
 - (d) the provisions with respect to bumping of employees set out in a regulation under section 9;
 - (e) the provisions that are necessary to reflect the 11% wage reduction set out in section 4 (1) or the 10% reduction in compensation determined by the arbitrator under section 5 (4).
- (2) A provision of the collective agreement constituted under subsection (1) that is inconsistent with the change to the collective agreement referred to in subsection (1) (b) is void to the extent of the inconsistency.
- (3) Subsection (1) (d) applies despite the *Health and Social Services Delivery Improvement Act* and the regulations under that Act.
- (4) Subject to the limits set out in the *Health and Social Services Delivery Improvement Act*, the collective agreement constituted under subsection (1) may be varied by agreement between the parties.
- (5) Despite subsection (4), a provision of the collective agreement constituted under subsection (1) that creates an obligation for the government must not be varied unless the Minister of Finance approves the variation.

Wage reduction

- 4** (1) Unless an arbitrator is appointed under section 5, in addition to any reduction that is achieved as a result of the change to the collective agreement that is referred to in section 3 (1) (b), hourly wage rates payable to the employees must be reduced by 11%.
- (2) The reduction under subsection (1) is effective 14 days after the date on which this Act comes into force and is retroactive to April 1, 2004.

Arbitration to determine compensation

- 5** (1) In this section, “**compensation**” means all remuneration, whether in the form of wages or other benefits, referred to in or derived from the following provisions of the former collective agreement:
- (a) wages under Article 48 and wage schedules except for any pay equity adjustments;
 - (b) overtime under Article 21;
 - (c) shift, weekend and trades qualification premiums under Article 22;
 - (d) on-call differential under Article 25;
 - (e) statutory holidays under Article 27;
 - (f) vacations under Article 28;
 - (g) leaves under Articles 29 to 36;
 - (h) health and welfare benefits under Articles 38 to 42.
- (2) The association of unions, within 14 days of the date on which this Act comes into force, may make a request to the minister for the appointment of an arbitrator.
- (3) If the association of unions makes a request in accordance with subsection (2) for the appointment of an arbitrator, the minister must appoint an arbitrator.
- (4) If an arbitrator is appointed under subsection (3), the arbitrator, within 60 days of his or her appointment, must make a written decision that, in addition to any reduction that is achieved as a result of the change to the collective agreement that is referred to in section 3 (1) (b), reduces compensation by 10% of the total compensation payable to the employees.
- (5) The reduction required by subsection (4) is effective 75 days after the date on which this Act comes into force or a later date as determined by the minister, and is retroactive to April 1, 2004.
- (6) The decision of the arbitrator under subsection (4) must include provisions agreed to by the parties.
- (7) Sections 89 to 92 of the *Labour Relations Code* apply in respect of arbitration under this section.

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- (8) A decision of the arbitrator under subsection (4) is final and binding on the parties.
- (9) The arbitrator appointed under subsection (3) has the jurisdiction to phase in implementation of the compensation changes so long as the outcome is consistent with the compensation reduction set out in subsection (4).

Resumption of service

- 6** Immediately after this Act comes into force and despite the *Labour Relations Code*,
- (a) an employer must not lock out or declare a lockout of any of its employees and must terminate any lockout,
 - (b) a trade union and the employees represented by that trade union must not strike or declare a strike and must terminate any strike,
 - (c) every employee must resume his or her duties and work schedules of employment with the employer,
 - (d) any declaration, authorization or direction to go on strike given before or after the coming into force of this Act becomes invalid,
 - (e) an officer or representative of a trade union must not in any manner impede or prevent, or attempt to impede or prevent, any person to whom paragraphs (a) to (c) apply from complying with those paragraphs, and
 - (f) an employer or a person acting on behalf of an employer must not
 - (i) refuse to permit any person to whom paragraphs (a) to (c) apply to resume the duties of his or her employment, or
 - (ii) discharge or in any other manner discipline such a person by reason of the person having been locked out or on strike before the coming into force of this Act.

Collective agreement binding

- 7** A collective agreement constituted under this Act is binding on the parties and on the trade unions, employers and employees affected.

Term of collective agreement

- 8** A collective agreement constituted under this Act expires on March 31, 2006.

Regulations

- 9**
- (1) In this section, “**bumping**” means the exercise of a right of one employee to displace another employee who is on the same seniority list under the collective agreement constituted under this Act.
 - (2) The Lieutenant Governor in Council may make regulations.
 - (3) Without limiting subsection (2), the Lieutenant Governor in Council may make regulations respecting bumping options for employees.

Repeal

- 10** (1) This Act is repealed on September 30, 2004 or on a later date set by regulation of the Lieutenant Governor in Council.
- (2) Despite subsection (1), the collective agreement constituted under this Act is a collective agreement for the purposes of the *Labour Relations Code*, and the collective agreement remains in force until the expiry date of the collective agreement.

Commencement

- 11** This Act comes into force on the date of Royal Assent.

SCHEDULE

- 1** Revise Article 16.01 (c) to read as follows:

- (c) If the vacancy is a temporary one of less than sixty (60) calendar days and the work is not being performed by a float employee, the position shall not be posted and instead filled as follows:
- (i) where practicable by qualified regular employees who have indicated in writing their desire to work in such position consistent with the requirements of Article 14. Should a vacancy under this Article result in backfilling of more than one (1) vacancy (including the initial vacancy) the second vacancy may be filled by an employee registered for casual work, unless the Employer and the Union agree otherwise in good faith. If the application of this paragraph requires the employer to pay overtime to the employee pursuant to Article 19, the proposed move shall not be made;
 - (ii) by employees registered for casual work in accordance with the casual addendum;
 - (iii) in cases of unanticipated or unplanned temporary absences, such temporary absence may first be filled under (ii) for a period of up to seven (7) days.

- 2** Revise Article 19.01 by adding a new subsection (h) to read as follows:

- (h) Where operational requirements necessitate a temporary change in start or stop time by up to a maximum of 2 hours with no change in shift duration, overtime rates pursuant to Article 21 will not be applicable.

If child care transit difficulties or other serious personal circumstances do not permit such a change, employees may decline the change without a repercussion by the employer.