



Public Safety Sécurité publique
Canada Canada

Assistant Deputy Sous-ministre
Minister adjoint

Ottawa, Canada
K1A 0P8

Mr. George Duncan
Chief Administrative Officer
City of Richmond
6911 No. 3 Road
Richmond, British Columbia
V6Y 2C1

Dear Mr. Duncan:

I am writing you as part of the Government of Canada's initiative to reform the labour relations framework for Royal Canadian Mounted Police (RCMP) Members. As you have a BC Municipal Police Unit Agreement for RCMP policing in your municipality, I am providing you with a status update and additional information on the RCMP labour relations regime.

Currently, RCMP Members are represented through the Staff Relations Representatives Program (SRRP). Established in 1974 under Regulation 56 of the RCMP Act, the SRRP provides Members with formal representation on matters that impact their work conditions, including workplace safety, staffing and training. The SRRP provides members with information on RCMP policies and procedures; however, it does not provide for a bargaining agent.

In January 2015, the Supreme Court of Canada (SCC) made a ruling in the Mounted Police Association of Ontario (MPAO) v. Attorney General of Canada case, which found parts of the current RCMP labour relations regime to be unconstitutional. More specifically, the SCC issued a judgment that confirmed RCMP Members' right to "meaningfully associate in the pursuit of collective workplace goals" through collective bargaining. The SCC gave the Government of Canada until January 17, 2016, which was recently extended by 4 months, to enact a labour relations model appropriate to the RCMP, including particularities to address the uniqueness of the policing environment in the context of collective bargaining. The Government has been working diligently towards that goal.

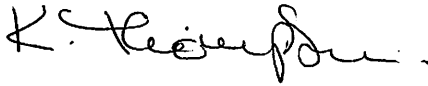
RCMP Members have been consulted to seek their views on a new labour relations regime. As you may be aware, Public Safety Canada held preliminary consultations with the Contract Management Committee (CMC) in August and November, 2015. As a follow-up and given our commitment to the BC Municipal Police Unit Agreement for RCMP policing in your municipality, I would like to provide you with background information on key issues related to the establishment of a model that would reflect the RCMP's unique environment (attached).

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I would request that any comments or questions that have not already been discussed with your CMC representative be provided to the CMC Secretariat at ps.contractmanagementcommitteesecretariat-secretariatducomitedegestiondesententes.sp@canada.ca by February 5, 2016.

I hope you find this information useful.

A handwritten signature in black ink, appearing to read "K. Thompson".

Kathy Thompson
Assistant Deputy Minister
Community Safety and Countering Crime Branch
Public Safety Canada

Enclosure: (1)

RCMP Labour Relations Backgrounder

On January 16, 2015, in the case of *Mounted Police Association of Ontario v. AGC (MPAO)*, the Supreme Court of Canada (SCC) held that section 96 of the *Royal Canadian Mounted Police (RCMP) Regulations*, which establishes the RCMP Staff Relations Representative Program (SRRP), violates s. 2(d) (freedom of association) of the *Canadian Charter of Rights and Freedoms (Charter)* because it substantially interferes with RCMP members' right to engage in a meaningful process of collective bargaining. The SCC also held that the exclusion of RCMP members from the definition of "employee" in the *Public Service Labour Relations Act (PSLRA)* is unconstitutional. The SCC suspended its declaration of invalidity for 12 months, to January 17, 2016, in order to give Parliament time to consider its options. Following a request by the federal government, on January 15, 2016, the SCC granted a four month extension on the declaration of invalidity to May 17, 2016.

In response to this case, a new labour relations regime for the RCMP must be developed. Such a regime must provide RCMP members with choice in determining representation and the workplace issues to be brought forward, be independent of management and include a meaningful process of collective bargaining and dispute resolution.

In the summer 2015, Public Safety officials commenced consultations with the Contract Management Committee (CMC) about the development of a new labour relations regime for the RCMP. For your information you will find below a general overview of freedom of association under the *Charter* and aspects of the labour relations regime under the PSLRA, along with common elements forming part of labour relations and collective bargaining in other Canadian regimes.

GENERAL - FREEDOM OF ASSOCIATION UNDER THE *CHARTER*

Subsection 2(d) of the *Charter* provides for the freedom of association. Case law dealing with labour relations and this *Charter* right generally has evolved over the last few decades. Some of the key elements of freedom of association can be broadly summed up as follows:

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- Assures the right of employees to meaningfully associate in the pursuit of collective workplace goals;
- Provides a procedural right to collective bargaining (*Health Services and Support-Facilities Subsector Bargaining Association v. British Columbia*) with no particular model (*Ontario (Attorney General) v. Fraser*);
- Affords employees with a degree of choice and independence sufficient to enable them to determine and pursue their collective interests (*MPAO* decision);
- Provides for good faith bargaining on important workplace issues and requires the parties to meet and engage in a meaningful dialogue (*Fraser* decision); and,
- Where strike is prohibited, allows for an alternate dispute resolution mechanism to resolve collective bargaining impasses (*Saskatchewan Federation of Labour v. Saskatchewan* (Saskatchewan decision)).

The above noted “freedom of association” elements must be taken into account in any new RCMP labour relations scheme.

GENERAL OVERVIEW OF THE *PUBLIC SERVICE LABOUR RELATIONS ACT* (PSLRA)

The PSLRA establishes the comprehensive labour relations framework that is currently in place for the federal public service. The legislation sets out the regime for subjects such as: bargaining agent certification, collective bargaining (including dispute resolution); grievance and adjudication; and exclusions and essential services.

In 2013, the PSLRA was amended to require that arbitration boards be guided by and give preponderance to the employer’s ability to attract and retain an efficient and effective workforce. The workforce must be able to serve the government’s business requirements, meet the needs of Canadians (i.e., recruitment and retention), and be consistent with the government’s fiscal circumstances relative to its stated budgetary policies (i.e. affordability).

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Consideration of several factors for any new regime should also be given to the RCMP's particular operational circumstances as a national police force such as the following:

1) RIGHT TO STRIKE AND BINDING ARBITRATION

It is generally considered that the provision of police services is so fundamentally integral to ensuring the safety and security of the public that no interruption of that service can be tolerated. This is a limitation that is recognized as appropriate by the International Labour Organization, under the *Freedom of Association and Protection of the Right to Organize Convention (1948) No 87* and ratified by Canada.

In most provinces, no right to strike exists and binding arbitration is the dispute resolution method. In British Columbia and Saskatchewan, the right to strike for police officers is effectively eliminated as a result of police officers being declared essential and binding arbitration is in place as the dispute resolution method for bargaining impasses. Under the PSLRA, a similar designation process is used to establish essential service positions and binding arbitration is the dispute resolution method for bargaining units with positions designated 80% or above essential.

2) BARGAINING AGENTS

Some provinces restrict the nature of the employee organization that may represent police officers. BC defines a police officer's union as one in which the majority perform police officer duties. Newfoundland and Labrador limit representation to Royal Newfoundland Constabulary members, but do not restrict affiliation with a provincial or national federation of labour.

The restriction on affiliation with respect to prospective bargaining agents is designated to mitigate the potential for a conflict of loyalty in the event the police are called to intervene in matters related to labour issues of organizations with which the new employee organization is affiliated (e.g., to keep the peace when there is a picket line).

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3) COMPOSITION OF BARGAINING UNITS

To better enable the RCMP to maintain coherent, national human resource policies and support mobility of officers across the country according to needs, consideration could be given to possibly limiting the composition and number of bargaining units that may be certified. Important factors to consider would include whether regional differences in terms and conditions of employment in multiple bargaining units could impede member mobility and make it difficult to maintain integrated policies that apply equally to all. Further, if multiple bargaining units were established on a geographical basis, there might be an upward 'ratcheting' in salary awards, whereby increases provided to one bargaining unit in one geographic area could be incorporated into other agreements without consideration of region-specific factors.

4) WHO COULD BE EXCLUDED FROM REPRESENTATION

Most labour relations regimes, including those applicable to federal public servants (via the PSLRA) and other police forces, exclude certain employees from being represented based on the type of duties of their position or the nature of the work. Therefore, it is normal to exclude positions from the bargaining unit:

- 1) Those positions classified by the employer as being in the executive group (e.g., those who have substantial management responsibility and authority over employees or who have duties and responsibilities dealing formally on behalf of the employer with grievances); and,
- 2) Those who provide advice of a confidential nature related to labour relations, which includes direct involvement in collective bargaining on behalf of the employer, or who have substantial duties and responsibilities in the formulation and determination of such policies or programs.

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5) WHAT MATTERS MAY BE SUBJECT TO BARGAINING

The items that are negotiated and included in a collective agreement vary from one jurisdiction to another. Generally, items forming part of a collective agreement include:

- Labour relations matters (e.g., terms and conditions of employment and grievance procedure, discrimination, health and safety);
- Working conditions (hours of work including scheduling variable hours of work arrangements);
- Leave provisions (e.g., designated paid holidays, vacation leave, sick leave, various types of other leave, such as leave for family-related reasons, bereavement leave, leave for other reasons);
- Pay and duration (e.g., pay administration, duration of collective agreement); and,
- Compensation including rates of pay and various types of allowances and premiums including: shift and weekend premiums, overtime/extra duty, standby, call-back.

Under the PSLRA, matters subject to collective bargaining include: rates of pay; leave hours of work; paid leave, use of employer facilities, grievance procedures, sexual harassment, discrimination, etc.

**6) MATTERS THAT MAY BE RESTRICTED FROM BEING INCLUDED IN A
COLLECTIVE AGREEMENT**

These vary from jurisdiction to jurisdiction. Under the PSLRA, matters excluded from collective bargaining are: pensions; staffing; and any other matters that would require the enactment or amendment of any legislation.