

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ASSOCIATION OF JUSTICE COUNSEL

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF HÉLÈNE LAURENDEAU

I, Hélène Laurendeau, public servant, of the City of Gatineau, in the Province of Quebec, MAKE OATH AND SAY:

1. I am the Assistant Deputy Minister, Compensation and Labour Relations Sector, at the Treasury Board Secretariat.
2. In my position, I am responsible for the management of labour-management relations in the core public administration for which the Treasury Board is the employer. I am also responsible for compensation operations for the broader federal public administration, including separate agencies, the Royal Canadian Mounted Police members and the Canadian Forces members. As such, I have personal knowledge of the matters to which I herein depose. Where my knowledge was obtained through information received from others, I verily believe that information to be reliable and true.

3. I have been employed with the Government since 1991 starting my career at the Department of Justice. I joined the Secretariat in 1999 as Assistant Secretary, Labour Relations until 2002 and then as Assistant Secretary, Risk Management, Human Resources until 2003. For a period of one year, I held the position of Special Advisor to the Clerk of the Privy Council on Cabinet confidences. I have held my current position since 2004. I am a lawyer by training and worked in private practice for 5 years before joining the Government. My practice areas were administrative law, labour relations and human rights.

A. INTRODUCTION

1) *Canada's Public Service*

4. The core public administration is defined in section 11(1) of the *Financial Administration Act*, ("FAA") as "those departments named in Schedule I and the other portions of the federal public administration named in Schedule IV". Schedules I and IV of the *FAA*, copies of which are attached hereto and marked as **Exhibits "A"** and **"B"**, list the departments and agencies that comprise the core public administration.

5. The public service is also comprised of a number of separate agencies. Schedule V of the *FAA*, a copy of which is attached hereto and marked as **Exhibit "C"**, lists these separate agencies. Deputy heads of separate agencies are responsible for the management of their human resources, including job classification, salaries and other terms and conditions of employment. With the exception of the Canada Revenue Agency, the President of the Treasury Board approves separate agencies' mandates for collective bargaining. Separate agencies receive their authority to sign a collective agreement by the Governor in Council so long as it is in accordance with the approved mandate. As such, pursuant to Section 112 of the *Public Service Labour*

Relations Act (“*PSLRA*”), a separate agency may, with the approval of the Governor in Council, enter into a collective agreement with the bargaining agent for a bargaining union composed of employees of the separate agency.

6. Together the core public administration, separate agencies and any other portion of the federal public administration that is so designated by the Governor in Council form the ‘public service’ within the meaning of the *FAA*.

7. As of March 31, 2009, there were approximately 209,523 active indeterminate employees in the core public administration, of these approximately 177,649 were unionized. In addition, the RCMP employed approximately 23,624 members and the Canadian Forces had approximately 93,583 members. As of the same date, separate agencies employed approximately 64,847 employees, 56,453 of which were unionized. Attached hereto and marked as **Exhibit “D”** is a table showing the number of employees within the core public administration by occupational group and province.

2) *The Treasury Board of Canada*

8. The Treasury Board (the “Board”) is a committee of the Queen’s Privy Council for Canada established by section 5 of the *FAA*.

9. The Board comprises six Cabinet Ministers and four alternates, including the President of the Treasury Board and the Minister of Finance. The President presides over the meetings of the Board.

10. The Board manages government funds within the fiscal framework established by the Department of Finance (“Finance”) on behalf of the federal government as a whole, as further described in paragraph 13.

11. Treasury Board acts for the Queen's Privy Council of Canada on all matters relating to personnel management in the federal public administration, which includes approving management policies that control the delegation and use of authorities in departments and agencies and sets management standards in areas such as human and financial resource management.

12. The Treasury Board Secretariat (“Secretariat”) is the administrative arm of the Board. The Secretariat provides advice and support to the Board with respect to its roles as general manager of expenditures and performance oversight and employer of employees in the core public administration.

13. The head of the Secretariat is the Secretary of the Treasury Board. The Secretary ranks as, and has the powers of, a deputy head of a department. Supported in part by the Comptroller General, and the Chief Human Resources Officer, among others within the Treasury Board Secretariat, the Treasury Board’s principal role is that of the government’s “management board”.

It plays this role in three areas:

- i. Expenditure management oversight, including financial control or expenditures for terms and conditions of employment in certain organizations in the federal public administration;
- ii. Management performance oversight; and
- iii. Principal employer of the employees in the core public administration.

14. In the exercise of its human resources responsibilities, for the core public administration, the Board's principal activities are:

- i. providing for the classification of positions;
- ii. establishing the terms and conditions of employment through the collective bargaining process and otherwise; and,
- iii. establishing standards of discipline and prescribing penalties, including termination of employment.

15. Treasury Board is the employer for the employees of the departments and other portions of the public service identified as forming the core public administration.

16. The *PSLRA* governs labour relations between Treasury Board as employer and employees as defined in that *Act*, and between 27 separate agencies as employer and their employees. Separate agencies are responsible for the determination of human resources requirements, job classification, the establishment of pay and other terms and conditions of employment, subject to receiving bargaining mandate approval of Treasury Board in most cases. Sixteen (16) of the 27 separate agencies have unionized employees.

17. With respect to unionized employees whose labour relations are governed by the *PSLRA*, the employer (the Board or the separate agency as the case may be) and certified bargaining agents negotiate most of the terms and conditions of employment, including pay. These terms and conditions of employment are contained in collective agreements to which the Board or the separate agency is a party.

3) Treasury Board's Powers, Instruments and Approaches

18. Treasury Board's powers and responsibilities as a management board are set out in various pieces of legislation, regulations, and orders in council, policies, guidelines and practices. The primary statute setting out the legislative authorities of the Board is the *FAA*. There are approximately 20 other statutes that establish its legislative authority. A listing of these statutes as set out on the Treasury Board website is attached hereto and marked as **Exhibit "E"**.

19. The three primary roles of the Board identified above are linked and not exercised in isolation. Their integration occurs through a number of instruments and approaches that the Board uses in carrying out its functions. The Board's mission is to ensure that the Government is well managed and accountable, and that resources are allocated to achieve results, principally through:

- i. development and implementation of the management agenda with its Secretariat;
- ii. oversight, which includes setting policies and standards, monitoring, and reporting on overall management and budgetary performance within government; and,
- iii. analysis of and recommendations for the approval of submissions to the Treasury Board made by departmental Ministers

4) Bargaining Agents in the Federal Public Administration

20. As noted, the Board negotiates terms and conditions of employment with certified bargaining agents. A 'bargaining agent' is defined in section 2 of the *PSLRA* as "an employee organization that is certified by the Board as the bargaining agent for the employees in a

bargaining unit". A 'bargaining unit' is defined as "a group of two or more employees that is determined by the Board to constitute a unit of employees appropriate for collective bargaining."

21. At present, there are 21 bargaining agents certified to represent employees in the federal public administration, 17 representing employees in the core public administration and 6 representing employees of separate agencies (the Professional Institute of the Public Service of Canada and the Public Service Alliance of Canada are bargaining agents for employees in both the core public administration and separate agencies). The vast majority of employees in the core public administration are covered by 27 collective agreements. The vast majority of employees in the separate agencies, including Staff of the Non-Public Funds, are covered by 59 collective agreements.

22. Attached hereto and marked as **Exhibit "F"** is a table setting out the bargaining agents, membership numbers, and dispute resolution mechanisms chosen by the bargaining agents for the core public administration as at March 17, 2009.

23. A table showing the bargaining agents and units for employees of separate agencies is attached hereto and marked as **Exhibit "G"**.

5) National Joint Council of the Public Service

a) Overview

24. In my role as Assistant Deputy Minister, Compensation and Labour Relations Sector, at the Treasury Board Secretariat, I am also the Chair of the National Joint Council ("NJC").

25. As an adjunct to collective bargaining, the NJC is a consultative body created to promote the efficiency of the Public Service and the well being of its employees by providing for regular consultation between the government, as the employer, and employee organizations certified as bargaining agents under the *Public Service Labour Relations Act*. Some matters of a horizontal nature affecting a multiplicity of bargaining units generally are not negotiated during the standard collective bargaining process. Rather, they are discussed at the NJC. Copies of the NJC Constitution, list of constituent organizations and its By-laws are attached hereto and marked as **Exhibits "H" and "I"**.

26. The NJC includes eighteen (18) public service bargaining agents, the Treasury Board Secretariat and four (4) separate agencies as official members. The NJC complements bilateral collective bargaining by offering a forum oriented toward an interest based bargaining approach in which the parties may discuss broad labour relations issues and develop collaborative solutions to workplace problems. Mediation or binding third party arbitration may be used to resolve impasses should the parties agree. These mechanisms are purely voluntary. Notwithstanding this, the NJC has been a successful forum of consultation on many issues that affect employees throughout the public service.

27. Employers and bargaining agents have identified the NJC as the "Forum of Choice" for information sharing, consultation on workplace policies and the co-development of directives, which provide public service-wide benefits.

28. In order to participate in NJC meetings and related activities, bargaining agents and employers must be a member. Any public service bargaining agent may become a member of the NJC, subject to approval of the other members.

29. The products of NJC discussions, the Directives, may form part of the collective agreements of the members. In addition, the NJC presents its recommendations to the Treasury Board for approval. Examples of such Directives are as follows: the Travel Directive, the Relocation Directive, the Isolated Posts and Government Housing Directive and several Occupational Health and Safety Directives. This forum is also utilised to discuss public service health, dental and disability benefit plans. NJC Directives are incorporated, by reference, in all collective agreements for which the Treasury Board is the employer.

30. Once a bargaining agent becomes a member of the NJC, it must decide which Directives it will opt into or out of. If it opts in, it may participate in the co-development of those Directives. If it opts out, it has no say in the Directives. Co-development is a joint problem-solving process where representatives of the parties work to reach consensus on terms and conditions of employment and on policies that have application across the Public Service. There is no minimum of Directives to opt into. In fact a member can opt to reject all NJC Directives and just attend meetings of Council. It will not, however, be allowed to participate in their co-development.

31. The working committees of the NJC are comprised of representatives from the bargaining agent side and management side. A copy of the NJC Directory as of September 28,

2009 which lists the membership of the Council and its committees is attached hereto and marked as **Exhibit "J"**.

32. A Secretary is also appointed to each committee by the staff of the office of the General Secretary.

33. All working committees of the NJC are responsible for providing interpretation of directive intent upon request.

34. The NJC working Committees are as follows:

- (a) Dental Care Board of Management;
- (b) Disability Insurance Board of Management;
- (c) Foreign Service Directives Committee;
- (d) Government Travel Committee;
- (e) Isolated Posts and Government Housing Committee;
- (f) Joint Employment Equity Committee;
- (g) Occupational Health and Safety Committee;
- (h) Official Languages Committee;
- (i) Relocation Committee;
- (j) Service-Wide Committee on Occupational Health and Safety;
- (k) Union Management Relations Committee;
- (l) Work Force Adjustment Committee.

35. The following NJC directives or policies are the subject of co-development which are included in collective agreements:

Policy/Directive	Effective Date	Application
Bilingualism Bonus	June 1, 1993	All
Commuting Assistance Directive	April 1, 2005	All
First Aid to the General Public - Allowance for Employees	April 1, 1982	All
Foreign Service Directives	April 1, 2009	Excluding NRC & relative BAs
Isolated Posts and Government Housing Directive	August 1, 2007	Excluding NRC & relative BAs
Motor Vehicle Operations	April 1, 1995	Excluding RCEA, NRC
NJC Relocation Directive	April 1, 2009	All
Occupational Health and Safety Directive	April 1, 2008	All
Pesticides	November 1, 1993	Excluding NRC & relative BAs
Public Service Health Care Plan*	April 1, 2006	All
Travel Directive	April 1, 2008	All
Uniforms Directive	July 1, 1997	Excluding AJC
Work force Adjustment Directive	June 1, 2006	Excluding NRC & relative BAs, OAG, PSAC, PIPSC, CSEC

*The NJC grievance procedure does not apply to claims or coverage under the PSHCP.

36. By way of example, copies of the Public Service Health Care Plan Directive, Commuting Assistance Directive and Bilingualism Bonus Directive are attached hereto and marked as **Exhibit "K"**.

37. In addition, the NJC has two (2) boards of management with administrative oversight on the Dental Care Plan and the Disability Insurance Plan.

38. Attached hereto and marked as **Exhibit "L-1"**, is a copy of the General Secretary's Annual Report to the National Joint Council, for the periods of April 1, 2008 to March 31, 2009, titled "*Unions and Employers Working Together*" and attached hereto and marked as **Exhibit "L-2"** is a copy of the April 1, 2009 to March 31, 2010, titled "*A Forum of Choice*".

39. The National Joint Council grievance procedure is a grievance procedure within the meaning of the *PSLRA*. The parties to the NJC have agreed that any employee who feels aggrieved by the interpretation or application of an NJC directive or policy must process his/her grievance through the NJC procedure.

40. The NJC procedure differs from the normal grievance procedure in three ways:

- (a) the NJC procedure involves only three steps regardless of the department or agency of the grievor;
- (b) the third step of the procedure is the NJC Executive Committee. The Executive Committee consists of three Employer Side members and three Bargaining Agent side members;
- (c) Grievances are decided on the basis of the intent of the directive or policy concerned and are not decided by strict consideration of the wording of the directive or policy.

41. The NJC grievance process is a very successful example of alternate dispute resolution. The criterion, as noted above, for reviewing grievances is the intent of the directive.

In 2009-2010, the NJC had a caseload of 62 grievances.

b) AJC participation in the NJC

42. The AJC became a member of the NJC at the September 21, 2006 meeting of the NJC.

43. The AJC did not commit to opt-in or out of the Directives until November 11, 2008, when the AJC opted-in to all the NJC Directives with the exception of the Uniform Directive.

44. Before the AJC opted-in to the NJC Directives, the AJC attended NJC meetings, but it did not participate in the working committees and/or co-development of NJC directives. Further, the AJC could not participate in the hearing of NJC grievances.

45. During the collective bargaining process with the AJC, I was informed by Marc Thibodeau that the AJC attempted to bargaining matters relating to NJC directives such as, but not limited to, the Public Service Health Care Plan, the Uniform Directive, and the Dental Care Plan. I was informed by Marc Thibodeau that he would not entertain negotiating matters covered by NJC directives so long as the AJC had not decided which directives it would opt-in or out of.

B. RESPONDING TO THE EMERGING FISCAL CRISIS

46. In the early fall of 2008, Secretariat officials, on behalf of the Treasury Board as employer, were engaged in collective bargaining with major bargaining agents in the core public administration. Many separate employers were also engaged in collective bargaining at this

time. Other bargaining agents had already either signed collective agreements or were at different stages of arbitration.

47. In October 2008, in the midst of ongoing negotiations, the Secretariat was informed by officials from Finance of emerging fiscal concerns related to the rapidly deteriorating global economic situation and its implications for the Canadian economy. In planning the Government's responsive action, Finance initially asked the Secretariat to develop measures to restrict spending. A few days later, Finance requested more specific advice from the Secretariat on options to limit compensation costs within the current round of collective bargaining so as to control the growth of the wage bill.

48. Compensation costs are a significant component of government spending. For the 2008-09 fiscal year, compensation costs were approximately 37% of all government expenditures.

49. Growth in compensation costs can be controlled in three ways: by reducing or limiting growth in the numbers of employees, by suspending movement within pay ranges or by freezing or limiting salary increases.

50. The Secretariat considered several options within each of these three approaches including:

- (a) population growth: imposing a staffing freeze on new hiring, not replacing departing workers, laying off employees and offering departure incentives;

- (b) wage growth: suspending movement within pay ranges, suspending promotions and suspending upward reclassification of positions; and,
- (c) salary increases: freezing or limiting pay increases.

Attached and marked as **Exhibit "M"** to my affidavit is a copy of the options paper prepared by the Secretariat.

51. The Secretariat advised Finance that the first group of options was not appropriate in the current urgent circumstances. Hiring restrictions, layoffs and departure incentives would not produce immediate savings; indeed, layoffs and incentives would likely have required additional expenditures. Laying-off public servants would require the Government to eliminate or reduce government programs and services. In addition, lay-offs would also risk a serious loss of expertise and experience in the public administration.

52. The Secretariat also advised against the second group of options. The pay component of promotions and other movement within existing pay ranges is provided for in existing terms and conditions of employment and in collective agreements. The view within the Secretariat was that the suspension of these provisions would substantially interfere with existing terms and conditions and was not necessary to achieve the government's objectives.

53. Within the third group of options, the Secretariat recommended limited wage increases instead of wage freezes or wage reductions. The Secretariat believed that freezes or reductions could not be successfully negotiated but we hoped to limit wage increases through the collective bargaining process.

54. We believed that containing future pay increases throughout the public sector would accomplish the Government's objectives in the least intrusive manner, given the options available and the timeframe for achieving savings. Employees would still see increases but the size of those increases would be limited. The Government would not have to recover funds already paid to its employees. Ancillary compensation features such as leave, overtime and performance incentives (a valuable recruitment retention tool) would not be affected.

55. The Government accepted the recommendation to limit wage increases and instructed its negotiators in the Secretariat to return to the collective bargaining tables with a mandate to negotiate within the defined limits.

56. From early October 2008 through until mid-November, there was a palpable atmosphere of uncertainty and concern within the Government concerning the state of the Canadian economy and Canada's fiscal position. We at the Secretariat understood that the financial situation was urgent and getting worse on a weekly basis.

C. OBJECTIVES OF CONTAINING WAGE INCREASES

57. The proposed limits on wage increases were but one element of the Government's comprehensive response to the unfolding financial crisis. The policy objectives of the wage limits and their relationship to the larger economic and fiscal objectives of the Government were the purview of Finance. However, we in the Secretariat understood that, in keeping with the paramount aim of responsible economic and fiscal management, the objectives were to: (i) ensure an appropriate and predictable public sector wage bill; (ii) help to reduce upward pressure

on private sector wages; and (iii) show respect for public money in difficult economic times by exercising spending restraint and ensuring affordable public sector compensation.

58. With respect to the first objective, it was understood that limiting wage increases across-the-board would moderate the growth of the wage bill and avoid the uncertainty inherent in the collective bargaining and arbitration processes. This would ensure predictability by crystallizing the Government's compensation cost estimates, which we believed was critical to the viability of its overall response plan.

59. Ensuring appropriate and predictable public sector compensation in order to support the economic objective of reducing upward pressure on private sector wages was expressly signalled by Finance Minister James Flaherty in a speech to a joint meeting of the Empire Club of Canada and the Canadian Club of Toronto on October 29, 2008:

This commitment to responsible fiscal management will also extend to public sector compensation.

We all recognize that public sector employees work hard for Canadians, and that they must be adequately compensated. It is in the public interest that public sector compensation be determined responsibly in a manner that does not add pressure on businesses that are already feeling the pinch of an economic slowdown.

Attached and marked as **Exhibit "N"** to my affidavit is a copy of Minister Flaherty's complete address.

60. The importance of demonstrating the Government's respect for public money by exercising spending restraint in response to the financial crisis and by ensuring that public sector pay did not exceed what taxpayers could afford as the economy slowed was also signalled both

in the November 19, 2008 Speech from the Throne and by Minister Flaherty in his speech delivering the Economic and Fiscal Statement on November 27, 2008:

We cannot ask Canadians to tighten their belts during tougher times without looking in the mirror.

Canadians have a right to look to government as an example. We have a responsibility to show restraint and respect for their money . . .

We will introduce legislation to ensure that pay for the public sector grows only in line with what taxpayers can afford as the economy slows down.

D. ACHIEVING AGREEMENT WITHIN THE DEFINED LIMITS

61. The federal public administration can be viewed as three concentric circles of employment relationships. The inner circle is the core public administration for which the Treasury Board is the employer.

62. The middle circle consists of the various separate agencies under the *FAA* and the *PSLRA*. The heads of these separate agencies are responsible for determining their own human resources requirements, including job classification, pay and other terms and conditions of employment. In most cases, the President of the Treasury Board approves collective bargaining mandates for these employers.

63. The outer circle consists of the appropriation-dependant Crown corporations listed in Schedule 1 to the *Expenditure Restraint Act*. The heads of these Crown corporations are responsible for their own human resources requirements, including collective bargaining. Treasury Board does not therefore approve collective bargaining mandates for these corporations. Its fiscal control is limited to the transfer of funds.

64. The urgency of the fiscal crisis and the impending decline in revenues meant that it was important to convey the Government's new direction as quickly as possible to all employees in the three concentric circles so that bargaining agents, employers and employees could make the necessary adjustments.

1) Implementation in the core public administration

65. In late October and early November 2008, the Secretariat contacted most of the heads of the bargaining agents in the core public administration, including those currently in negotiations, those that had already signed collective agreements and those that had gone to arbitration. We informed them of the new direction and attempted to secure the greatest possible number of agreements before the Economic and Fiscal statement that was to be delivered on November 27. Our strategy was to try to get agreements on the wage increases throughout the core public administration and thereby encourage the separate agencies and the Crown corporations to do the same. Attached and marked as **Exhibit "O"** to my affidavit are copies of e-mail messages sent by Treasury Board negotiators to bargaining agents during this period.

66. On November 18, the President of the Treasury Board presented a final offer to the bargaining agents for the core public administration consisting of a total salary increase of 6.8 per cent over four years beginning in 2007-8, as follows: 2.3 per cent in the first year and 1.5 per cent in each of the subsequent years. Attached and marked as **Exhibit "P"** to my affidavit is a news release announcing this offer.

67. In the November 19, 2008 Speech from the Throne the Government announced its intention "to introduce legislation to ensure that the pay for the public sector grows only in line with what taxpayers can afford as the economy slows".

68. In his Economic and Fiscal Statement of November 27, 2008, Finance Minister Flaherty announced the specific wage increase limits that had been communicated to the bargaining agents, separate agencies and Crown corporations earlier in the month. The Minister stated that the Government would be taking action to ensure sustainable federal public sector wage rates and that this would apply to Members of Parliament, senators, cabinet ministers and senior public officials.

69. It was the Secretariat's goal to conclude negotiations with the bargaining agents by November 27, 2008, before release of the Economic and Fiscal Statement and before the introduction of legislation that would limit wage increases. However, by November 26 there were still bargaining agents who wanted to continue negotiations, momentum had picked up with the CPA and separate agencies and it was felt that progress could be made with more time.

70. By early December 2008, after a period of intense negotiation and discussion, we had signed 14 agreements with the bargaining agents in the core public administration. Those agreements covered approximately 122,000 employees in the core public administration, out of a total bargaining population of approximately 177,649. Attached and marked as **Exhibit "Q"** to my affidavit are sample media releases issued by the Board announcing these tentative settlements.

71. In addition to negotiating wage increases, (which were in line with the wage increases legislated in the *Expenditure Restraint Act*) the 14 agreements settled a number of matters that were outstanding for those particular bargaining agents. For example:

(a) The Border Services were able to negotiate hours of work, alternate work arrangements and the Arming Initiative;

(b) Program and Administration Services were able to negotiate workforce adjustment, call back provisions, the definition of "family" in the agreement; and

(c) Operational Services were able to negotiate national rates of pay, apprenticeship and the definition of "family" in the agreement.

72. From early December until after the *Expenditure Restraint Act* received Royal Assent on March 12, 2009, the Secretariat continued efforts to negotiate and discuss with bargaining agents that had not concluded collective agreements.

2) *Implementation among the separate agencies, Crown corporations and other groups*

73. In mid-November 2008, the Secretary of the Treasury Board and various officials of the Secretariat met with Government employers outside the core public administration to discuss the new direction the government would be taking as a direct result of the fiscal crisis.

74. On November 13, we met with the heads of the separate agencies. On November 17, we met with the Chief of the Defence Staff and the Commissioner of the Royal Canadian Mounted Police. On November 18, we met with the heads of Crown corporations. Attached and marked as **Exhibit "R"** to my affidavit are the speaking notes prepared for each of these meetings.

75. We delivered the same message to all heads of these organizations: the compensation reserve was reduced substantially and they would be responsible for ensuring that measures were taken to meet the new fiscal parameters. We strongly encouraged them to meet with unions that represented their employees, as the Board had done in the core public administration.

76. By December 8, 2008, there were 45 actual or tentative agreements in place in the separate agencies, including Staff of the Non-Public Funds.

E. EXPENDITURE RESTRAINT ACT

1) Passage of the Act

77. Parliament prorogued on December 4, 2008. The *Expenditure Restraint Act* was introduced into the House of Commons on February 6, 2009 as part of the *Budget Implementation Act*, 2009. Before the introduction of the legislation, the Secretariat could not divulge any information about the legislation to the bargaining agents because the information constituted cabinet confidences. However, the November 19, 2008 Speech from the Throne signalled the plan to enact legislation that limited wage increases.

78. Before the *Act* was given Royal Assent on March 12, 2009, the Public Service Alliance of Canada, the Professional Institute of the Public Service of Canada, the Association of Justice Counsel and the Canadian Association of Professional Employees made submissions on the *Act* to the House of Commons Standing Committee on Finance and the Senate Standing Committee on National Finance.

2) *Exceptions and Application of the Act*

79. There were five exceptions incorporated into the *Expenditure Restraint Act*:
- (i) The classification conversion for the Border Services (FB) Group. This was a new group with a new job evaluation plan, and their rates of pay had yet to be established. This required an exception to the prohibition on restructuring rates of pay in the *ERA*.
 - (ii) The creation of a National Rate of pay for the Operational Services (SV) Group and their equivalent at Canadian Food Inspection Agency and Parks Canada. The decision to create a national rate of pay for this group was made and the work had begun a few years before 2008. In order to complete this work, an exception was required to the prohibition on restructuring rates of pay in the *ERA*.
 - (iii) The previous round of bargaining with the Ship's Officer (SO) group, resulted in a restructure of the SO annual rates of pay to hourly rates of pay along with a lump sum payments in lieu of vacation leave factors to be paid once a year during the life of the collective agreement due to expire in March 2011. These changes provided a more efficient and cost effective means of managing the fleet vessels. For these reasons, an exception was required in order to allow these provisions to continue through the restraint period in the *ERA*.
 - (iv) The changes to an existing allowance or a new allowance critical to support transformation initiatives related to the Royal Canadian Mounted Police. This exception allows the Treasury Board to change an existing allowance or to make new allowances that are applicable to members of the RCMP if the Board is of the opinion that the change or the new allowance is critical to support transformation initiatives relating to the RCMP.
 - (v) The Law Group required an exception to allow for the harmonization of the pay structure and other terms and conditions of employment for members of the LA bargaining unit, part of which had previously been represented by the PIPSC and the other part which was previously unrepresented.
80. The wage restraint measures applied to approximately 400,000 unionized and non-unionized employees in the federal public sector, including Crown Corporations that are dependent upon appropriation and the compensation reserve but excluding the Governor General

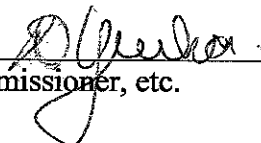
and Lieutenant Governors, Judges, Military Judges, Prothonotaries, Staff of the Non-Public Funds and the Financial Consumer Agency of Canada.

3) Impact on 2006-07 wage increases for some groups

81. The restraint period in the legislation went back to the 2006-2007 fiscal year because there were some bargaining units in the core public administration that had not yet have settled terms and conditions of employment dating back to 2006. The groups were: LA (law), SR (W) (ship repair, west), and RE (research).

82. The Government was concerned that any arbitral awards beyond the ERA authorized increases for the 2006-2007, 2007-2008 and 2008-2009 fiscal years would have had a direct and significant impact on the compensation costs for all future years. To ensure consistency and fairness to other bargaining agents who had already settled with the Treasury Board and separate agencies, the Secretariat was of the view that the Act should also determine the wage increases for the above-mentioned groups. As such, wage increases provided for by the Act for 2006-2007 were consistent with the pattern amount of 2.5% and equal or above the pattern amount of 2.3% for 2008-2009 established either through agreement or arbitration.

Sworn before me at
the City of Ottawa
in the Province
of Ontario on October 29, 2010


A Commissioner, etc.

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