Grievances under the PSLRA

April 2014

The 2013 Budget Implementation Act (C-4) brought sweeping changes to the Public Service Labour Relations Act (PSLRA). As of March 2014, the representation related changes are not in effect and it is not known when new regulations or policies will be enacted by the PSLRB (Public Service Labour Relations Board). The following describes what we know about the C-4 changes to grievances and representation for Units covered by the PSLRA.

The Public Service Labour Relations Act (PSLRA) will still provide for three different types of grievances. Certain individual grievances, group grievances and policy grievances may be referred to adjudication.

All **individual grievances** will require the approval of the union and union representation, except for human rights grievances. This already applies to grievances related to a provision of the collective agreement. It will also now apply to grievances regarding employer policies and any matter related to terms and conditions of employment not covered by a collective agreement (which are usually non-adjudicable). Employees will also no longer be able to grieve discipline and termination situations unless they have union approval and union representation.

Employees who wish to file a grievance **related to a human rights** issue will not be required to obtain union approval or union representation. Time limits for filing an individual human rights grievance will be extended to a one year period. Under the new legislation, the Canadian Human Rights Commission (CHRC) will **no longer** have the mandate to accept individual complaints from federal government employees. Employees covered by the PSLRA will be the only group of workers denied access to a third party process with expertise in human rights.

Group grievances can be filed by the union on behalf of two or more employees in a single department or agency who are similarly affected by the interpretation or application of the collective agreement. This allows for the grievance to be dealt with as a single grievance because of a common

issue, but allowing for individual remedies for those employees who have signed on.

Individual and group grievances can be filed with respect to issues under the Canadian Human Rights Act, except in relation to pay equity, and be awarded monetary relief as provided under that Act.

An adjudicator can award interest in the case of grievances involving termination, demotion, suspension or financial penalty. In cases of termination or demotion for unsatisfactory performance, an Adjudicator, in determining whether there was "cause", must rule on whether the deputy head's decision was "reasonable".

There are no changes to **deployment grievances**. However, the only issue that can go to adjudication in a deployment grievance is an allegation that the individual deployed didn't consent. This will occur in two key situations: where the offer of employment did not contain a right to deploy or where the deployment is imposed as a result of finding that the employee was guilty of harassment and was being moved out of the workplace.

Policy grievances will only be able to proceed only if the matter cannot be the subject of an individual grievance. A policy grievance must relate to an alleged violation of the collective agreement which affects the employees generally. A union policy grievance is presented by the PSAC to the final level of the grievance procedure and it may subsequently be referred to adjudication. In addition, when we proceed with a policy grievance, we will not be entitled to retroactive remedies. The PSAC has previously made use of policy grievances as an effective and cost efficient mechanism to resolve issues covering multiple groups.

Employees continue to be prevented from filing an action in the Court where they could have filed a grievance – regardless of whether a grievance was actually filed or not.

The employer will have the right to dismiss grievances which are deemed to be frivolous, vexatious, in bad faith or trivial, at all internal levels of the grievance process. The employer will be required to provide reasons in writing.

Finally, the PSLRB and the Public Service Staffing Tribunal (PSST) will be merged for administrative purposes and become the Public Service Labour Relations and Employment Board (PSLREB).