SUPREME COURT
OF NOVA SCOTIA
NOV 09 2026
HALIFAX, N.S.

2020 Hfx No. 498647

Supreme Court of Nova Scotia

Between:

Canadian Union of Public Employees
Canadian Union of Public Employees, Local 1867
Canadian Union of Postal Workers
Nova Scotia Government and General Employees Union
Nova Scotia Nurses' Union
Nova Scotia Teachers Union
Service Employees' International Union Local 2
Unifor
International Union of Operating Engineers Local 727

Applicants

and

Attorney General of Nova Scotia representing His Majesty the King in right of the Province of Nova Scotia

Respondent

ORDER

BEFORE THE HONOURABLE JUSTICE Ann E. Smith:

WHEREAS this Application commenced on September 4, 2020 with the filing of a Notice of Application challenging the constitutionality of the *Public Services Sustainability (2015) Act*, S.N.S. 2015, c. 34 (the "Act");

AND WHEREAS the Hearing of the Application proceeded on June 2, 3, and 4, 2025;

AND WHEREAS the Court rendered a written decision on February 25, 2026 finding the Act to be an unconstitutional violation of s. 2(d) of the *Canadian Charter of Rights and Freedoms,* and to be of no force and effect pursuant to s. 52(1) of the *Constitution Act, 1982*, subject to a 12-month suspension of invalidity;

AND WHEREAS the Court remitted the question of any further remedy to the parties, but retained jurisdiction, pursuant to s. 24(1) of the *Canadian Charter of Rights and Freedoms*, to determine any issues regarding further remedy should the parties not resolve that issue.

AND WHEREAS the parties agree, and the Court so orders, that any award of damages arising from the Court's finding that the *Public Services Sustainability (2015) Act* is unconstitutional

pursuant to s. 2(d) of the *Charter*, or from the declaration that the Act is of no force and effect, are general damages caused by the harm created by the violation of the *Canadian Charter of Rights and Freedoms* and are not damages to replace lost income.

IT IS ORDERED THAT:

1. Pursuant to s. 52(1) of the *Constitution Act, 1982*, the Act is declared unconstitutional and is of no force and effect. This declaration shall be suspended until February 25, 2027.

2. The following general damages are ordered to remedy the breach of the rights under s. 2(d) of the *Canadian Charter of Rights and Freedoms* of the members of public sector bargaining units:

    a. The Respondent shall pay damages as a remedy for the breach of the *Canadian Charter of Rights and Freedoms* occasioned by the compensation freeze and compensation restraint provisions of the Act. Such damages shall be paid as a lump sum to each member of a public sector bargaining unit who was employed during the four years of wage restraint imposed by the Act, inclusive of former members of a public sector bargaining unit who have subsequently retired or otherwise ceased employment with a public sector employer.

    The damages payable to any individual shall be calculated based on each year, or any part thereof, in which the individual was employed, during the four-year period of compensation freeze and compensation restraint established by the Act, as follows:

    $1,250 if the individual was employed during the first year, or any part thereof;
    $1,250 if the individual was employed during the second year, or any part thereof;
    $750 if the individual was employed during the third year, or any part thereof; and
    $500 if the individual was employed during the fourth year, or any part thereof.

    For the purposes of this Order, an individual was employed during a year, or any part thereof, if and only if the employee appears on the seniority list of the relevant public sector bargaining unit, with a hire date indicating that they were employed during that year. The seniority list for teachers employed under the Teachers' Provincial Agreement shall be the Article 48 (Teacher Information) list.

    For greater certainty, no individual is entitled to more than one payment of damages with respect to any given year of the compensation freeze and compensation restraint period.

    b. The Respondent shall pay damages as a remedy for the breach of the *Canadian Charter of Rights and Freedoms* occasioned by the Service Award provisions of the Act. Such damages shall be paid as a lump sum of $1,250 in damages for each member of a public sector bargaining unit, or former member of a public sector

bargaining unit, who was eligible for a Service Award and would have accrued additional service towards the Service Award but for the provisions of the Act.

c. Individuals terminated for cause by a public sector employer prior to the issuing of this Order shall not be entitled to damages pursuant to this Order.

d. For the purpose of this Order, "public sector bargaining unit" means a bargaining unit of "public-sector employees" represented by a "public sector bargaining agent" as those terms are defined by s.3 of the Act, regardless of any changes to said definitions occasioned by Regulations promulgated pursuant to the Act.

e. For the purpose of this Order, "public sector employer" has the definition provided in s.3(o) of the Act, regardless of any changes to said definition occasioned by Regulations promulgated pursuant to the Act.

f. For the purpose of this Order, "compensation freeze and compensation restraint" is the period described in ss. 13 and 14 of the Act and determined by the operation of the definition of "effective date" in s.3(i) of the Act.

3. The Respondent shall pay all damages under this Order no later than December 31, 2027, in accordance with the following:

   a. The Respondent shall, without delay, use all reasonable efforts to identify all persons who are entitled to damages under this Order, including publication of this Order with an intention of encouraging persons who may be eligible for damages to identify themselves to the Respondent.

   b. No later than June 30, 2027,

      i. the Respondent shall provide the public sector bargaining agents with a list of the persons the Respondent has identified as entitled to damages, and the quantum of damages owing to each person, and

      ii. the Respondent shall provide a means for any person to determine whether they have been identified as entitled to damages, and the quantum of damages owing.

   c. After the Respondent has fulfilled its obligations pursuant to s.3(b), and no later than September 30, 2027, the Respondent shall review and correct any errors or omissions as identified by a person claiming entitlement to damages, or by a public sector bargaining agent.

   d. The Respondent is not obligated to pay damages to any person who has not been identified prior to September 30, 2027, or to correct any error in calculation of damages which has not been identified prior to September 30, 2027.

e. For greater certainty, nothing in this Order prevents the Respondent from making any payment of damages prior to December 31, 2027.

3. The Respondent shall pay costs to the Applicant in the amount of $200,000, inclusive of all fees and disbursements within thirty (30) days of this Order.

4. The parties have agreed to, and shall, refer disputes as to the application of this Order to any individual, to a dispute resolution mechanism to be developed among them.

Issued this 9th day of November, 2026.

LISA JACKSON
Deputy Prothonotary

IN THE SUPREME COURT
COUNTY OF HALIFAX, N.S.
I hereby certify that the foregoing document, identified by the seal of the court, is a true copy of the original document on the file herein.

NOV 09 2026

Deputy Prothonotary

LISA JACKSON
Deputy Prothonotary

CONSENTED TO AS TO FORM:

Jillian Houlihan
George Franklin
Counsel for the Applicant,
Nova Scotia Teachers Union

CONSENTED TO AS TO FORM:

Kevin Kindred, KC
Counsel for the Respondent,
Attorney General of Nova Scotia