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Bill 124

(Chapter 12 of the Statutes of Ontario, 2019)

An Act to implement moderation measures in respect of compensation in Ontario's public sector

The Hon. P. Bethlenfalvy
President of the Treasury Board

Government Bill

1st Reading	June 5, 2019
2nd Reading	October 31, 2019
3rd Reading	November 7, 2019
Royal Assent	November 7, 2019



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 124 and does not form part of the law.
Bill 124 has been enacted as Chapter 12 of the Statutes of Ontario, 2019.*

The Bill enacts the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. The purpose of the Act is to ensure that increases in public sector compensation reflect the fiscal situation of the Province, are consistent with the principles of responsible fiscal management and protect the sustainability of public services.

The Act establishes different three-year moderation periods for represented and non-represented employees. During the applicable moderation period, salary increases are limited to one per cent for each 12-month period of the moderation period. During the applicable moderation period, incremental increases to existing compensation entitlements and new compensation entitlements, including salary increases, are also limited to a total of one per cent on average for all employees subject to the moderation period, for each 12-month period of the moderation period. Certain exceptions are provided for.

Directives may be issued by the Management Board of Cabinet requiring employers and employers' organizations to provide certain information relating to collective bargaining and compensation for the purpose of ensuring compliance with the Act.

The Minister is given the authority to make regulations specifying that the Act does not apply to an employer, or to employees or classes of employees. The Minister may also exempt a collective agreement from the application of the Act by regulation. In addition, the Minister may make an order declaring that a collective agreement or an arbitration award is inconsistent with the Act, and the Act sets out the rules that apply if such an order is made.

Complementary amendments are made to the *Labour Relations Act, 1995* and the *Employment Standards Act, 2000*.

**An Act to implement moderation measures
in respect of compensation in Ontario’s public sector**

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Preamble

The Government is committed to restoring the Province's fiscal health by putting Ontario on a path to balance the budget in a responsible manner. As outlined in the Government's 2019 Budget, the Government inherited a very substantial deficit. Ontario's accumulated debt is among the largest subnational debts in the world, and the Province's net debt to Gross Domestic Product ratio exceeds 40 per cent. Interest on debt payments is the fourth largest line item in the 2019 Budget after health care, education and social services.

Restoring sustainability to the Province's finances is in the public interest and is needed to maintain important public services that matter to the people of Ontario. The Government seeks to ensure the sustainability of public services by restoring fiscal balance and lowering Ontario's debt burden as a percentage of Gross Domestic Product. The Government also seeks to protect front-line services and the jobs of the people who deliver them.

A substantial proportion of government program expenses is applied to public sector compensation, whether paid directly by the Province to Ontario Public Service employees or provided indirectly to employees in the Broader Public Sector. Given the fiscal challenge the Province is facing, the growth in compensation costs must be moderated to ensure the continued sustainability of public services for the future.

This Act contains fiscally responsible measures to address compensation in the Ontario Public Service and for specified Broader Public Sector employers. These measures would allow for modest, reasonable and sustainable compensation growth for public sector employees. For public sector employees who collectively bargain, these measures respect the collective bargaining process, encourage responsible bargaining, and ensure that future bargained and arbitrated outcomes are consistent with the responsible management of expenditures and the sustainability of public services.

The Government believes that the public interest requires the adoption, on an exceptional and temporary basis, of the measures set out in this Act.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PURPOSE

Purpose

1 The purpose of this Act is to ensure that increases in public sector compensation reflect the fiscal situation of the Province, are consistent with the principles of responsible fiscal management and protect the sustainability of public services.

INTERPRETATION

Interpretation

2 In this Act,

“collective agreement” includes,

- (a) a collective agreement within the meaning of the *Labour Relations Act, 1995*, and
- (b) any agreement, whether negotiated or the result of an arbitration award, between an employer or an employers' organization and a bargaining organization to which this Act applies, in respect of compensation for employees; (“convention collective”)

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of an employee, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments; (“rémunération”)

“compensation plan” means the provisions, however established, for the determination and administration of an employee's compensation; (“régime de rémunération”)

“directive” means a directive made under this Act; (“directive”)

“employers' organization” means an organization of employers, or an organization that represents employers, that negotiates terms and conditions of employment relating to compensation; (“association patronale”)

“Minister” means the President of the Treasury Board or such other member of the Executive Council to whom responsibility for the administration of this Act may be assigned or transferred under the *Executive Council Act*; (“ministre”)

“moderation period” means a moderation period determined in accordance with section 9 or 17; (“période de modération”)

“non-represented employee” means an employee to whom this Act applies who is not represented by a bargaining organization or is excluded from being represented by a bargaining organization to which this Act applies; (“employé non représenté”)

“regulations” means regulations made under this Act; (“règlements”)

“salary rate” means a base rate of pay, whether expressed as a single rate of pay, including a rate of pay expressed on an hourly, weekly, bi-weekly, monthly, annual or some other periodic basis, or a range of rates of pay, or, if no such rate or range exists, any fixed or ascertainable amount of base pay. (“taux de traitement”)

Right to bargain collectively

3 Subject to the other provisions of this Act, the right to bargain collectively is continued.

Right to strike

4 Nothing in this Act affects the right to engage in a lawful strike or lockout.

APPLICATION

Application to employers

5 (1) This Act applies to the following employers, unless a Minister’s regulation specifies otherwise:

1. The Crown in right of Ontario, every agency thereof and every authority, board, commission, corporation, office or organization of persons, a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.
2. Every board within the meaning of the *Education Act*.
3. Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario, whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements.
4. Every hospital within the meaning of the *Public Hospitals Act* and the University of Ottawa Heart Institute/Institut de cardiologie de l’Université d’Ottawa.
5. Every licensee under the *Long-Term Care Homes Act, 2007*, other than a licensee that carries on its activities for the purpose of gain or profit to its members or shareholders.
6. Ornge.
7. Children’s aid societies.
8. Every authority, board, commission, corporation, office or organization of persons, other than one described in paragraphs 1 to 7, that satisfies the following conditions:
 - i. It does not carry on its activities for the purpose of gain or profit to its members or shareholders.
 - ii. In 2018 (or in such later year as may be specified by regulation) it received at least \$1,000,000 in funding from the Government of Ontario, as determined for the purposes of the *Public Sector Salary Disclosure Act, 1996*.
9. Subject to subsection (2), every other authority, board, commission, committee, corporation, council, foundation or organization that may be prescribed by regulation for the purposes of this section.

Exceptions

(2) This Act does not apply to the following employers:

1. A municipality.
2. A local board as defined in subsection 1 (1) of the *Municipal Act, 2001*.
3. A local board as defined in subsection 3 (1) of the *City of Toronto Act, 2006*.
4. Every authority, board, commission, corporation, office or organization of persons, a majority of whose members, directors or officers are appointed or chosen by or under the authority of the council of a municipality.
5. An Indigenous community.
6. Every authority, board, commission, corporation, office or organization of persons, including a council of the band within the meaning of the *Indian Act (Canada)*, a majority of whose members, directors or officers are appointed or chosen by or under the authority of one or more Indigenous communities.
7. A police governing authority referred to in section 54 of the *Police Services Act*.
8. Unless otherwise specifically provided for in the regulations, an organization that undertakes its activities for the purpose of profit to its shareholders.

Definition

(3) In this section,

“Indigenous community” means a band within the meaning of the *Indian Act* (Canada) and such other entities as may be prescribed by a Minister’s regulation.

Application to employees

6 (1) This Act applies to the employees of the employers to whom this Act applies.

Exceptions

(2) This Act does not apply to such employees or classes of employees as may be specified by a Minister’s regulation.

Same, designated executives

(3) This Act does not apply to designated executives within the meaning of the *Broader Public Sector Executive Compensation Act, 2014*.

Non-application to judges, justices of the peace and masters

7 For greater certainty, this Act does not apply to judges, deputy judges, justices of the peace or case management masters.

Bargaining organizations

8 This Act applies to the following bargaining organizations that represent employees of any of the employers to whom this Act applies for the purpose of collectively bargaining terms and conditions of employment relating to compensation:

1. A trade union certified or voluntarily recognized under the *Labour Relations Act, 1995*.
2. An organization that represents employees under the *Crown Employees Collective Bargaining Act, 1993*.
3. An organization designated under the *School Boards Collective Bargaining Act, 2014* as the bargaining agent for a teachers’ bargaining unit.
4. An organization that represents employees under the *Colleges Collective Bargaining Act, 2008*.
5. The Association as defined in section 1 of the *Ontario Provincial Police Collective Bargaining Act, 2006*.
6. A council of trade unions that collectively bargains, with the employer or employers’ organization, terms and conditions of employment relating to compensation.
7. An organization that collectively bargains or negotiates, with the employer or employers’ organization, terms and conditions of employment relating to compensation.
8. An organization that has or establishes a framework for collectively bargaining or negotiating, with the employer or employers’ organization, terms and conditions of employment relating to compensation.

MODERATION MEASURES — EMPLOYEES REPRESENTED BY A BARGAINING ORGANIZATION

Moderation period — represented employees

9 (1) For the purposes of sections 10 to 16, the moderation period shall be determined in accordance with the following rules:

1. If a collective agreement is in operation on June 5, 2019, the moderation period in respect of the class of employees covered by the collective agreement begins on the day immediately following the day the collective agreement expires and ends on the day that is three years later.
2. If no collective agreement is in operation on June 5, 2019 and the previous collective agreement has expired, the moderation period in respect of the class of employees covered by the expired collective agreement begins on the day immediately following the day that the previous collective agreement expired and ends on the day that is three years later.
3. If the parties are bargaining for a first collective agreement on June 5, 2019, the moderation period in respect of the class of employees covered by the collective agreement begins on the commencement date of the collective agreement and ends on the day that is three years later.
4. If no collective agreement is in operation on June 5, 2019 and the parties are, or have been, in arbitration to resolve all matters necessary to conclude a collective agreement,
 - i. if the arbitration award has not been issued on or before June 5, 2019,
 - A. the moderation period in respect of the class of employees subject to the award begins on the commencement date of the collective agreement that gives effect to the arbitration award, once issued, and ends on the day that is three years later, or

- B. if, during arbitration proceedings, the parties settle a collective agreement, the moderation period in respect of the class of employees subject to the collective agreement begins on the commencement date of the collective agreement and ends on the day that is three years later, or
- ii. if the arbitration award has been issued on or before June 5, 2019, the moderation period in respect of the class of employees subject to the award begins on the day immediately following the day on which the collective agreement that gives effect to that award expires and ends on the day that is three years later.

Same, certain written agreements on or before June 5, 2019

(2) Despite subsection (1), if, on or before June 5, 2019, the parties have, in good faith, entered into an agreement in writing specified in subsection (3), the moderation period in respect of the class of employees covered by that agreement begins on the day immediately following the day the collective agreement that gives effect to that agreement expires and ends on the day that is three years later.

Same

(3) The following agreements are specified for the purposes of subsection (2):

1. A memorandum of settlement for a collective agreement ratified after June 5, 2019.
2. A collective agreement ratified on or before June 5, 2019 that comes into operation after that date.
3. An agreement to renew a collective agreement that is in operation on June 5, 2019 for a single specified term.

Same, arbitration award after June 5, 2019

(4) Despite subsection (1), if, after June 5, 2019 and before the day this section comes into force, an arbitration award was issued, the moderation period in respect of the class of employees subject to the award begins on the day immediately following the day the collective agreement that gives effect to that award expires and ends on the day that is three years later.

Same, certain written agreements after June 5, 2019

(5) Despite subsection (1), if, after June 5, 2019 and before the day this section comes into force, the parties have, in good faith, entered into an agreement in writing specified in subsection (6), the Minister may make regulations specifying that the moderation period in respect of the class of employees covered by that agreement begins on the day immediately following the day the collective agreement that gives effect to that agreement expires and ends on the day that is three years later.

Same

(6) The following agreements are specified for the purposes of subsection (5):

1. A memorandum of settlement for a collective agreement that expires no later than December 31, 2021.
2. A collective agreement that expires no later than December 31, 2021.
3. An agreement to renew a collective agreement that is in operation on June 5, 2019 for a single specified term that expires no later than December 31, 2021.

Maximum increases in salary rates

10 (1) No collective agreement or arbitration award may provide for an increase in a salary rate applicable to a position or class of positions during the applicable moderation period that is greater than one per cent for each 12-month period of the moderation period, but they may provide for increases that are lower.

Exception, certain increases

(2) Subsection (1) does not prohibit an employee's salary rate from increasing in recognition of the following matters, if the increase is authorized under a collective agreement:

1. The employee's length of time in employment.
2. An assessment of performance.
3. The employee's successful completion of a program or course of professional or technical education.

Maximum increases in compensation

11 (1) During the applicable moderation period, no collective agreement or arbitration award may provide for any incremental increases to existing compensation entitlements or for new compensation entitlements that in total equal more than one per cent on average for all employees covered by the collective agreement for each 12-month period of the moderation period.

Same

(2) For greater certainty, an increase in a salary rate under subsection 10 (1) is an increase to compensation entitlements for the purposes of subsection (1).

Effect of cost increases

(3) If the employer's cost of providing a benefit as it existed on the day before the beginning of the moderation period increases during the moderation period, the increase in the employer's cost does not constitute an increase in compensation entitlements for the purposes of subsection (1).

Expired collective agreements, restriction on increases in salary rates

12 (1) If a collective agreement has expired and no collective agreement is in operation during an applicable moderation period, the salary rate applicable to a position or class of positions shall not be increased.

Exception, certain increases

(2) Subsection (1) does not prohibit an employee's salary rate from increasing in recognition of the following matters, if the increase would have been authorized under the expired collective agreement:

1. The employee's length of time in employment.
2. An assessment of performance.
3. The employee's successful completion of a program or course of professional or technical education.

Exception, certain voluntary exit programs

13 For the purposes of sections 10, 11 and 12, payments that are made in accordance with a voluntary exit program that has been approved by the Management Board of Cabinet are not an increase in a salary rate, an increase to existing compensation entitlements or new compensation entitlements.

Exception, certain pension contribution offsets

14 If an employer is converting a single employer pension plan into a jointly sponsored pension plan in accordance with section 80.4 or 81.0.1 of the *Pension Benefits Act*, an increase in a salary rate, an incremental increase to existing compensation entitlements or new compensation entitlements provided in exchange for an increase in member-required contributions that occurs coincident with and as a result of the conversion are not an increase in a salary rate, an incremental increase to existing compensation entitlements or new compensation entitlements for the purposes of sections 10, 11 and 12.

Exception, prescribed payments

15 The Minister may, by regulation, specify that certain compensation provided by employers for the purpose of reducing the growth in compensation costs over the long-term are not an increase in a salary rate, an increase to existing compensation entitlements or new compensation entitlements for the purposes of sections 10, 11 and 12.

Conflict with this Act

16 This Act prevails over any collective agreement or arbitration award and, if the Minister makes an order under subsection 26 (1) declaring that a collective agreement or arbitration award is inconsistent with this Act, the collective agreement or arbitration award is void and deemed never to have had effect.

MODERATION MEASURES — NON-REPRESENTED EMPLOYEES**Moderation period — non-represented employees**

17 (1) For the purposes of sections 18 to 23, the moderation period is the three-year period that begins on the earlier of,

- (a) a date to be selected by the employer that is after June 5, 2019; or
- (b) January 1, 2022.

Exception

(2) Despite subsection (1), if a compensation plan provides that a non-represented employee's salary rate shall increase in a corresponding manner with an increase to the salary rate of represented employees under a collective agreement, the moderation period for the non-represented employee is the moderation period that applies in respect of the collective agreement of the represented employees to which the non-represented employee's compensation corresponds, as determined under section 9.

Maximum increases in salary rates

18 (1) No employer may provide to non-represented employees an increase in a salary rate applicable to a position or class of positions during the applicable moderation period that is greater than one per cent for each 12-month period of the moderation period, but they may provide for increases that are lower.

Exception, certain increases

(2) Subsection (1) does not prohibit an employee's salary rate from increasing in recognition of the following matters, if the increase is authorized under a compensation plan:

1. The employee's length of time in employment.

2. An assessment of performance.
3. The employee's successful completion of a program or course of professional or technical education.

Maximum increases in compensation

19 (1) During the applicable moderation period, no employer may provide to non-represented employees any incremental increases to existing compensation entitlements or for new compensation entitlements that in total equal more than one per cent on average for non-represented employees employed by the employer for each 12-month period of the moderation period.

Same

(2) For greater certainty, an increase in a salary rate under subsection 18 (1) is an increase to compensation entitlements for the purposes of subsection (1).

Effect of cost increases

(3) If the employer's cost of providing a benefit as it existed on the day before the beginning of the moderation period increases during the moderation period, the increase in the employer's cost does not constitute an increase in compensation entitlements for the purposes of subsection (1).

Exception, certain voluntary exit programs

20 For the purposes of sections 18 and 19, payments that are made in accordance with a voluntary exit program that has been approved by the Management Board of Cabinet are not an increase in a salary rate, an increase to existing compensation entitlements or new compensation entitlements

Exception, certain pension contribution offsets

21 If an employer is converting a single employer pension plan into a jointly sponsored pension plan in accordance with section 80.4 or 81.0.1 of the *Pension Benefits Act*, an increase in a salary rate, an incremental increase to existing compensation entitlements or new compensation entitlements provided in exchange for an increase in member-required contributions that occurs coincident with and as a result of the conversion are not an increase in a salary rate, an incremental increase to existing compensation entitlements or new compensation entitlements for the purposes of sections 18 and 19.

Exception, prescribed payments

22 The Minister may, by regulation, specify that certain compensation provided by employers for the purpose of reducing the growth in compensation costs over the long-term are not an increase in a salary rate, an increase to existing compensation entitlements or new compensation entitlements for the purposes of sections 18 and 19.

Conflict with this Act

23 This Act prevails over any provision in an agreement between an employee and an employer, or a compensation plan, that authorizes or requires an amount to be paid in excess of the limits set out in sections 18 and 19, and any such provision is void and unenforceable to the extent of the conflict, regardless of when the agreement or compensation plan was entered into.

ANTI-AVOIDANCE MEASURES

Restrictions re other compensation measures

24 An employer shall not provide compensation before or after the applicable moderation period to an employee for compensation that the employee will not, does not or did not receive as a result of the temporary moderation measures in this Act.

OVERSIGHT MECHANISMS

Compensation and bargaining information

25 (1) The Management Board of Cabinet may issue directives to employers and to employers' organizations requiring the employer or the employers' organization to provide information relating to collective bargaining or compensation that the Management Board of Cabinet considers appropriate for the purpose of ensuring compliance with this Act.

Same

(2) Without restricting the generality of subsection (1), a directive may include requirements to provide information with respect to,

- (a) compensation;
- (b) collective agreements, employer bargaining mandates, negotiated settlements and submissions to arbitrators;
- (c) the employer's costing with respect to collective agreements, proposed or negotiated changes to collective agreements, compensation plans and proposed changes to compensation plans;
- (d) the moderation periods that apply to represented and non-represented employees;

- (e) agreements between an employer and one or more employees relating to compensation; and
- (f) compensation policies, plans, guidelines and programs.

Deemed compliance FOI Acts

(3) Any disclosure of personal information made by an employer in compliance with a directive shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act* and clause 32 (e) of the *Municipal Freedom of Information and Protection of Privacy Act*.

Confidentiality

(4) A person who receives information described in subsection (1) shall maintain the information in confidence and shall only use the information for the purposes authorized by the Management Board of Cabinet.

Disclosure of information

- (5) The Management Board of Cabinet may issue directives that,
- (a) authorize the disclosure of information described in subsection (1) to,
 - (i) a minister of the Crown,
 - (ii) a person employed in the office of a minister,
 - (iii) a person employed under Part III of the *Public Service of Ontario Act, 2006*,
 - (iv) a consultant or advisor retained to provide advice or services in relation to compensation matters, or
 - (v) such other persons as the Management Board of Cabinet considers appropriate; and
 - (b) authorize the purposes for which information described in subsection (1) may be used.

Prevails over FIPPA

(6) Subsections (4) and (5) prevail over the *Freedom of Information and Protection of Privacy Act*.

Minister's order

26 (1) The Minister may, in the Minister's sole discretion, make an order declaring that a collective agreement or an arbitration award is inconsistent with this Act.

Same, certain multi-employer agreements

(2) If a collective agreement or arbitration award applies to both employers to whom this Act applies and employers to whom this Act does not apply, an order made under subsection (1) in respect of the collective agreement or arbitration award applies only with respect to the employers to whom this Act applies.

Opportunity for submissions

- (3) Before the Minister makes an order under subsection (1),
- (a) the Minister shall provide notice to the parties of their opportunity to provide written submissions to the Minister regarding whether the collective agreement or arbitration award is consistent with this Act; and
 - (b) the parties may provide written submissions to the Minister no later than 20 days after the Minister's notice is issued under clause (a).

Timing of Minister's order

(4) Upon the expiry of the 20-day period referred to in clause (3) (b), the Minister may, without further notice, issue an order under subsection (1).

Where collective agreement inconsistent with Act

- (5) If the Minister makes an order under subsection (1) that a collective agreement is inconsistent with this Act,
- (a) the parties shall return to the same stage in bargaining as they were at immediately before they settled the collective agreement that was the subject of the order under subsection (1);
 - (b) the terms and conditions of employment that applied to the employees immediately before the parties settled the collective agreement that was the subject of the order under subsection (1) apply to the employees, subject to any changes permitted by this Act and which may otherwise be lawfully made; and
 - (c) the parties shall conclude a new collective agreement that is consistent with this Act.

Where arbitration award inconsistent with Act

(6) If the Minister makes an order under subsection (1) that an arbitration award is inconsistent with this Act,

- (a) the arbitrator or arbitration board that issued the award that was the subject of the order under subsection (1) remains seized to make an award that is consistent with this Act;
- (b) the terms and conditions of employment that applied to the employees immediately before the date of the arbitration award that was the subject of the order under subsection (1) apply to the employees, subject to any changes permitted by this Act and which may otherwise be lawfully made; and
- (c) the parties shall conclude a new collective agreement that is consistent with this Act.

Exemption from application of this Act

27 The Minister may, by regulation, exempt a collective agreement from the application of this Act.

GENERAL

Rights not reduced

28 Nothing in this Act or in the regulations shall be interpreted or applied so as to reduce a right or entitlement under,

- (a) the *Human Rights Code*;
- (b) section 42 or 44 of the *Employment Standards Act, 2000*;
- (c) Part IX of the *Employment Standards Act, 2000*; or
- (d) the *Pay Equity Act*.

Restrictions on jurisdiction

Limit on jurisdiction of Ontario Labour Relations Board

29 (1) The Ontario Labour Relations Board shall not inquire into or make a decision on whether a provision of this Act, a regulation or an order made under subsection 26 (1) is constitutionally valid or is in conflict with the *Human Rights Code*.

Limit on jurisdiction of arbitrators

(2) An arbitrator, arbitration board or tribunal shall not inquire into or make a decision on whether a provision of this Act, a regulation or an order made under subsection 26 (1) is constitutionally valid or is in conflict with the *Human Rights Code*.

No constructive dismissal

30 (1) An employer shall not be considered to have constructively dismissed an employee under clause 56 (1) (b) or 63 (1) (b) of the *Employment Standards Act, 2000* or under the common law as a result of having done anything required by this Act, the regulations or the directives, or as a result of not having done anything prohibited by this Act, the regulations or the directives.

Same

(2) Nothing in subsection (1) shall be read as suggesting that an employer's compliance with the law can be the basis for a finding of constructive dismissal.

No expropriation or injurious affection

31 Nothing done or not done in accordance with this Act, the regulations or the directives constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

No cause of action re enactment of Act, etc.

32 (1) No cause of action arises against the Crown or any of the Crown's current or former ministers, agents, appointees and employees or against an employer to whom this Act applies or a current or former director, officer or employee of an employer to whom this Act applies,

- (a) as a direct or indirect result of the enactment or repeal of any provision of this Act;
- (b) as a direct or indirect result of the making, amending or revoking of any provision of a regulation or a directive;
- (c) as a direct or indirect result of anything done or not done in order to comply with this Act, a regulation or a directive, including any denial or reduction of compensation that would otherwise have been payable to any person; or
- (d) as a direct or indirect result of any order made in good faith under subsection 26 (1).

Proceedings barred

(2) No proceeding, including but not limited to any proceeding in contract, restitution, unjust enrichment, tort, misfeasance, bad faith, trust, fiduciary obligation or otherwise, that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against a person referred to in that subsection.

Application

(3) Without limiting the generality of subsection (2), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief or any form of damages or any other remedy or relief, or a claim to be compensated for any losses, including loss of earnings, loss of revenue or loss of profit.

Rights preserved

33 Nothing in this Act prevents the Attorney General from bringing an application or commencing proceedings to require any person to comply with this Act, a regulation or a directive.

Not entitled to be compensated

34 Despite any other Act or law, no person is entitled to be compensated for any loss or damages, including loss of revenues, loss of profit or loss of expected earnings or denial or reduction of compensation that would otherwise have been payable to any person, arising from anything referred to in subsection 32 (1).

Conflict with this Act

35 This Act prevails over any other Act and over any regulation, by-law or other statutory instrument, unless another Act expressly declares that it or any of its provisions apply despite this Act.

No deemed employment relationship

36 Nothing in this Act changes the status of an employer of employees and the application of this Act does not create an employment relationship between the Crown and employees of employers or a deemed employment relationship between them for the purposes of this or any other Act or any law.

Directives

37 (1) Every employer and employers' organization to which a directive under this Act applies shall comply with it.

General or particular

(2) A directive may be general or particular in its application.

Form, manner, timing

(3) A directive may provide for the form and manner in which it is to be complied with, and the time frame within which it is to be complied.

No notice to individual required

(4) Subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* and subsection 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply with respect to any personal information disclosed or collected under the authority of a directive.

Public inspection

(5) The Minister shall ensure that the directives are readily available for inspection by the public by posting them on a public website.

Non-application of *Legislation Act, 2006*, Part III

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to directives.

Regulations

38 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Act.

Same

(2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations with respect to any matter that, in this Act, is described as being done by regulation, except where otherwise specified.

Same, Minister

(3) The Minister may make regulations with respect to any matter that, in this Act, is described as being done by a regulation made by the Minister.

Transitional regulations

(4) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act.

Same

(5) In the event of a conflict between this Act and a regulation made under subsection (4), the regulation prevails.

AMENDMENTS TO THIS ACT

Amendments to this Act

39 (1) Paragraph 7 of subsection 5 (2) of this Act is repealed and the following substituted:

7. A police governing authority referred to in section 101 of the *Community Safety and Policing Act, 2019*.

(2) Subsection 5 (2) of this Act is amended by adding the following paragraph:

7.1 A First Nation board constituted under section 32 of the *Community Safety and Policing Act, 2019*.

(3) Subsection 5 (2) of this Act is amended by adding the following paragraph:

7.2 A First Nation O.P.P. board constituted under section 77 of the *Community Safety and Policing Act, 2019*.

REPEAL

Repeal of this Act

40 On the day this section comes into force, this Act is repealed.

COMPLEMENTARY AMENDMENTS

Labour Relations Act, 1995

41 (1) The *Labour Relations Act, 1995* is amended by adding the following section:

Incorporation of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*

190 (1) Sections 1 to 16 and 24 to 38 of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* shall be deemed to form part of this Act and apply to,

- (a) Ontario Power Generation Inc. and each of its subsidiaries;
- (b) any trade union certified or voluntarily recognized under this Act that represents employees of any of the employers referred to in clause (a); and
- (c) the employees of the employers referred to in clause (a) who are represented by the trade unions described in clause (b).

Conflict

(2) If there is a conflict between the provisions incorporated into this Act under subsection (1) and sections 1 to 189 of this Act, the provisions incorporated under subsection (1) prevail only for the purposes of those incorporated provisions.

No application to the Board

(3) No application may be made to the Board in respect of the provisions incorporated into this Act under subsection (1).

Non-application of section 104

(4) Section 104 of the Act does not apply in respect of the provisions incorporated into this Act under subsection (1).

Minister responsible

(5) For greater certainty, for the purposes of the provisions incorporated into this Act under subsection (1), Minister means the President of the Treasury Board or such other member of the Executive Council to whom the administration of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* is assigned or transferred under the *Executive Council Act*.

(2) Section 190 of the Act, as enacted by subsection (1), is repealed.

Employment Standards Act, 2000

42 (1) Section 143 of the *Employment Standards Act, 2000* is repealed and the following substituted:

PART XXIX

INCORPORATION OF THE PROTECTING A SUSTAINABLE PUBLIC SECTOR FOR FUTURE GENERATIONS ACT, 2019

Incorporation of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*

143 (1) The provisions of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* shall be deemed to form part of this Act and apply to,

- (a) Ontario Power Generation Inc. and each of its subsidiaries; and
- (b) the employees of any the employers referred to in clause (a).

Conflict

(2) If there is a conflict between the provisions incorporated into this Act under subsection (1) and sections 1 to 142 of this Act, the provisions incorporated under subsection (1) prevail only for the purposes of those incorporated provisions.

No complaints

(3) No complaint may be made under this Act, and no employment standards officer may inspect or investigate any matter or take any enforcement action, in respect of the provisions incorporated into this Act under subsection (1).

Non-application of section 132

(4) Section 132 of this Act does not apply in respect of the provisions incorporated into this Act under subsection (1).

Minister responsible

(5) For greater certainty, for the purposes of the provisions incorporated into this Act under subsection (1), Minister means the President of the Treasury Board or such other member of the Executive Council to whom the administration of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* is assigned or transferred under the *Executive Council Act*.

(2) Section 143 of the Act, as re-enacted by subsection (1), is repealed.

COMMENCEMENT AND SHORT TITLE

Commencement

43 (1) Subject to subsections (2), (3) and (4), this Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 39 (1) comes into force on the later of the day subsection 5 (2) of this Act comes into force and the day section 101 of the *Community Safety and Policing Act, 2019* comes into force.

(3) Subsection 39 (2) comes into force on the later of the day subsection 5 (2) of this Act comes into force and the day section 32 of the *Community Safety and Policing Act, 2019* comes into force.

(4) Subsection 39 (3) comes into force on the later of the day subsection 5 (2) of this Act comes into force and the day section 77 of the *Community Safety and Policing Act, 2019* comes into force.

Short title

44 The short title of this Act is the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*.