

COMMENTS BY THE UNION OF CANADIAN TRANSPORTATION EMPLOYEES

on

**BILL C-4: 2013 BUDGET IMPLEMENTATION BILL:
ECONOMIC ACTION PLAN 2013, no. 2**



TO THE HOUSE OF COMMONS STANDING COMMITTEE ON FINANCE

November 20, 2013

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1. Executive Summary

The Union of Canadian Transportation Employees (UCTE) is a component of the Public Service Alliance of Canada that represents both public and private sector workers in fields such as transportation inspection and public safety. We represent the majority of workers at Transport Canada, the Canadian Coast Guard, canal operations at Parks Canada and other organizations such as most federally regulated airports and Nav Canada.

The labour relations components of Bill C-4 are built on a flawed premise that the system is broken; that unions and management cannot work effectively together for the betterment of the workplace and the public. Unfortunately, the proposed timeline does not permit us to engage in consultations or dialogue to explain the benefits of how labour-management relations work today given both the Bill's position on the Order Paper and the time allocation for debate. As a result, we are recommending one change in Division 5 of Part 3 by adding the word "potential" to the definition of "danger" and two other changes in Division 17 of Part 3 by proposing that the Deputy Head be given the power and prerogative to designate workers "essential". These modest changes are steps that would better reflect the way workplace processes are today and could assist in maintaining effective labour-management relations.

2. Division 5 of Part 3: Definition of "Danger"

This Division proposes a definitional change in a key section of the *Canada Labour Code*. There has been public debate over the past few weeks of this provision and its implication that the system does not work. The fact is that most Health and Safety



workplace committees work well and can be very effective, whether in the public or private sectors to address issues.

The proposed definition of “danger” removes the ability of the joint committees to determine whether there are potential dangers that require redress. It further places a much higher standard over which employees can refuse to work in unsafe conditions. In short, it removes the ability for preventative action such as proactive steps taken to address asbestos and prolonged exposure to chemical hazards until after a serious injury or workplace accident.

This change will set workers’ safety back decades - resulting in more loss of life and workplace injuries. By way of history, the requirement for “imminent danger” was removed from the law as that threshold unnecessarily put workers lives at risk. In the 1984 decision (*Bell Canada v. Labour Canada*) by the then Canada Labour Relations Board, “Imminent Danger” was defined as a situation of high probability that something out of the ordinary which will be injurious to the individual’s safety and/or health is so likely to occur almost immediately and without warning that the individual should withdraw himself from the scene. A return to danger to be “almost immediate”, will again put workers lives and livelihoods at serious risk.

To help rectify this misunderstanding in the language of the Bill, we suggest one modest addition to the definition:

“Danger means **potential** hazard, condition, or activity that could reasonably be expected to be a potential, imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered;”

3. Division 17 of Part 3: Amendments to the *Public Service Labour Relations Act*

These are complex proposed changes and, if implemented, will drastically change the face of labour-management relations in the federal government. Unfortunately, there may be serious workplace implications of these changes- implications that could be destructive to public service and to the workplace. We suggest one practical addition that we believe, if implemented, will better reflect how decision-making works.

Designation of “essential worker”

Bill C-4 proposes to remove the consultative nature of essential worker designation (e.g. through union-management agreements) by giving Treasury Board the exclusive power and prerogative to designate essential employees. The consultative and cooperative nature of the current approach permits greater workplace communications and more harmonious labour-management relations.

The fact is that Treasury Board, as a governing body, is not in the best position to determine which workers are essential and which workers are not. The Deputy Ministers of each department are really the key players in understanding the roles and obligations of their own workforce and the essential components of it. The added layer of Treasury Board oversight creates bottlenecks, inefficiencies and misunderstandings in the system. It is for this reason that we are proposing that the “Deputy Head”, as defined in the Act, be given the responsibility and prerogative for designating essential workers within their respective departments.

We would recommend that the proposed sections 119 and 120 of the Public Service Labour Relations Act be changed to read as follows:

119. (1) The **Deputy Head, in consultation with the employer**, has the exclusive right to determine whether any service, facility or activity of the Government of Canada is essential because it is or will be necessary for the safety and security of the public or a segment of the public.

120. (1) The **Deputy Head, in consultation with the employer**, has the exclusive right to designate the positions in a bargaining unit that include duties that, in whole or in part, are or will be necessary for the employer to provide essential services, and the **Deputy Head** may exercise that right at any time.

Conclusion

Bill C-4 risks undermining labour relations as a whole unless key issues are addressed. In its current proposal the Bill limits the definition of danger and therefore leaves workers and their families exposed to unnecessary risks. By making minor changes to the proposed definition of danger, government workers can be kept safe.

Furthermore the expertise of the Deputy Heads of departments needs to be recognized in order to make informed decisions about the reality of what constitutes appropriate essential service needs.

