

RESPONSE TO THE FEDERATION OF LABOUR'S PRESENTATION TO EXECUTIVE COUNCIL

**Response of the Minister Responsible for Labour for the
following topics:**

ANTI SCAB LEGISLATION

The *Prince Edward Island Labour Act*, section 9(3), provides protection for striking workers to return to work upon the end of a strike.

Section (3) states:

Where employees go on strike or are locked out in circumstances permitted by section 41, they are entitled subject to subsection (4), upon the termination of the strike or lockout to return to and be reinstated in their employment without discrimination and subject to the terms of employment applicable on the termination of the strike or lockout.

In May, 2003, Donalda MacDonald, President of the Prince Edward Island Division of the Canadian Union of Public Employees (CUPE), met with the Minister to discuss this issue. The Minister assured Ms. MacDonald that the current legislation provided that employees could return to work following a strike.

As well, the only other jurisdiction providing anti-scab legislation is Quebec.

The Minister feels section 9(3) is sufficient in guaranteeing striking employees the right to return to work.

FIRST COLLECTIVE AGREEMENT

I have reviewed the experience of other jurisdictions in Atlantic Canada who have First Collective Agreement legislation. Newfoundland is the only province with First Collective Agreement legislation. It was introduced in 1988; since that time only 15 collective agreements were imposed by the Labour Relations Board. The results of the 15 certifications indicate 6 companies are no longer operating and the parties did not enter a second collective agreement; in 4 cases, the union has since been decertified; 2 agreements imposed by the Board are still current; one employer is still operating but no collective agreement entered into between the parties and in two cases, the company and union have or are negotiating subsequent agreements.

In light of these statistics and other information, the

Department is not prepared to introduce First Collective Agreement legislation.

LOW WAGES - MINIMUM WAGE TO LIVING WAGE

Prince Edward Island's minimum wage is the highest in Atlantic Canada and the number of employees earning minimum wage is the second lowest in Canada at 3.6%, next to Alberta at 2%. In comparison with the Atlantic provinces, Newfoundland is 8.7%, New Brunswick is 6% and Nova Scotia is 5%.

Presently, the current minimum wage rate in Prince Edward Island is the subject of a number of studies with the Employment Standards Branch being requested by the Strategic Planning Committee to make a presentation. This presentation was delivered to the Strategic Planning Committee on June 16, 2004, with a subsequent follow-up presentation made on June 23, 2004. The presentations profiled minimum wage and the factors impacting on it.

In addition, the Employment Standards Branch was requested to capture local labour market data to be presented to Executive Council to give them a better understanding of the type and number of employees earning minimum wage and the entry level wage in the various sectors of the Island economy.

In reply to Prince Edward Island having the lowest average weekly wage in Canada, this is attributed to a number of factors including:

we have a relatively small manufacturing, industrial and professional sector that drives down the average weekly wage. Through the department of Development & Technology and other departments and agencies, Government is continually working to increase the number of manufacturing and industrial jobs in the province. Initiatives such as the development of the Aerospace industry at Slemon Park is but one example of this ; and, part time workers who primarily work in tourism, fast food or agricultural sectors have a negative effect on the average weekly wage.

In accordance with the *Prince Edward Island Employment Standards Act*, the Employment Standards Board is required to review the Minimum Wage annually and make a recommendation to Executive Council.

The current recommendation covered the period 2003, 2004 and 2005 with the third year at \$6.80. The Board will meet this fall to consider a recommendation for further increases.

EMPLOYMENT STANDARDS LEGISLATION

a. With the addition of Remembrance Day on January 1, 2004. Prince Edward Island now has six paid statutory holidays which is the same number as the other Atlantic provinces.

The province would find it difficult to convince the business community to support two additional paid statutory holidays at this time.

b. Vacation Leave - 3 weeks after 8 years continuous service. As Minister Responsible for Labour, I will ask the Employment Standards Board to examine this request and provide me their recommendation.

c. Sick Leave and Family Leave (5 days unpaid) - As Minister Responsible for Labour, I will request the Employment Standards Board review and respond to your request regarding 1 day paid bereavement leave and 5 days unpaid sick and family leave.

FAIR WAGES FOR CONSTRUCTION SECTOR

In 1992, the Department conducted a review of a fair wage policy for provincial government building projects. After extensive consultations between the parties, it was found no consensus could be reached. It was decided by the Minister that the Department would not proceed further on this issue.

The Department has not received any indication that the positions of the parties have changed to bring about a consensus in favour of a fair wage schedule.

DAY OF MOURNING

The province is supportive of the Federation of Labour's efforts to have April 28th recognized as a Day of Mourning for workers killed or injured on the job in Prince Edward Island. The Department has actively participated in the events planned for the Day of Mourning. The Department will contact the Department of Transportation and Public Works in regard to securing a parcel of land around Province House for the erection of a monument recognizing workers who have died on the work site.

Response of the Minister of Education on the following topics:

APPRENTICESHIP - TRADES TRAINING

The Labour Market Development Agreement (LMDA) has recently, with the co-operation of the construction industry, completed a study to identify skill shortages, trends, opportunities and direction for the industry as it relates to labour force development specific to occupations in the trades. In the near future, this information will be provided to an industry sector council to allow it to follow a strategic approach in support of developing and maintaining a trades workforce.

In addition, the Department of Education indicates they are actively responding to shortages of tradespeople in the following ways:

a. the number of apprentices have increased to roughly 600 with well over 300 attending in-school technical training in each of the last three years;

b. the provincial and federal governments have partnered in the Career Promotion campaign for trades and health, which has raised awareness about the potential of trades careers;

c. Holland College pre-apprenticeship applications for this year are up across trades programs, with waiting lists of 60 to 70 in some programs. For in school technical training, apprentices must be EI eligible but the training is tuition-free. For the majority of PEI apprentices, the training is available on Prince Edward Island.

JOURNEYPERSON TO APPRENTICE RATIO

The nature of trades work often requires workplaces to be flexible regarding apprentice to journeyman ratios. For this reason, the Provincial Apprenticeship Board has opted for voluntary recommended ratios and has not asked the Department of Education to confirm ratios in legislation.

COMPULSORY CERTIFICATION OF THE ELECTRICAL TRADE

The Construction Electrician trade has been approved for certification effective 30 June 2004. The certification of trades process is handled by the Provincial Apprenticeship Board which responds to requests from industries for the certification of individual trades.

In regard to subsidizing new positions in the trades, the current practice with respect to financial assistance requires that any approved positions be incremental to the employer's labour and that no employees are on layoff.

Response of the Attorney General on the following topics:

PENSION BENEFITS ACT

The *Pension Benefits Act* was passed by the Prince Edward Island Legislature on 26 April 1990 but never proclaimed. When the *Act* was passed, there apparently were some concerns that small companies might find the cost of compliance so onerous that they would wind up their pension plans. The Special Committee of the Legislative Assembly which studied the *Pension Benefits Act* acknowledged the complexity of the legislation and the regulatory burden it would impose, particularly on small companies.

Over the years, there has been relatively little demand to have the *Act* proclaimed. There have been some enquiries in the past two (2) years and some requests have been received to have the legislation proclaimed.

The implementation of pension benefits legislation would be a substantial project of Government and would involve new resources.

Before the 1990 legislation could be proclaimed, the following steps would need to be taken:

- a) determine staff requirements and recruit accordingly;
- b) identify and consult with all stakeholders; all plans need to be registered under the *Act*; determine who currently has plans that would need to be registered;
- c) analyse the results of the consultation and determine the concerns of the stakeholders, particularly those that might cause significant problems;
- d) review the legislation, compare it to other provinces and fix any provisions that are clearly out of date or that would cause unnecessary harm to the stakeholders; and develop new Regulations required under the *Act*.

CAR INSURANCE

Please note that during our 2003 review of automobile insurance rates we were able to determine that auto insurance rate did not increase 58.4% in the period December 2001 to December 2002. Our review indicates that rate increases in Prince Edward Island in recent years ranged from a low of 0% (even decreases) in the late 1990's to a high of approximately 13% to 15% in 2003, the year we

commenced our review of the issue. Obviously, we were most surprised and disturbed by numbers such as 58.4% which was being repeated by various media sources and Crown Corporations in other jurisdictions in an attempt to illustrate the virtues of their own particular system. Accordingly, we made inquiries to determine where this quoted number had originated.

As a result of our inquiries we learned that the 58.4% increase was originally released by Statistics Canada, Needless to say, we contacted Statistics Canada to express our concern with the reported increase and they eventually conceded that the number really reflects a number of years increases, not a one year increase as they originally reported. While we're uncertain as to how many years were included in the 58.4% figure, we believe it would have to be a considerable number given the rate history outlined above. Industry as well as other government agencies were also very concerned with the published Statistics Canada numbers. Both national and provincial industry groups undertook their own reviews and indicated that their data showed that the Statistics Canada number was much too high, and that the true increase was in line with our findings. In addition, the Bank of Canada asked Statistics Canada to review their methodology with respect to calculating insurance rate increases as the numbers have a significant affect on Bank of Canada interest rates decisions. We understand Statistics Canada agreed to this review.

It has been reported that the Insurance Bureau of Canada member companies earned a return on equity of about 11% for 2003. We understand that 11% is about their historically normal level and that it is in line with what the Federal Government's insurance industry solvency regulator, the Office of the Superintendent of Financial Institutions (OSFI), would expect in order to maintain the viability of the industry.

We also understand that for the years 2000 through 2002 their return on equity averaged less than 4%. These variations simply confirm that this is a very cyclical industry due to the level of competition and volatility in investment returns.

We developed our own new insurance legislation after substantial consultations with the public and industry throughout the spring and summer of 2003. As we conducted these consultations, it became apparent that consumers wanted lower auto insurance rates and the only way to achieve this was to lower costs. It is true that we considered the finding of The Atlantic Insurance Task Force. However, we also considered the comments we received from the public during our consultations and the types of cost saving measures being adopted elsewhere. We discovered that most Canadians live in jurisdictions with similar and, in many cases, more

restrictive auto insurance systems than the system which we have adopted in our Province. We also came to believe that our Province enjoys an excellent balance of costs versus benefits as compared to any other Canadian Jurisdiction.

While we can't control what the industry does elsewhere, we can help to ensure Islanders have reasonable and competitive rates and that Islanders aren't faced with fluctuations which are excessive. It appears we're going in the right direction as IRAC indicated in their March 2004 press release that the measures we took last fall have resulted in rates being lowered, on average, in the range of 12% to 15%. IRAC has full authority to ensure rates remain at an appropriate level and to help ensure rates don't fluctuate excessively.

We are a little confused by the Federation's comments which ask that we impose no more restrictions on auto policies, while at the same time adopt the proposed New Brunswick model. We believe these recommendations are inconsistent in that it is our understanding that, under the proposed New Brunswick model, model consumers would give up all rights to sue in exchange for scheduled benefits. In addition, financial compensation for pain and suffering would be totally eliminated. This is a much more restrictive system than the one we have adopted, which simply caps awards for non-economic losses associated with minor injuries.

We believe the new legislation which we enacted in December 2003 has and will continue to result in the lowest possible rates while maintaining the rights of Islanders. The new legislation adds protection and transparency for consumers while ensuring a healthy level of competition in our market. Having said that, if this legislative package proves to be ineffective we'll look at other options.

Topic forwarded to Federal MP:

EMPLOYMENT INSURANCE

The province will bring your recommendations to the attention of the local Members of Parliament as the provincial government has no jurisdiction in dealing with Human Resources Canada matters.

Response of the Workers Compensation Board on the following topics:

HEALTH AND SAFETY

Funding for occupational health and safety has always been paid by

the Workers Compensation Board. Prior to 1995, when occupational health and safety was delivered by Government, the Workers Compensation Board paid an annual grant to Government to cover the cost of services.

As the Workers Compensation Board will always have a need to focus on prevention and education as a means of reducing workplace injuries, Government believes that including the enforcement mandate with the Workers Compensation Board is an essential component of achieving prevention goals. A recent review of best practices conducted by the Ontario Ministry of Labour also suggests that the most effective structure for delivery of health and safety services is to have the enforcement and prevention mandates delivered through the same organization. As well, in small jurisdictions, resources can be more effectively utilized if officers have combined roles of enforcement, education and prevention.

With respect to accident follow-ups, it is the practice of the Workers Compensation Board to require occupational health and safety officers to do follow-up inspections for all accidents where an officer has completed an investigation and orders have been issued. In the past year, the Workers Compensation Board carried out 1,262 workplace inspections. In order to provide for more effective accident investigation, the Workers Compensation Board is implementing a "focussed employers" approach, whereby occupational health and safety officers are targeting those employers with high injury rates. While the Workers Compensation Board will continue to strive to improve their inspection services, it is important to also be aware that workplace safety is achieved most effectively when all of the workplaces parties work towards this objective.

THREE DAY WAITING PERIOD (3/5 WEEKLY SALARY)

The Workers Compensation Board is not aware of any impact the waiting period has had on under-reporting of accidents. The statistics collected by the Workers Compensation Board indicate that although overall claims have decreased, the number of "medical aid" claims have increased, indicating that claims are continuing to be reported but the waiting period means that no "wage loss" is paid for those claims of 3 or less days and therefore the claim is counted as a "medical aid" claim.

While Government recognizes the concerns expressed by workers with respect to the waiting period, Government believes that due to the serious sustainability concerns facing the workers compensation system, it was necessary to implement this requirement in 2002. At the same time, employers were asked to pay a 5 cent surcharge on their annual assessment rates to implement a plan to eliminate the

unfunded liability over a 20 year period. The Workers Compensation Board is continually trying to improve the services and support that it provides to injured workers.

**Response of the Minister of Transportation and Public Works
on the following topics:**

WOOD ISLANDS/CARIBOU FERRY SERVICE

The Department of Transportation and Public Works brought the issue of the necessity for a long-term ferry subsidy for the Wood Islands/Caribou Ferry Service to the attention of the Federal Minister of Transport on various occasions.

The Department will continue to request Transport Canada to enter into a long-term funding subsidy that will bring stability to the ferry service and business interests in Eastern Prince Edward Island.

Recently, the Department had the 1998 Wood Islands Ferry Impact Study updated to demonstrate the economic benefit provided by the ferry service. This information will be used to support continued requests for a long-term subsidy agreement.

Transportation and Public Works recognizes the importance of the Wood Islands Ferry Service and will continue to lobby the Federal Government for the long-term funding subsidy that is necessary for this ferry service.