

Executive
Council



Newfoundland
and Labrador

*Certified to be a true copy of a Minute of a Meeting
of the Committee of the Executive Council of Newfoundland and
Labrador approved by His Honour the Lieutenant-Governor on*

2017/04/20

OC2017-137

Premier
JPS/DM
SNL/DM
FIN/DM
TB/Secretary
AG
Deputy Clerk
File

MC2017-0150. XX2017-026.

Under the authority of sections 13 and 19 of the Judicature Act, the Lieutenant-Governor in Council is pleased to authorize the Court of Appeal to take such evidence as it may require to properly determine the questions referenced in OC2017-103.


Clerk of the Executive Council

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2017/03/27

OC2017-103

JPS/DM
Asst Sec/SPC
SNL/DM
FIN/DM
TB/Secretary
AG
Deputy Clerk
File

MC2017-0088. JPS2017-006. SPC2017-013.

Under the authority of section 13 of the *Judicature Act*, the Lieutenant-Governor in Council hereby refers the following to the Newfoundland and Labrador Court of Appeal:

In *Arrangement relatif à Bloom Lake*, 2017 QCCS 284 (CanLII), the Quebec Superior Court stated at paragraph 89: "If the Government of Newfoundland and Labrador wishes to obtain a judgment from the courts of the province on the interpretation of the *Pension Benefits Act, 1997*, SNL1996 cP-4.01, it can refer a matter to the Court of Appeal of Newfoundland and Labrador". In that context, the following questions stated at paragraph 25 of that decision are referred:

- 1) The Supreme Court of Canada has confirmed in *Sun Indalex Finance, LLC v. United Steelworkers*, 2013 SCC 6, that, subject only to the doctrine of paramountcy, provincial laws apply in proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c.C-36. What is the scope of section 32 of the *Pension Benefits Act, 1997*, SNL1996 cP-4.01 deemed trusts in respect of:
 - a) unpaid current service costs;
 - b) unpaid special payments; and
 - c) unpaid wind-up deficits?
- 2) The Salaried Plan is registered in Newfoundland and Labrador and regulated by the *Pension Benefits Act, 1997*.
 - a) (i) Does the federal *Pension Benefits Standards Act*, R.S.C. 1985, c-32 deemed trust also apply to those members of the Salaried Plan who worked on the

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- railway (i.e., a federal undertaking)?
- (ii) If yes, is there a conflict with the *Pension Benefits Act, 1997* and *Pension Benefits Standards Act*? If so, how is the conflict resolved?
- b) (i) Does the *Quebec Supplemental Pension Plans Act, CQLR, c. R-15.1* also apply to those members of the Salaried Plan who reported for work in Quebec?
- (ii) If yes, is there a conflict with the *Pension Benefits Act, 1997* and the *Quebec Supplemental Pension Plans Act*. If so, how is the conflict resolved?
- (iii) Do the *Quebec Supplemental Pension Plans Act* deemed trusts also apply to Quebec Salaried Plan members?
- 3) Is the *Pension Benefits Act, 1997* lien and charge in favour of the pension plan administrator in section 32(4) of the *Pension Benefits Act, 1997* a valid secured claim in favour of the plan administrator? If yes, what amounts does this secured claim encompass?

Bernard M. Coffey
Clerk of the Executive Council