

Bill C-4: A budget bill attacking workers' rights

Bill C-4 is called *A second act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures*.

As its name implies, Bill C-4 is the second bill introduced to implement the Conservative government's 2013/14 budget. Bill C-4 is seeking to change many different unrelated laws with only one piece of omnibus legislation.

Two parts of Bill C-4 are a direct attack on worker and union rights: changing how bargaining will be done for workers employed by the federal government and re-defining health and safety rights for all federal government workers and all workers in federally regulated industries.

Bill C-4 proposes changes to Part II of the *Canada Labour Code* and to the *Public Service Labour Relations Act* (PSLRA). Proposed changes to bargaining apply only to those workers covered by the PSLRA (those directly employed within the federal government and its agencies). Changes to Part II of the *Canada Labour Code* deal with health and safety, and apply to about 1.2 million workers in federally regulated industries as well as all those workers covered by the PSLRA.

Workers in federally regulated industries include those in telecommunications, postal services, ports, air transportation, rail, shipping, oil pipelines, interprovincial

transportation, and workers in the territories and on First Nations reserves.

The full effects of Bill C-4 will not be completely understood until the bill is passed because the Conservative government has not explained the application of some of its proposed changes. For instance, we will not know which sections of the federal public service will be declared to be essential services.

Bill C-4 will be studied over the next few weeks in a number of House of Commons standing committees. The Essential Services aspect will be referred to the finance committee while the changes to health and safety will be taken up by the human resources committee.

Expansion of "essential services"

Under the current PSLRA, federal public service employees face a complicated bargaining regime, including a limited right to strike

subject to the designation of "essential services" and the use of compulsory interest arbitration, among other options.

Those federal employees performing work designated as an essential service do not have the right to strike while their co-workers in the same bargaining unit who are performing non-essential work can strike. Obviously, it is more difficult to strike effectively when a high number of workers must remain on the job.

This all changes with Bill C-4.

Bill C-4 will give sole power to the federal government to define which employees perform essential services within federal public services without having to negotiate that level of service with the union. It is expected that the federal government will use these new powers to raise the number of workers deemed essential and remove the ability to engage in effective strike action.

Currently, in order for work to be deemed essential during a

Current federal essential services:

- border safety/security
- correctional services
- food inspection
- health care
- marine safety
- accident safety investigations
- income and social security
- national security
- law enforcement
- search and rescue

strike, the work has to be necessary to ensure the safety and security of Canadians. This has taken on well-defined meanings established by jurisprudence. For example, customs officers are not required to collect taxes because it has been deemed by the Public Service Staff Labour Relations Board that tax collection on goods is not essential to the safety and security of Canada, while defending borders is.

The proposed changes in Bill C-4 will mean that workers carrying-out any work deemed essential services will have to carry out **all** their work, not just the work deemed essential. If Bill C-4 passes, the worker would be deemed essential, not just their work.

Bill C-4 will also deny the right to strike to bargaining units in which 80 per cent or more of workers are deemed essential. In these cases, they will be forced automatically into compulsory interest arbitration.

Under the Conservative government's proposals in Bill C-4, federal government employees will see their bargaining power eroded and many more workers will be denied the right to strike altogether.

Health & Safety

Bill C-4 will have a dramatic impact on workers' health and safety under Part II of the *Canada Labour Code*.

The most critical change is to the individual worker's right to refuse dangerous work. This right is the worker's last line of personal protection when faced with the choice between doing an activity that will injure or kill them and being disciplined by their employer (and maybe even losing their job).

Bill C-4 proposes to significantly alter the legislated definition of danger. Workers will now need to argue that a serious health and safety effect would be incurred by performing a task or using the equipment. Current usage of the right to refuse procedure does not require such legal debates over whether something is serious or not.

Bill C-4 will also require that in order to invoke the right to refuse, workers will have to be facing an imminent danger. This confuses the issue and introduces the idea that workers do not deserve protection from activities or conditions that could cause them illness in the future.

With this new definition, the threat to a worker's life or health will now have to be based on something that has to be happening almost immediately or very soon, not a potential hazard. The change in this definition removes the explicit prevention of exposure to a hazardous substance that is likely to result in a chronic illness and in disease in the future or damage to the reproductive system as a result of the hazard.

There are practical implications for how this could affect CUPE members. For instance, air-line flight attendants currently exercise their right to refuse dangerous work due to aircraft cabin air contamination and fume events, caused primarily by engine and lubricating oils leaking into the aircraft ventilation system as a result of mechanical faults and failures. Exposure to these fumes can lead to illness while on board, and potential future health problems down the road. Government health and safety officers have made findings of danger in such cases today.

The questions that our flight attendant members will now face include: is this an immediate hazard, and is the potential illness considered serious enough? In short, we simply don't know if what today is deemed to be a danger will meet this new restricted definition of danger tomorrow.

Other proposed changes allow the Minister to summarily dismiss work refusals that are deemed frivolous, vexatious, or done in bad faith, all without the right of further appeal.

Bill C-4 will also give the Minister tremendous power to contract out the work of health and safety officers investigating work refusals to other unspecified private entities or the provinces.

Treasury Board President Tony Clement has made it quite clear why these legislative changes are

being pursued: there are too many unnecessary work refusals today that are making Canadian workplaces uncompetitive.

The government cites a misleading claim that "80 per cent of all work refusals result in a finding of no danger," even after appeal. That is, 80 per cent of the work refusals were not justified. But this figure does not tell the whole story. We are aware of examples in which a government health and safety officer has found no danger, but has still taken action for employer non-compliance with health and safety legislation and regulations. So the right to refuse did lead to worker protection in their workplaces.

Under the Conservative government's proposed amendments to Part II of the *Canada Labour Code*, workers in the federally regulated industries and those covered under the PSLRA will lose the effective right to refuse dangerous work in the name of keeping their employers competitive.

Conclusion

Bill C-4, a budget implementation bill, includes an attack on workers' rights. Just like Bills C-377 and C-525, Bill C-4 is a continuation of the Harper government's attacks on workers and the labour movement.

These reckless changes to health and safety endanger the lives of CUPE members. The changes to bargaining and the restrictions on the right to strike unbalance labour law in this country in an unprecedented manner. CUPE is calling for these changes to be withdrawn. CUPE is working with partners in the labour movement to raise public awareness of the impact of Bill C-4. These changes will have a negative impact on workers' rights and will also potentially endanger the public.

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