Unifor Summary of Part 3 of Bill C-39, "Building Canada Strong Act"

As introduced on September 21, 2026

This is a Unifor summary of some important aspects of Part 3 of Bill C-39, as it was introduced on Monday, September 21, 2026. Part 3 of the Bill is mainly about changes to the Canada Labour Code.

This summary is arranged in the order in which subjects appear in Part 3 of Bill C-39, and not in the order of their importance to Unifor.

Certification in Long-Shoring

The intention here is to broaden the opportunities for the Canada Industrial Relations Board (the CIRB) to grant a geographic certification that will reduce the number of individual bargaining agents and thus reduce opportunities for disputes in the long-shoring industry. This follows on recommendation #6 of the West Coast Ports Industrial Inquiry Commission.

At present, only a council of unions can apply for a broad-based bargaining unit. Instead of only unions being able to apply for a geographic certification, now one or more employers, and also the Minister or the CIRB, would be able to initiate a geographic certification process in the long-shoring industry.

There are amendments which would also make it possible for the government to make a regulation that expands this kind of geographic certification to other industries in a geographic area.

First Collective Agreement Arbitration

This subject is dealt with in new section 35.1 and in section 80. These are two beneficial measures that will help ensure that union organizing leads to a first collective agreement in every case.

Section 35.1 would require that when the CIRB grants a new certification order, the trade union must give notice of the new certification to the Minister. After that, the Federal Mediation and Conciliation Service (FMCS) must engage with the parties for the purpose of making a first collective agreement. This is an example of a more interventionist role for FMCS to actively engage with parties to reduce opportunities for disputes.

In a new section 80, there will be a simple automatic process for either the union or employer to access first contract arbitration. This is available as a right, nine months after the notice to bargain is given. This will be welcome in difficult first agreement circumstances. A shorter period of time than nine months before the right is available might be desirable. This new measure should help ensure that a new collective agreement does not take more than one year.

Contract Flipping

Sections 44 through 46 are amended. Section 47.3 is repealed.

The revisions in section 44(2.1) should be very welcome. This addresses the contract flipping scenario by way of a model that appears similar to those in the Ontario and British Columbia statutes where an employer is contracted to provide services.

Section 44(2) currently sets out the *Code's* sale of business provisions, providing that where a sale of business has occurred, the trade union that is a bargaining agent before the sale continues to be the bargaining agent after the sale, and a collective agreement continues in force with the successor employer.

The proposed amendments would provide the same continuation of bargaining rights and collective agreements when one contractor is replaced by another in certain circumstances.

Subsection 44(2.1) would provide that where a new contractor replaces a previous contractor, the trade union's collective bargaining rights with the new contractor will continue, and if a collective agreement is in place, the new contractor steps into the shoes of the previous contractor. If there is a pending application for certification or other proceeding, the new contractor will become bound to that proceeding at the CIRB.

For a contractor successorship to occur, the new contractor must provide the "same or substantially similar services" to those provided by a previous contractor. The previous contractor must have been providing certain services to another employer at an airport or airline. There is room for regulations to expand the application of these rules to an additional “prescribed service” or a “prescribed location” in a “prescribed industry”.

Section 47.3 is repealed, presumably because it will be redundant. Section 47.3 protected only the level of remuneration of unionized employees when a new contractor replaced a previous contractor. It does not protect a trade union's bargaining rights. Unifor has always viewed the remuneration protection as a necessary but not sufficient measure to protect employees in contract flipping scenarios.

Sections 45 and 46 are amended to grant the Board jurisdiction to deal with consequential changes arising from a successor contractor scenario, including the power to review the bargaining unit structure with the new employer (section 45) and determine any other question arising from the successorship (section 46).

These rules will produce conflicts between unions that have overlapping bargaining rights. Particularly in BC, we have seen the provincial labour board grapple with conflicting bargaining rights in contract retendering scenarios. These types of issues arise where the workforce of the new contractor is already unionized by a different bargaining agent.

Early Bargaining for Certain Parties - Section 50.1

The new section 50.1 is about the collective bargaining relationships which have sometimes been described as concerning the 3% or 5% that are problematic in the sense of frequently resulting in strikes or lockouts or threatened strikes or lockouts. This new provision will require those parties to commence collective bargaining 200 days before the expiry of the collective agreement.

This earlier start will apply in three cases, defined with reference to the collective agreement that is expiring. It will apply: (i) when the expiring collective agreement was the product of interest arbitration or another binding method of resolving the disputed issues; (ii) when there was a strike or lockout in the making of that collective agreement; and (iii) when the collective agreement was for a term of five years or more.

The parties will have to tell the Minister when and where they are bargaining, and they will have to engage with FMCS.

Section 50.1(5) extends the bargaining freeze by having it begin 200 days prior to the expiry. That appears unnecessary because the collective agreement remains in force during that time. Perhaps this adds some protection for rights and privileges of employees that are not reflected in the collective agreement.

Longer Conciliation – Section 73, 74 and 75

Section 73 is amended to provide that conciliation lasts for 90 days after the officer is appointed instead of the current 60 days, or for an extended period if agreed to by the parties.

Special Mediator – Section 87.01

Under this new provision, the Minister will be able to appoint a special mediator at any time up to the 75th day of conciliation. The appointment is for 21 days.

The duties of the special mediator are spelled out. The duties include conferring with the parties and trying to assist them to settle their disputes. If there is not a settlement, the special mediator must report to the Minister “without delay” after the end of their 21-day appointment or after one of the parties rejects a tentative agreement. A late report would not be invalid (see revised s. 113).

The contents of the report to the Minister are spelled out in subsection 87.01(3). It must set out the issues in dispute, the parties’ positions on the issues, comments on the parties’ participation and the likelihood that the parties will be able to make a collective agreement within a reasonable time, and the special mediator's views and recommendations.

Section 87.02 deals with the release of the report to the parties and the public. It has to be released to the parties immediately. It then has to be made available to the public not later than five days after the end of the special mediator’s appointment or after one of the parties rejects a tentative agreement.

Sections 87.03 and 87.04 are odd provisions that explain the purpose of the new special mediation process. Statutes don’t normally need to explain their purpose. Statutes are supposed to be self-explanatory. Section 87.03 says that this new special mediation Division is intended to be completed before the day on which a strike or lockout may be declared and to provide a period of 10 days after the special mediator’s report is made public before a strike/lockout can occur. Section 87.04 then restates or summarizes the timelines.

Essential Services / Maintenance of Activities – Section 87.4

There is a very minor consequential amendment to the maintenance of activities process. It simply adjusts the time frame within which an agreement has to be made in cases where the new section 50.1 applies.

Post-Strike Mediation

A new section 105.1 is proposed in the Bill. It would apply where the parties were involved in a strike or lockout or reached a collective agreement through binding arbitration. It would require a mediator to meet with parties to help them improve their relationship.

This is another example of a more activist or interventionist role for FMCS.

Section 107

The amendments to section 107 would formalize and legitimize direct interventions by the Minister to force an end to a strike or lockout. These amendments give new powers to the Minister to effectively end any strike or lockout that the Minister deems is against the “national interest” without any oversight or intervention by Parliament.

Section 107.1 makes minor changes to the existing language. Presently, the Minister’s powers can be exercised where the Minister “deems it expedient”. Now it is based on the Minister’s opinion.

The power to end a strike or lockout by directing the CIRB to make an order that services be resumed, or extending the operation of a collective agreement, is in section 107.02. That power is available only when a strike or lockout occurs. Therefore, it cannot be issued in anticipation of a strike or lockout.

The exercise of the power to direct the CIRB to end a strike or lockout would require the Minister to have considered “the special mediator's report referred to in section 87.01(2)”. Also, the Minister would have to be of the opinion that the strike or lockout adversely affects or may adversely affect the “national interest”.

The language about a special mediator may mean that an order under section 107(2) will only be available in cases where a special mediator has been appointed and it has not resulted in an agreement. If that is the intention, clearer language is needed because the draft language can equally be interpreted to mean that a special mediator’s report must only be considered if there is one.

Subsection 107(3) requires the Minister to account for three things in determining whether the national interest is at stake. These are whether the dispute has a significant impact on the Canadian economy, whether it is causing serious social disruption, and whether it impacts freedom of association. These criteria are vague and subjective.

There would still be much room for debate about whether the constitutionally protected freedom of association is adequately respected in any particular Minister's direction under subsection 107(2).

Regulation-Making – Section 111

Frivolous Vexatious or Bad Faith Complaints to the CIRB

A new section 111(h) is interesting because it prohibits the making of a complaint to the CIRB that is frivolous, vexatious or not made in good faith. As well, an administrative monetary penalty may be imposed in such cases (new s. 111.01(1)).

Expedited Arbitration

The subject of expedited arbitration appears to be relegated to a regulation making power in section 111(2). The Minister will be empowered to make regulations providing timelines, rules of procedure, and an ability to have an expedited process apply to some or all industries for some or all employees in an industry or some or all bargaining units of employees in an industry.

Administrative Monetary Penalties for Bad Faith Bargaining

An amendment will enable regulations to impose administrative monetary penalties in cases of bad faith bargaining, violations of the anti-scab rules, and to address the making of frivolous, vexatious or bad faith complaints to the CIRB.

Sick Leave

Section 239 is amended to clarify that the 10 sick days per year are a minimum floor and not an additional benefit that must be added on top of collectively bargained sick leave.