

BURIAL OF THE DEAD ACT

INTRODUCTION

The [Burial of the Dead Act](#) contains provisions that may override some provisions outlined in the [Labour Relations Code](#). This policy includes:

- the statutory provisions; and
- the conditions when the Act becomes operative.

STATUTORY PROVISIONS

This Act concerns a specific subset of employees. Section 1(1)(b) defines an employee as a person employed to:

- 1(1)(b)(i) dig or prepare graves for the burial of dead human bodies, or
- (ii) do work in or provide services in respect of a cemetery, crematory, mausoleum or columbarium,

and includes any other person who works or provides a service in connection with the burial of dead human bodies;

Section 3(1) states:

3(1) If the employees strike or an employer locks out employees and if the Lieutenant Governor in Council considers it necessary in the public interest, the Lieutenant Governor in Council may by order do any one or more of the following:

- (a) direct an employer engaged in a lockout to bury or permit burial of dead human bodies;
- (b) direct the employees named or described in the order to perform that work or provide those services necessary to bury or permit burial of dead human bodies;
- (c) direct an employer to end a lockout;
- (d) direct employees to cease to strike.

This section allows Cabinet to end a dispute or to temporarily halt a dispute to allow for the burial of bodies.

Section 3(2) states:

3(2) If an order is issued under subsection (1),

- (a) the same rates of pay, terms and conditions of employment and rights and privileges in respect of the employees that existed immediately before the strike or lockout apply during the time the employees are required to work or perform services in accordance with the order.
- (b) no employer shall, except with the consent of the trade union concerned, alter the rates of pay, terms and conditions of employment or any right or privilege in respect of the

- employees during the time that they are required to work or perform services in accordance with the order, and
- (c) the relationship of the employer and the employee continues uninterrupted by the dispute or anything arising out of the dispute during the continuance of the order.

This section continues the employment relationship as it existed before the dispute during any time when employees may be required to return to work to bury the dead. This differs from the provisions of the Code whereby employees returning from a strike or lockout would do so under the terms set by the employer.

Section 5 discusses the settlement of disputes:

5(1) If an order under section 3 affects all the employees in a unit, the Minister shall forthwith establish a procedure to assist the parties to the dispute in respect of which the order is issued to reach a settlement, and the Minister is empowered to do all things that may be necessary to settle the dispute.

(2) As a procedure to settle a dispute, the Minister may establish a Public Emergency Tribunal consisting of one or more persons and of more than one person is appointed, designating one person as chair.

(3) The members of a Public Emergency Tribunal any other person appointed as a procedure or part of a procedure under subsection (1) have the powers of a commissioner under the *Public Inquiries Act*.

This section provides a means by which a settlement may be reached is ordered under Section 3(1)(c) and(d).

CONDITIONS WHEN OPERATIVE

When operative, this act overrides certain provisions in the [Labour Relations Code](#) that normally govern a strike or lockout. This Act becomes operative at the discretion of Cabinet as provided for in Section 3(1).