

Labour  
Management  
Arbitration  
Committee

# Policy Manual



Amended – October, 2023

# **Labour Management Arbitration Committee Policy Manual**

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**Policy Number:** LMAC – 01  
**Subject:** Administration  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall develop administrative guidelines to interpret and implement the sections of the Labour Relations Act related to arbitrations.

### **Definitions**

The following definitions shall apply to these Policies:

- 1.1 **“Arbitrator”** means a person whose name is on the Roster.
- 1.2 **“Committee”** or **“Labour Management Arbitration Committee”** means the Arbitration Committee as defined in subsection 2(1) (a.1) of the Labour Relations Act.
- 1.3 **“Parties”** means the Union and the Employer who are the Parties to a collective agreement under which the arbitration is taking place or covered by the Labour Relations Act or Public Service Collective Bargaining Act where a dispute has been referred to arbitration.
- 1.4 **“Roster”** is the list of qualified persons who in the opinion of the Committee, meet and maintain the qualifications as established by the Committee to conduct arbitrations, as chair of an arbitration board or as a sole arbitrator, pursuant to collective agreements and the legislation referred to in section 91.3(1) of the Labour Relations Act.
- 1.5 **“Trainee”** is a person who has been accepted by the Committee to enter the training program in accordance with these policies.
- 1.6 These policies may be amended from time to time by the Committee.

### **Application of Policies**

- 1.7 The Roster and these Policies apply to arbitrations conducted under collective agreements, the Labour Relations Act and the Public Service Collective Bargaining Act.

**Policy Number:** LMAC – 02  
**Subject:** Selection Criteria  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall establish criteria to place persons on or remove persons from the Roster to conduct arbitrations in the province under collective agreements, the Labour Relations Act and the Public Service Collective Bargaining Act.

### **General**

- 2.1 Applications by a person wishing to be placed on the Roster may be made at any time or specifically in response to a request from the Committee for applications. A person wishing to be placed on the Roster shall make a request to the Committee using the form in Appendix 'A' and forward the form to the Committee c/o the Labour Relations Division for their consideration.
- 2.2 If the Committee determines that the applicant meets the criteria for immediate placement on the Roster, the applicant's name shall be placed on the Roster.
- 2.3 The Criteria for being placed on and remaining on the Roster are:
  - (a) A person who, in the opinion of the Committee, through past actions has demonstrated that they have been impartial in resolving disputes between differing Parties and who meets such other criteria as may be established by the Committee. (Refer Appendix 'B')
  - (b) A person who has successfully completed the training program approved for Trainees.
- 2.4 A person wishing to be placed on the Roster must sign a declaration form, as approved by the Committee, that they have not acted as a representative of a Party in a labour relations matter within the past twelve (12) months and that they will continue to not act as a representative of a Party in a labour relations matter if placed on the Roster.

**Policy Number:** LMAC – 03  
**Subject:** Training for Trainees  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall establish the guidelines regarding the training for Trainees.

### **General**

- 3.1 If the Committee determines that the applicant does not meet the criteria for immediate placement on the Roster, and meets the criteria to be accepted for training, the applicant shall be required to participate in training as designated by the Committee. Any applicant accepted for training shall be designated as a “Trainee”, but their name shall not appear on the Roster unless and until the appropriate training is completed to the satisfaction of the Committee and the Committee deems that applicant to meet the criteria established by the Committee.
- 3.2 Any Trainee wishing to attend an arbitration hearing shall make contact with individual Arbitrators to inquire whether or not any arbitrations are scheduled and whether the Trainee can attend. Attendance of trainees at an arbitration hearing shall be at the Trainee’s expense and will be limited to one (1) Trainee per arbitration hearing.
- 3.3 It is the responsibility of the Arbitrator to advise the Parties to the arbitration that a Trainee will be in attendance and they are required to provide a set of copies of any documents for the Trainee.
- 3.4 At the arbitration hearing, the Trainee shall be seated close to the Arbitrator so that they can see and hear the witnesses that are called and simultaneously receive copies of any documents that are being presented to the Arbitrator.
- 3.5 During the arbitration hearing, the Trainee will not be permitted to ask any questions of the Parties or any witnesses; however, if the Trainee has a question(s) it should be noted and asked of the Arbitrator, either during a break or immediately following the arbitration hearing.
- 3.6 The Trainee shall submit a written award of the arbitration that they attended to the Committee within thirty (30) days of the last day of the hearing. However, the award must be submitted prior to the Arbitrator completing their award. This

award shall not go to the Parties to the arbitration and shall not go to the Arbitrator who heard the arbitration.

- 3.7 All Trainees will be required to write a minimum of three (3) awards which will be reviewed and utilized by the Committee in deciding placement on the Roster.
- 3.8 An Arbitrator may be requested to review arbitration awards written by Trainees and provide meaningful evaluations of these awards to the Committee and the Trainees.

**Policy Number:** LMAC – 04  
**Subject:** Roster Maintenance  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall establish and maintain the Roster, all in accordance with Section 91.3 of the Labour Relations Act.

## **General**

### **4.1 Roster**

- 4.1.1 The Committee shall review the Roster on an annual basis.
- 4.1.2 An Arbitrator on the Roster who has not been agreed upon by the Parties as an Arbitrator for a period of twenty-four (24) months may be asked by the Committee to demonstrate that they still meet the criteria for being on the Roster and may be required to complete professional development.
- 4.1.3 The Committee may remove an Arbitrator from the Roster if they no longer meet the requirements of these Policies; this will only take place after written notice is given to the Arbitrator in accordance with this Policy.
- 4.1.4 An Arbitrator may be requested to participate in professional development as outlined from time to time by the Committee in accordance with policy LMAC – 06.

### **4.2 Involuntary Removal**

- 4.2.1 An Arbitrator who is being considered for removal from the Roster shall be notified, in writing, by the Committee of the reasons for such consideration and advised that the Arbitrator has thirty (30) days to provide a written response to the Committee.
- 4.2.2 The Committee shall provide the Arbitrator with an opportunity within a further sixty (60) days to appear before the Committee or make a submission to the Committee to outline why they should not be removed from the Roster. The Arbitrator shall be notified in writing of the date, time and location of the hearing.

4.2.3 The Arbitrator may provide written or verbal evidence at the hearing, be represented or make a submission to the Committee outlining the reasons why they should not be removed from the Roster.

4.2.4 Whether or not the Arbitrator appears before the Committee or is represented or makes a submission to the Committee, the Committee shall make a decision on whether or not to remove the Arbitrator from the Roster.

4.2.5 The Committee will review all of the information and communicate its decision, in writing with reasons given, to the Arbitrator within thirty (30) days of the hearing.

4.2.6 The decision of the Committee is final.

### **4.3 Voluntary Removal**

4.3.1 An Arbitrator may request to have their name permanently removed from the Roster at any time by notifying the Committee in writing.

4.3.2 An Arbitrator may request that they be put on temporary inactive status. The name on the Roster will show that the Arbitrator is inactive and not available to do arbitrations.

4.3.3 An Arbitrator on inactive status wishing to be placed in active status after absences of less than twenty-four (24) months shall, on application, be reinstated to active status. If the Arbitrator has been inactive for twenty-four (24) months or more, the provisions of Section 4.1.2 shall apply.

### **4.4 Biographical Sketch**

4.4.1 The Committee shall establish a form for use by Arbitrators placed on the Roster who wish to have their biographical sketch posted on the website of the Labour Relations Division. (Refer to Appendix C for format.) If an Arbitrator wishes to update their information they shall make the request to the Committee.

**Policy Number:** LMAC – 05  
**Subject:** Hearings/Decisions  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall promote the effective management of arbitration hearings by labour and management, and the Arbitrator, including the development of the form and structure of decisions.

## **General**

### **5.1 Hearings**

- 5.1.1 All proceedings conducted by Arbitrators shall be in conformity with the contractual obligations of the Parties and principles of natural justice.
- 5.1.2 The Arbitrator may proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an ex parte proceeding of this nature must be based upon the evidence presented to the Arbitrator.
- 5.1.3 The Arbitrator shall commence the hearing with the following preliminary points:
- (a) Is the Arbitrator acceptable?
  - (b) Has the grievance procedure been properly followed or waived by the Parties.
  - (c) Are there any preliminary objections to be argued with respect to arbitrability, or the jurisdiction of the Arbitrator to hear the grievance?
  - (d) Is it agreed that the Arbitrator will remain seized of the matter in the event the Parties are unable to agree on the interpretation of the award or there is an issue of compensation arising from the award for a period of sixty (60) days following the date of the award unless agreed otherwise.
  - (e) The Arbitrator should establish if witnesses are to be called and, if so, whether they should be excluded from the hearing prior to their being called.

- (f) The Arbitrator shall ask if there is any other party affected by the outcome of the arbitration and, if so, have they received adequate notice of the hearing.
- (g) Is it agreed to waive any applicable time limits for the filing of the Award.

5.1.4 Upon request by either party, the Arbitrator shall keep copies of notes and exhibits of the arbitration for the length of the judicial review period.

## **5.2 Decisions**

5.2.1 Decisions should be standardized as to format, as follows:

- (a) Parties to the dispute
- (b) Date and place of hearing
- (c) Preliminary objections, if any
- (d) Issues (outline of grievance)
- (e) Relevant sections of the agreement
- (f) Summary of the relevant evidence
- (g) Summary of the argument by the Parties
- (h) Arbitrator considerations
- (i) Decision

5.2.2 The Arbitrator shall forward a signed, dated copy of their decision to the Parties within the time frames outlined in the collective agreement or as otherwise agreed by the Parties and at the same time the Arbitrator shall either send an electronic copy to the Policy, Planning and Natural Areas Division at [labourpolicy@gov.nl.ca](mailto:labourpolicy@gov.nl.ca) or send a paper copy to:

Department of Environment and Climate Change  
Policy, Planning and Natural Areas Division  
P.O. Box 8700  
St. John's, NL A1B 4J6

**Policy Number:** LMAC – 06  
**Subject:** Professional Development  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement** The Labour Management Arbitration Committee shall provide professional development and training opportunities for Trainees to ensure that they are up to date with current practices and developments in employment and labour relations. Arbitrators are expected to undertake their own Professional Development.

## **General**

### **6.1 Trainee Professional Development:**

6.1.1 Trainees are expected to participate in training programs sponsored by the Committee and any other professional development opportunities that may be available at no cost to the Committee.

6.1.2 Trainees are expected to attend arbitration hearings to learn from the experiences of the Arbitrator and the Parties to the arbitration.

### **6.2 Arbitrator Professional Development:**

6.2.1 On an ongoing basis, Arbitrators are expected to keep abreast of developments in labour relations.

6.2.2 Professional development events shall be any organized event that the Arbitrator considers appropriate to enhance their ability to provide better arbitration services to the Parties.

6.2.3 Arbitrators may be requested by the Committee to provide instruction to the Trainees as part of the Trainees initial training.

**Policy Number:** LMAC – 07  
**Subject:** Reports to Committee  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement**      The Labour Management Arbitration Committee shall establish a reporting process for Arbitrators.

## **General**

### **7.1 Reports**

7.1.1 An Arbitrator shall keep the Committee informed of any change in contact information (name, telephone number, fax number, email address, mailing address, etc.).

7.1.2 An Arbitrator shall keep the Committee informed of any change in the Arbitrator's situation with regard to their involvement in labour-management matters or anything that could give the appearance of the Arbitrator being biased or in a perceived conflict of interest situation with either of the Parties, or the arbitration selection criteria.

**Policy Number:** LMAC – 08  
**Subject:** Fees  
**Reference:** Labour Relations Act  
**Effective Date:** January 14, 2014  
**Amended Date:** October, 2023

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**Policy Statement**      The Labour Management Arbitration Committee shall establish guidelines for transparency of fees for services provided by Arbitrators on the Roster.

## **General**

### **Arbitrator's fees**

- 8.1    An Arbitrator shall maintain a fee schedule that lists all fees and expenses charged by the Arbitrator.
- 8.2    An Arbitrator shall provide their fee schedule to the Parties at the time of appointment, or to any party at any time upon request.
- 8.3    An Arbitrator shall only charge fees that are in compliance with their fee schedule.

**Appendix A – Application for Appointment to the Arbitration Roster  
for Newfoundland and Labrador**

# Application for Appointment to the Arbitration Roster for Newfoundland and Labrador

Amended – October, 2023

Information provided is for the use of the Labour Management Arbitration Committee to determine the suitability of Arbitrators for appointment to the Arbitration Roster and to receive arbitration appointments.

Persons completing this form are indicating their willingness to accept appointments pursuant to the *Labour Relations Act* and *Public Service Collective Bargaining Act*.

**Contact and background information of persons placed on the Arbitration Roster may be shared with Parties at their request.**

Please return completed form to:

Labour Management Arbitration Committee  
c/o Labour Relations Division  
Department of Environment and Climate Change  
2<sup>nd</sup> Floor, Beothuck Building, 20 Crosbie Place  
P.O. Box 8700  
St. John's, NL A1B 4J6  
Attention: Susan Whitten  
[susanwhitten@gov.nl.ca](mailto:susanwhitten@gov.nl.ca)

Name of Applicant: \_\_\_\_\_

Company: \_\_\_\_\_

Primary Occupation: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_

Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Telephone (Bus.): (\_\_\_\_) \_\_\_\_\_ Home: (\_\_\_\_) \_\_\_\_\_

Fax Number: (\_\_\_\_) \_\_\_\_\_ Mobile: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**Education:**

Degree or Certificates	Year obtained	Institution	Location	Province

**(A copy of your resume must also accompany this application)**

**Labour Arbitration Experience:**

1. Please provide a summary of your experience chairing boards of labour arbitration or acting as a sole Arbitrator.

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2. Please describe your activities during the past five (5) years in the field of labour arbitration (e.g. acting as a nominee of one of the Parties in arbitration case presentation; acting as a mediator or conciliator in labour relations disputes) including how frequently you acted in each particular role?

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3. What is your most recent experience acting as an advocate for either management or union in the past twelve (12) months?

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4. What is your practical experience in presenting or adjudicating cases at grievance and arbitration under collective agreements, labour relations boards, labour standards, the workers' compensation appeals tribunal, and/or human rights?

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5. Please indicate the approximate number of labour arbitration awards you have issued in the following jurisdictions in the past five (5) years.

Newfoundland and Labrador \_\_\_\_\_

Federal (including Territories) \_\_\_\_\_

Other Provinces \_\_\_\_\_

6. Please indicate the sectors in which you have labour arbitration experience.

Sector/Industry

Number of Awards Issued

Sector/Industry	Number of Awards Issued
Public Sector	
Private Sector	
Construction	

7. Please indicate any interest arbitration cases you have decided in the past five (5) years.

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8. Please provide any information you feel demonstrates you satisfy the criteria of acceptability, personal suitability or the skills needed to be a labour Arbitrator.

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9. Please provide any other information regarding your labour arbitration experience that you feel is relevant.

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**Please note, the Labour Management Arbitration Committee and the Minister responsible for Labour will rely on this information as accurate until receiving written notification advising otherwise.**

**References:**

Please include the names of the four (4) references being submitted in support of this application, two each from union and management (or their representatives) which address the Selection Criteria. Provide the addresses and telephone numbers of each reference.

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**Declaration:**

By signing this application, I declare that I have not acted as a representative of either a union or employer in labour relations matters within the past twelve (12) months.

Signed \_\_\_\_\_

Dated \_\_\_\_\_

**Please ensure that your resume is submitted along with this application**

**Appendix B – Criteria for Placement on and Remaining on the Roster  
of Arbitrators and for Selection to an Arbitration Training Program**

# **Criteria for Placement on and Remaining on the Roster of Arbitrators and for Selection to an Arbitration Training Program**

**Amended – October, 2023**

## **Introduction**

The Labour Management Arbitration Committee (**the “Committee”**) established pursuant to section 91.1 of the Labour Relations Act establishes the following criteria for placement on and remaining on the Roster (LMAC Policy 2.3) and for Selection to an Arbitrator Training Program (LMAC Policy 3.1).

Applicants will be assessed by the Committee based on the following criteria to determine if they have achieved or are likely to achieve a high level of effectiveness and excellence as an Arbitrator of collective agreement disputes between employers and unions. Professional excellence demonstrated through a combination of these criteria is the paramount criterion.

### **1. Acceptability**

All Applicants must be acceptable as being able to act in an impartial and neutral manner as an Arbitrator in labour relations matters.

### **2. Experience in Labour Relations Dispute Resolution**

Applicants must have acquired sufficient experience in an appropriate combination of the following areas:

- chairing boards of labour arbitration or acting as a sole Arbitrator;
- acting as a nominee of one of the Parties in labour arbitration case presentation;
- practical experience in presenting or adjudicating cases at grievance and arbitration under collective agreements, labour relations board, labour standards, workers' compensation appeals tribunal, and/or human rights;
- acting as a mediator or conciliator in labour relations disputes;
- successful completion of an Arbitrator training program.

### **3. Skills**

Applicants shall have demonstrated the following:

- ability to listen;
- creative problem solving in labour relations matters;

- strong understanding of labour relations, workplace issues and workplace legislation in Newfoundland and Labrador, including human rights and other employment-related legislation;
- experience in conducting hearings;
- ability to analyze issues, facts and evidence in relation to relevant law;
- ability to write clearly and concisely, and in a timely manner;
- strong understanding of rules of evidence and natural justice;
- ability to mediate disputes in conjunction with arbitration.

#### **4. Personal Suitability**

Applicants shall have demonstrated the following:

- impartiality and objectivity;
- maturity of judgment;
- ability to have and project a fair-minded approach;
- civility and considerateness in the conduct of proceedings;
- high standards of ethics and integrity;
- flexibility and firmness in the face of changing circumstances;
- sensitivity to diversity issues;
- commitment to hold hearings and deliver decisions in a timely manner;
- absence of a conviction for an offence that is related to serving as an Arbitrator.

#### **5. Residence**

**(Applicants shall have their principal residence as Newfoundland and Labrador)**

#### **Process**

The Committee shall consider all applications received.

The Committee may interview candidates as it determines to be appropriate.

The Committee may request and/or review any of an applicant's decisions or other similar material available on public record relevant to the application.

Applicants will be asked to submit writing samples, four (4) references addressing the criteria for selection (two (2) from union representatives, two (2) from employer representatives); and other information as required by the Committee.

Applicants selected for an interview may be required to complete a writing assignment prior to the interview.

## **Applicants for Training**

Applicants for training who do not meet all the criteria for appointment to the Roster, but possess sufficient labour relations knowledge and experience in addition to an acceptable level of qualifications and ability in accordance with the above selection criteria acceptable to the Committee will be considered for admission into an Arbitrator training program. (See LMAC – 03)

## **Appendix C – Biographical Sketch Form**

**Labour Management Arbitration Committee  
Biographical Sketch**

Name:	_____
Address:	_____
Telephone:	_____
Cell:	_____
Email:	_____
Website:	_____



**Education:**

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**Background:**

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**Arbitration Experience:**

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**Mediation/Dispute Resolution Experience:**

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**Memberships and Affiliations:**

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**Rates and Cancellation Policy:**

Available upon request