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## *Trumping the Labour Laws*

One of the unique features of the *Coastal Ferry Act* is that it specifically trumps BC labour law. This is most unusual, but clearly, it has a purpose. What it means is that the provisions of BC's Labour Relations Code don't apply to BC Ferry Services, and ferry employees aren't protected by the usual legislation regarding hours and conditions of work.

The *Coastal Ferry Act* also overrules any collective agreement between BCFS and the BC Ferry and Marine Workers' Union. The collective agreement could say that certain provisions of the labour law would apply, of course, but if they stood in the way of implementation of the *Coastal Ferry Act*, they would still have no effect.

Finally the *Coastal Ferry Act* says that in the case of conflict between it and 'any other enactment' the Act 'applies.' Potentially this means that it overrules the Employment Standards Act; this would complete a clean sweep of labour legislation.

In this way, BC Ferry Services is completely insulated from any provincial labour legislation that would stand in the way of it carrying out its mandate, which is to cut the costs of ferry services either directly or by contracting out.

To give an example: the *Employment Standards Act (ESA)* requires that overtime be paid once a certain number of hours have been worked in a given period. The ESA is quite flexible on this point, but a typical requirement would be that overtime at time and a half must be paid if an employee works over 40 hours in a week, and at double time if an employee works over

48 hours. Provision is made for averaging this over a period up to four weeks, but no longer.

However, BC Ferry Services is proposing that overtime would not be payable until an employee had worked over 1958 hours in a year. Nowhere in the ESA is there anything like this. Obviously, the operation of ships on some of BC Ferries' routes will require long stretches on duty. *The Coastal Ferries Act* exemption means that the Collective Agreement cannot stand in the way of the company's actions, nor can employees fall back on the provisions of the ESA. Only if the company agrees can any restrictions be placed on overtime.

Another point where there might be possible conflicts between the Collective Agreement and the *Coastal Ferries Act* would be in the area of layoffs and contracting out. The previous Collective Agreement had, quite naturally, clauses dealing with contracting out. If these conflicted with the *Coastal Ferries Act* (which encourages, nay, requires, nay, enforces attempts to contract out), they would be null and void.

One final, but interesting, aspect of the exemption from the provisions of the Labour Relations Code is that the Company may not necessarily have access to the collective bargaining facilities of the Labour Relations Board. Should the Company be able to use the Labour Relations Code as an enforcement tool? It looks as if they have been trying to have it both ways—not subject to the Code but at the same time calling for its hearings and decisions. How come? /

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Island Tides, Box 55, Pender Island, BC, Canada. Phone: 250-629-3660. Fax: 250-629-3838.  
Email: [islandtides@islandtides.com](mailto:islandtides@islandtides.com). Website: <http://www.islandtides.com>