



# Canadian Merchant Service Guild

## Update from National Office

### January, 2020

- Since our last round of Guild Membership meetings, the National Officers have prepared for, and participated in, many meetings representing Guild Members, some of which include meetings with a number of cabinet ministers, the National Joint Council, the International Transport Workers Federation, the Canadian Marine Pilots Association, as well as meetings with the Commissioner of the Coast Guard and the Deputy Ministers at Defence and Fisheries.
- The National Officers also participated in the recent Western Branch Membership meetings in BC and the National Canadian Marine Advisory Council (CMAC) meetings.
- At CMAC meetings and at other meetings with senior Transport Canada officials, the Guild continues to advocate regarding many serious issues concerning our Members, including but not limited to:
  - minimum safe manning levels - particularly with our position regarding the introduction of larger tugs which need to have a minimum required crew of 3 or more
  - the importance of enforcement of all safety and regulatory requirements on all commercial vessels no matter their so-called “gross tonnage” (due to well-known manipulation of tonnage measurements)
  - fatigue of seafarers
  - the need for ample-size crews for watchkeeping requirements at night and in other circumstances
  - the importance of being able to recover a crew Member falling overboard
  - the importance of continuing to give first priority to employing Canadian seafarers on Canadian-flag vessels
- The Guild participated in the consultation sessions that were underway due to the Pilotage Act Review in close collaboration with the Canadian Marine Pilots Association (CMPA). Pilots were pleased with the Guild’s efforts on this important matter.
- As a result of the review, prior to the federal election, the omnibus “Budget Implementation Bill” (C-97) contained a number of significant amendments to the Pilotage Act.

- CMPA Members are now aware that the most controversial recommendations which were discussed during the review process were not included in the new legislation.
- To summarize briefly, the [Pilotage Act amendments](#):
  - (a) set out a clear purpose and principles for the Act;
  - (b) transferred the responsibility for making regulations from the Pilotage Authorities, to the Ministry of Transport;
  - (c) transferred responsibility for enforcing the Act and issuing licenses and certificates from the Pilotage Authorities to the Ministry of Transport;
  - (d) will set out an enforcement regime that is consistent with other Department of Transport Acts;
  - (e) will require that regulatory matters for the safe provision of compulsory pilotage services not be addressed in service contracts between any Pilotage Authority and the Pilot Corporations;
  - (f) will require that service contracts between Pilot Corporations and the Pilotage Authorities be publicly available,
  - (g) will require that in order to conduct pilotage, certificate holders will need to occupy a position on board the ship for the purpose of meeting the requirements of the Marine Personnel Regulations for safe manning in relation to a proper deck watch and the safe operation of the ship; and
  - (h) will prohibit pilots, or users or suppliers of pilotage services, from sitting on the board of directors of a Pilotage Authority.
- Establishing a timeline for the actual implementation of the new legislation is still a work in progress.
- We have also met a number of times with senior officials of Transport Canada (TC) regarding the Guild's concerns with the upcoming amendments to the Marine Personnel Regulations (MPR's).
- Earlier this year, TC released a document with the draft amendments to the MPR's which contained hundreds of pages of proposed changes, as well as some entirely new regulations, that all needed to be analyzed and compared with the old MPR's.

- The draft amendments needed to be examined carefully to enable us to identify all the problems, recognize the impacts, prepare arguments in favour of our position and pull together a written submission.
- In order to protect the interests of Canadian seafarers, especially Guild Members, the Guild prepared a comprehensive written submission with credible arguments that can be supported.
- Our document, explaining the Guild's position on the regulations, was submitted to Transport Canada and posted onto the Guild website. At that time an e-mail blast was also sent to all Members with a "Link" to the Guild's submission.
- The Guild's detailed submission is supported by a number of the marine unions that we are affiliated with, through the International Transport Workers Federation (ITF).
- TC has acknowledged receiving all the recommendations of the Guild but has not yet tabled the new amended draft MPR's.

### Shortage of Canadian Seafarers

- Despite the high number of graduates coming out of Canadian marine schools, as predicted by the Guild, the number of seafarers retiring from the Canadian marine industry exceeds the number of new entrants.
- For many years the Guild has placed a high priority on attempting to address this matter during collective bargaining with employers and at every opportunity during meetings with government officials.
- The Guild contributes as a champion of the newly-formed [Canadian Marine Industry Foundation](#), which will be attempting to pull together a more coordinated approach by all stakeholders to work together to attract Canadians to careers in the seafaring industry.
- We continue to encourage Transport Canada to assign sufficient resources to expedite assessing the qualifications of Canadian citizens and permanent residents who hold marine certificates of competency from other countries, to determine their eligibility to obtain Canadian qualifications.

- Transport Canada has recently entered into a [reciprocal arrangement](#) with Norway and France to allow holders of certificates of competency issued by these 2 countries to occupy positions aboard Canadian-flag vessels without the need to be Canadian residents or citizens.
- In the event that a Canadian seafarer is not available for an opening on board a Canadian vessel, then applicants with qualifications issued by Norway or France will need to demonstrate acceptable language proficiency, acceptable knowledge of local regulations such as the Canadian Modifications to the International Collision Regulations, and they will need to obtain a visa and a work permit.
- The Guild has identified the need to have a method of communicating career opportunities with seafarers everywhere in Canada who may be under-employed or unemployed or semi-retired. Without a mechanism to reach out to these individuals, the perception that there are no Canadians available to fill certain seagoing positions may not always be correct.
- The Guild has engaged a professional I. T. company to develop a bilingual “Canadian Marine Jobs E-mail Alert System” to enable advertising all employment opportunities on board Canadian flag vessels across the country, prior to opening up these jobs to foreign nationals. Once the website has been established, a comprehensive outreach program will take place and individuals will be able to sign up to be notified by e-mail, of opportunities for employment in particular categories of seafaring jobs in Canada.
- The Guild will be able to gather data on the number of notifications that are distributed from the website as well as more importantly, the number of applicants for each position. The Guild has been devoting significant resources to this ambitious undertaking and we hope to be able to provide an update on this initiative at upcoming Membership meetings.

### Update - Federal Government’s “Centralized” and “Automated” Pay System

- As you are likely aware, as an attempt to “save money” prior to the 2015 election, the federal government made a decision to eliminate the jobs of federal payroll clerks employed across Canada and to replace them with an “automated” computer pay program operated by a small workforce located in rural New Brunswick.
- Despite all federal unions, including the Guild, advocating against this plan to “centralize” and “automate” the payroll system without having any “backup” plan in place, the government instead charged ahead anyway with this new payroll program in order to save money.

- Four years later, the system is still not functioning properly despite cost overruns of billions of dollars.
- The Guild has presented numerous payroll-related grievances on behalf of Members, and many of these grievances have had a successful outcome, while others are still outstanding.
- The Guild continues to participate on all Committees at the Deputy-Minister level, and Assistant Deputy-Minister level in Ottawa that are still working on every possible solution to this bureaucratic debacle which has caused very significant hardship.
- Pressure from all the federal unions, including the Guild, has resulted in multi-million-dollar commitments for new projects to once again replace the federal payroll system entirely, and in the meantime to the hiring of yet hundreds more additional payroll personnel who are now gradually beginning to become more familiar with the problems of the current payroll system.
- Unfortunately, all payroll errors need to be corrected on an individual basis, so we have encouraged Members dealing with ongoing payroll problems to contact the staff in their Regional Guild Office to obtain assistance in escalating the issue to a higher level.
- We have previously reported that the Guild also filed a lengthy “Unfair Labour Practice” Complaint (ULP) to the Labour Board against the employer, specifically on behalf of the Guild Members in the Ship’s Officers’ Group.
- Due to the passage of years since the complaint was originally filed, and with still no hearing date set by the Labour Board, our likelihood of success with this complaint had gradually diminished significantly.
- The Guild’s legal counsel recommended that we attempt to obtain a “settlement” of this matter as it appeared that not only was the Labour Board unlikely to award “damages” related to the current pay system, but furthermore, every other federal union (except the PSAC) had already agreed to a common settlement regarding “damages only” caused by the pay system.
- At a meeting of the Guild’s National Executive Board, a settlement offer from the Treasury Board was considered carefully and a motion was passed to accept the settlement, in lieu of risking an unsuccessful Labour Board complaint, as it had become evident that there would be no satisfaction obtained from an eventual Labour Board hearing.

- The [settlement](#) provides various levels of compensation for all federal government employees that are covered by the agreement and includes a minimum threshold of 40 hours of annual leave if a Member has worked as a GSO since 2016, even in the unlikely event that the individual was paid correctly during the entire period. The settlement requires that the final allotment of this leave (the remaining 8 hours) shall be credited within 150 days of the end of the next fiscal year.
- There are additional [higher](#) levels of compensation available for those who have been the most seriously impacted by submitting a claim in accordance with information posted on the Guild website.
- The settlement is related only to “damages” due to “late payment” only, and is not related to any [pay](#) that is actually owed to any employee. Those missing amounts obviously still need to be paid anyway and the Guild is providing individual Members with ongoing assistance in obtaining those missing amounts.
- The settlement contains a “me-too” clause in the agreement, in case someday another union were to reach a different settlement on the same matter. The Guild had to make a decision very quickly on the settlement opportunity as the agreement needed to be signed off before the federal government entered into a lengthy “caretaker mode” prior to the recent election - at which time all settlement discussions with any unions ceased.
- The Guild will continue to work diligently at every single opportunity to assist Members who have been impacted by the inexcusable incompetence which caused the federal payroll debacle.
- In last year’s Arbitration for a new GSO collective agreement, the Guild’s demands included a contract that would expire in the year 2019, with an additional “cost-of-living allowance” in the final year to keep up with inflation.
- However, instead of agreeing to our request for a longer contract, the Arbitrator made a decision to concentrate primarily on the Guild’s more-important demand for a significant wage increase, which we were successful in obtaining.
- In fact, as a result of the Award, the new pay rates in effect now are 17.7% higher than the pay rates in the old contract.
- On the other hand though, on the matter of the length of term of the new contract, the Arbitrator explained why he ordered that this contract expire in [2018](#), not 2019, as requested.

- Arbitrator Baxter's [Award](#) also allowed the Employer only 150 days from the date of signing, to implement the provisions of his Award including the payment of retroactive wage increases. The Award is posted on the Guild website and Members were subsequently informed by e-mail that the deadline for implementation was April 15<sup>th</sup>, 2019.
- The Guild carefully monitored and followed-up continually on the implementation of the new contract. Despite the Guild's interventions with the employer on a regular basis regarding the implementation, many of our Members are still owed a significant amount of retroactive pay.
- While "some" of the retroactive pay awarded by the arbitrator was implemented within the 150-day timeframe as required, when the remainder of the award was not fully implemented, the Guild submitted a "Policy Grievance" directly to the Assistant Deputy Minister of the Treasury Board for "Failure to Implement the Arbitral Award". This information was previously communicated to GSO's by an e-mail blast.
- We have been consulting with our legal advisors to use all means at our disposal to have the arbitral award implemented for all Members, and we will also continue to assist Members on a case-by-case basis in instances where they continue to be short-changed on pay.

### **Negotiation of the next GSO Contract**

- While implementation of the previous contract and assisting Members with pay issues remain our top priorities, the Guild also used an e-mail blast and website bulletin to issue a call for bargaining proposals to GSO's for the next round of collective bargaining.
- The Guild's elected representatives who work as GSO's across the country, and the Guild staff have been carefully reviewing the proposals that were submitted in order to prepare a comprehensive package of demands. A meeting of the elected GSO representatives and Guild staff is scheduled to take place in early February to finalize preparations for these important negotiations.
- Due to difficulties with access to shipboard communications equipment during arctic trips on Coast Guard ships, the Guild has filed a grievance alleging a violation of the National Joint Council Travel Directive. The way-ahead on this matter and a number of other grievances will also be a subject of discussion during the February meeting.
- After the negotiation demands have been exchanged with the employer (Treasury Board), the proposal packages of both parties will be posted on the Guild website and Members will be kept informed of the negotiation progress by e-mail bulletins.

## Electronic Voting System

- The National Office has conducted over 100 votes since the inception of the Guild's new web-based voting system, including a number of strike votes at commercial companies and many contract ratifications from coast to coast and elections for Executive Board positions in both Guild Branches.
- We continue to receive positive feedback from Members regarding the new voting system which came about as a result of the most recent Guild 2017 National Convention, where Delegates made a decision to implement this new electronic voting system to replace the former referendum system which relied on postal mail and paper ballots.
- Preparations are underway for the next Guild National Convention which will take place in Ottawa during the week of May 11<sup>th</sup>, 2020

## Guild Legal Defence Plan - "MOPS" (Marine Officers' Protective Service)

- The MOPS legal defense plan continues to be an important protection mechanism for Guild Members, especially due to the number and complexity of recent marine incidents across the country.
- The Guild continues to participate on all marine-related committees and at meetings of the Canadian Maritime Law Association and with federal officials regarding all topics concerning marine safety.
- One of the messages that the Guild stresses when we're representing Members, at the various meetings described throughout this report, is that Guild Members ensure safe marine transportation, and by doing so, they protect lives and waterways and the marine environment, while contributing to efficiency in marine commerce.
- These important activities, that are all in the public interest, and in the interest of the country, also naturally come with certain risks. As one would expect, with these risks, come the opportunity for mishaps, and the need for robust protection mechanisms for those Guild Members who find themselves involved in these incidents.
- A network of admiralty lawyers is available to assist Guild Members in the event of a marine incident. We are currently providing legal representation to a number of Members involved in serious marine accidents and pollution incidents across Canada and also in U.S. waters and we frequently receive positive feedback from the Members involved in these cases.



## Conclusion

- This report provides an update on some of the work that is underway in the Guild National office, in order to provide Members with representation on a broad range of important matters. The 5 Guild Branch Offices also have a multitude of significant issues to report on, across the entire Canadian marine industry and these Branch updates are provided during regular Membership meetings.