



File No. 2017 01H 0029

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

IN THE MATTER OF Section 13 of
Part 1 of the *Judicature Act*, RSNL
1990, c. J.-4

AND

IN THE MATTER OF Section 32 of
the *Pension Benefits Act*, 1997, SNL
1996, c. P-4.01

AND

IN THE MATTER OF a Reference
of The Lieutenant-Governor in
Council to the Court of Appeal for its
hearing, consideration and opinion on
the interpretation of the scope of s. 32
of the *Pension Benefits Act*, 1997

**RULING ON APPLICATION FOR DIRECTIONS
JUNE 9, 2017**

A handwritten signature in blue ink, appearing to be 'JTB', with a checkmark below it.

Filed	June 13/17	JB
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By the Court:

[1] Having heard the submissions of counsel, we are satisfied that the questions set out in the reference put by the Lieutenant-Governor in Council in Order-in-Council 2017-103, should be considered at the hearing in the language stipulated in the Order-in-Council. Whilst we are mindful of the importance of promoting judicial efficiency, we do not consider ourselves to be in a position today to determine the extent to which, if at all, we should decline to answer one or more of the questions posed or to interpret their scope.

[2] That said, we are cognizant of the concerns of some of the participants that the questions may invite the Court to opine in such a way as to impact the decisions of the Quebec CCAA Court that will determine the rights of the parties. Generally speaking, we subscribe to the view that questions posed on a reference should be treated as raising hypothetical questions and not directed at determining parties' rights.

[3] As recognized in case law, a reference is an advisory opinion provided by the Court at the request of the Lieutenant-Governor in Council. The CCAA Court in determining the matter before it may or may not advert to or apply the opinion provided by this Court. That said, the context of a reference is important. Accordingly, hypotheticals are useful to provide a context within which the questions can be considered. The record on the reference, therefore, should be limited to providing that context.

[4] The parties may, of course, make submissions as to whether the Court should decline to answer a question or part thereof, or narrow the scope of a question as part of the submissions made for purposes of the reference hearing.

**COURT
OFFICER**

REGISTRAR