CHAPTER 489
Successor Rights (Crown Transfers) Act

1.—(1) In this Act,

(a) "bargaining agent" means an employee organization that has representation rights under the *Crown Employees Collective Bargaining Act* or a trade union or council of trade unions that is certified as a bargaining agent under the *Labour Relations Act*;

(b) "Board" means the Ontario Labour Relations Board;

(c) "collective agreement" means an agreement in writing between the Crown or an employer and an employee organization, trade union or council of trade unions covering terms and conditions of employment;

(d) "Crown" means Her Majesty in right of Ontario;

(e) "employer" means an employer other than the Crown;

(f) "transfer" means a conveyance, disposition or sale;

(g) "Tribunal" means the Ontario Public Service Labour Relations Tribunal;

(h) "undertaking" means a business, enterprise, institution, program, project, work or a part of any of them.

(2) For the purposes of an application or other proceeding before the Tribunal under this Act, "employee" has the same meaning as in the *Crown Employees Collective Bargaining Act*. 1977, c. 30, s. 1.
2.—(1) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has a collective agreement with the Crown in respect of employees employed in the undertaking, the employer is bound by the collective agreement as if a party to the collective agreement until the Board declares otherwise.

(2) Where an undertaking is transferred from the Crown to an employer while an application is before the Tribunal for representation rights in respect of employees employed in the undertaking or for a declaration that an employee organization no longer represents employees employed in the undertaking, the application shall be transferred to the Board and the employer is the employer for the purposes of the application as if named as the employer in the application until the Board declares otherwise.

(3) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has been granted representation rights under any Act and has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Board declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires. 1977, c. 30, s. 2.

3.—(1) Where an undertaking is transferred from an employer to the Crown and a bargaining agent has a collective agreement with the employer in respect of employees employed in the undertaking, the Crown is bound by the collective agreement as if a party to the collective agreement until the Tribunal declares otherwise.

(2) Where an undertaking is transferred from an employer to the Crown while an application is before the Board for certification or termination of bargaining rights in respect of employees employed in the undertaking, the application shall be transferred to the Tribunal and the Crown is the employer for the purposes of the application as if named as the employer in the application until the Tribunal declares otherwise.

(3) Where an undertaking is transferred from an employer to the Crown and a trade union or council of trade unions
has been certified by the Board as bargaining agent or has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Tribunal declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the body representing the Crown or to the Crown, as the case requires, written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires. 1977, c. 30, s. 3.

4.—(1) Where an undertaking was transferred from the Crown to an employer or from an employer to the Crown and an employee organization, trade union or council of trade unions was the bargaining agent in respect of employees employed in the undertaking immediately before the transfer and,

(a) a question arises as to what constitutes a unit of employees that is appropriate for collective bargaining purposes in respect of the undertaking; or

(b) any person, employee organization, trade union or council of trade unions claims that by virtue of section 2 or 3, a conflict exists as to the bargaining rights of the employee organization, trade union or council of trade unions,

any person, employee organization, trade union or council of trade unions concerned may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, and the Board or the Tribunal, as the case requires,

(c) may determine the composition of the unit of employees referred to in clause (a);

(d) may amend, to such extent as the Tribunal or the Board considers necessary,

(i) any bargaining unit in any certificate issued to any trade union or council of trade unions,

(ii) any bargaining unit defined in any collective agreement,
(iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of the undertaking, or

(iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of the undertaking.

(2) Where an undertaking is transferred from the Crown to an employer or from an employer to the Crown, any person, employee organization, trade union or council of trade unions may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown,

(a) within sixty days after the transfer of the undertaking; or

(b) within sixty days after written notice is given by the employee organization, trade union or council of trade unions of desire to bargain to make or renew, with or without modifications, a collective agreement,

and the Board or the Tribunal, as the case requires, may terminate the bargaining rights of the employee organization, trade union or council of trade unions bound by a collective agreement in respect of employees employed in the undertaking or that has given notice, as the case may be, if in the opinion of the Board or the Tribunal the transferee of the undertaking has changed the character of the undertaking so that it is substantially different from the undertaking as it was carried on immediately before the transfer. 1977, c. 30, s. 4.

5.—(1) Notwithstanding section 2, where an undertaking is transferred from the Crown to an employer who intermingles the employees employed in the undertaking immediately before the transfer with employees employed in one or more other undertakings carried on by the employer or an undertaking is transferred from an employer to the Crown and employees employed in the undertaking immediately before the transfer are intermingled with employees employed in other undertakings of the Crown and an employee organization, trade union or council of trade unions that is the bargaining agent in respect of employees
employed in any of the undertakings applies to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, the Board or the Tribunal, as the case requires;

(a) may declare that the employer or the Crown, as the case may be, is no longer bound by the collective agreement referred to in section 2 or 3;

(b) may determine whether the employees concerned constitute one or more appropriate bargaining units;

(c) may declare which employee organization, trade union or council of trade unions shall be the bargaining agent in respect of each such bargaining unit; and

(d) may amend, to such extent as the Board or the Tribunal considers necessary,

(i) any certificate issued to any trade union or council of trade unions,

(ii) any bargaining unit defined in any collective agreement,

(iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of any of the undertakings, or

(iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of any of the undertakings.

(2) Where an employee organization, trade union or council of trade unions is declared to be a bargaining agent under subsection (1) and it is not already bound by a collective agreement with the successor employer in respect of employees employed in the undertaking that was transferred, the employee organization, trade union or council of trade unions is entitled to give to the successor employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement.

1977, c. 30, s. 5.

6.—(1) Notwithstanding any other provision of this Act, a trade union or council of trade unions shall not exercise representation rights or act as bargaining agent.
agent in respect of employees employed in an undertaking transferred from an employer to the Crown unless the trade union or council of trade unions qualifies as an employee organization under the *Crown Employees Collective Bargaining Act*; and

(b) an employee organization shall not exercise representation rights or act as bargaining agent in respect of employees employed in an undertaking transferred from the Crown to an employer unless the employee organization qualifies as a trade union or council of trade unions under the *Labour Relations Act*.

(2) Except as otherwise provided in this Act, where an undertaking is transferred from the Crown to an employer, the *Labour Relations Act* applies to a bargaining agent that has representation rights in respect of the employees employed in the undertaking and to the employees and where an undertaking is transferred from an employer to the Crown, the *Crown Employees Collective Bargaining Act* applies to a bargaining agent that is certified as a bargaining agent in respect of the employees employed in the undertaking and to the employees. 1977, c. 30, s. 6.

7.—(1) An application may be made to the Tribunal or to the Board and,

(a) the Tribunal may declare whether or not a trade union or council of trade unions qualifies as an employee organization under the *Crown Employees Collective Bargaining Act*; and

(b) the Board may declare whether or not an employee organization qualifies as a trade union or council of trade unions under the *Labour Relations Act*.

(2) Where the Tribunal is not satisfied that the trade union or council of trade unions is so qualified or the Board is not satisfied that the employee organization is so qualified, the Tribunal or the Board, as the case may be, may specify the steps necessary to so qualify and when satisfied that the steps have been taken,

(a) the Tribunal shall declare that the trade union, council of trade unions or the successor of either of them is so qualified; or
(b) the Board shall declare that the employee organization or its successor is so qualified.

(3) A trade union, council of trade unions or successor of either of them that is declared by the Tribunal to be so qualified shall be deemed to have been qualified as an employee organization under the Crown Employees Collective Bargaining Act from and including the day of the transfer to the Crown of the undertaking to which the declaration relates.

(4) An employee organization or its successor that is declared by the Board to be so qualified shall be deemed to have been qualified as a trade union or council of trade unions under the Labour Relations Act from and including the day of the transfer to the employer of the undertaking to which the declaration relates. 1977, c. 30, s. 7.

8. Before disposing of an application under this Act, the Board or the Tribunal, as the case may be, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. 1977, c. 30, s. 8.

9. Where an application is made under this Act, the Crown or the employer, as the case may be, is not required, notwithstanding that a notice has been given by an employee organization, trade union or council of trade unions, to bargain with the employee organization, trade union or council of trade unions, as the case may be, concerning the employees to whom the application relates until the Board or the Tribunal, as the case requires, has disposed of the application and has declared which employee organization, trade union or council of trade unions, if any, has the right to bargain with the Crown or the employer, as the case may be, on behalf of the employees concerned in the application. 1977, c. 30, s. 9.

10. For the purposes of the Crown Employees Collective Bargaining Act and the Labour Relations Act, notice given under this Act of desire to bargain to make or renew, with or without modifications, a collective agreement or a declaration by the Board or the Tribunal that an employee organization, trade union or council of trade unions is the bargaining agent in respect of the employees in a bargaining unit has the same effect as the granting of representation rights or certification as bargaining agent. 1977, c. 30, s. 10.

11.—(1) Where, on an application before the Board under this Act, a question arises as to whether an under-
taking has been transferred from the Crown to an employer, the Board shall determine the question and its decision is final and conclusive for the purposes of this Act.

(2) Where, on an application before the Tribunal under this Act, a question arises as to whether an undertaking has been transferred from an employer to the Crown, the Tribunal shall determine the question and its decision is final and conclusive for the purposes of this Act.

(3) Where, on an application under this Act, an employee organization, trade union or council of trade unions alleges that an undertaking was transferred from the Crown to an employer or from an employer to the Crown, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. 1977, c. 30, s. 11.