

1980

## c 228 Labour Relations Act

Ontario

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## CHAPTER 228

## Labour Relations Act

**W**HEREAS it is in the public interest of the Province of Preamble  
Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives of employees.

*Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:*

**1.—(1)** In this Act,

Interpre-  
tation

- (a) “accredited employers’ organization” means an organization of employers that is accredited under this Act as the bargaining agent for a unit of employers;
- (b) “bargaining unit” means a unit of employees appropriate for collective bargaining, whether it is an employer unit or a plant unit or a subdivision of either of them;
- (c) “Board” means the Ontario Labour Relations Board;
- (d) “certified council of trade unions” means a council of trade unions that is certified under this Act as the bargaining agent for a bargaining unit of employees of an employer;
- (e) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees, and includes a provincial agreement;

- (f) "construction industry" means the businesses that are engaged in constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, pipe lines, tunnels, bridges, canals or other works at the site thereof;
- (g) "council of trade unions" includes an allied council, a trades council, a joint board and any other association of trade unions;
- (h) "dependent contractor" means a person, whether or not employed under a contract of employment, and whether or not furnishing his own tools, vehicles, equipment, machinery, material, or any other thing, who performs work or services for another person for compensation or reward on such terms and conditions that he is in a position of economic dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor;
- (i) "employee" includes a dependent contractor;
- (j) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers' organization and a designated or accredited employer bargaining agency;
- (k) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view to compel or induce his employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers' organization, the trade union, or the employees;
- (l) "member", when used with reference to a trade union, includes a person who,
  - (i) has applied for membership in the trade union, and
  - (ii) has paid to the trade union on his own behalf an amount of at least \$1 in respect of

initiation fees or monthly dues of the trade union,

and "membership" has a corresponding meaning;

(m) "Minister" means the Minister of Labour;

(n) "professional engineer" means an employee who is a member of the engineering profession entitled to practise in Ontario and employed in a professional capacity;

(o) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output;

(p) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency. R.S.O. 1970, c. 232, s. 1 (1); 1975, c. 76, s. 1 (1); 1977, c. 31, s. 1.

(2) For the purposes of this Act, no person shall be deemed <sup>Idem</sup> to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lock-out or strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement.

(3) Subject to section 90, for the purposes of this Act, no <sup>Idem</sup> person shall be deemed to be an employee,

(a) who is a member of the architectural, dental, land surveying, legal or medical profession entitled to practise in Ontario and employed in a professional capacity; or

(b) who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. R.S.O. 1970, c. 232, s. 1 (2, 3).

(4) Where, in the opinion of the Board, associated or <sup>Idem</sup> related activities or businesses are carried on, whether or not simultaneously, by or through more than one corporation, individual, firm, syndicate or association or any combination thereof, under common control or direction, the Board

may, upon the application of any person, trade union or council of trade unions concerned, treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act and grant such relief, by way of declaration or otherwise, as it may deem appropriate.

Duty of  
respondents

(5) Where, in an application made pursuant to subsection (4), it is alleged that more than one corporation, individual, firm, syndicate or association or any combination thereof are or were under common control or direction, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. 1975, c. 76, s. 1 (2).

#### APPLICATION OF ACT

Where Act  
not to apply

### 2. This Act does not apply,

- (a) to a domestic employed in a private home;
- (b) to a person employed in agriculture, hunting or trapping;
- (c) to a person, other than an employee of a municipality or a person employed in silvaculture, who is employed in horticulture by an employer whose primary business is agriculture or horticulture;
- (d) to a member of a police force within the meaning of the *Police Act*;
- (e) to a full-time fire fighter within the meaning of the *Fire Departments Act*; or
- (f) to a teacher as defined in the *School Boards and Teachers Collective Negotiations Act*, except as provided in that Act. R.S.O. 1970, c. 232, s. 2; 1975, c. 76, s. 2.

R.S.O. 1980,  
c. 381

R.S.O. 1980,  
c. 164

R.S.O. 1980,  
c. 464

#### FREEDOMS

Membership  
in trade  
union

3. Every person is free to join a trade union of his own choice and to participate in its lawful activities. R.S.O. 1970, c. 232, s. 3.

Membership  
in  
employers'  
organization

4. Every person is free to join an employers' organization of his own choice and to participate in its lawful activities. R.S.O. 1970, c. 232, s. 4.

ESTABLISHMENT OF BARGAINING RIGHTS BY  
CERTIFICATION

5.—(1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees in the unit are not bound by a collective agreement, a trade union may, subject to section 61, apply at any time to the Board for certification as bargaining agent of the employees in the unit. <sup>Application for certification</sup>

(2) Where a trade union has been certified as bargaining agent of the employees of an employer in a bargaining unit and has not entered into a collective agreement with the employer and no declaration has been made by the Board that the trade union no longer represents the employees in the bargaining unit, another trade union may, subject to section 61, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit determined in the certificate only after the expiration of one year from the date of the certificate. <sup>Idem</sup>

(3) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties and the parties have not entered into a collective agreement and the Board has not made a declaration under section 60, another trade union may, subject to section 61, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the recognition agreement only after the expiration of one year from the date that the recognition agreement was entered into. <sup>Idem</sup>

(4) Where a collective agreement is for a term of not more than three years, a trade union may, subject to section 61, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the last two months of its operation. <sup>Idem</sup>

(5) Where a collective agreement is for a term of more than three years, a trade union may, subject to section 61, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the thirty-fifth month of its operation and before the commencement of the thirty-seventh month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after <sup>Idem</sup>

the commencement of the last two months of its operation, as the case may be.

Idem

(6) Where a collective agreement referred to in subsection (4) or (5) provides that it will continue to operate for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, a trade union may, subject to section 61, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement during the further term or successive terms only during the last two months of each year that it so continues to operate, or after the commencement of the last two months of its operation, as the case may be. R.S.O. 1970, c. 232, s. 5.

Board to determine appropriateness of units

6.—(1) Subject to subsection (2), upon an application for certification, the Board shall determine the unit of employees that is appropriate for collective bargaining, but in every case the unit shall consist of more than one employee and the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit. R.S.O. 1970, c. 232, s. 6 (1); 1975, c. 76, s. 3 (1).

Certification pending resolution of composition of bargaining unit

(2) Where, upon an application for certification, the Board is satisfied that any dispute as to the composition of the bargaining unit cannot affect the trade union's right to certification, the Board may certify the trade union as the bargaining agent pending the final resolution of the composition of the bargaining unit. 1975, c. 76, s. 3 (2).

Crafts units

(3) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or crafts shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made. 1975, c. 76, s. 3 (3).

(4) A bargaining unit consisting solely of professional engineers shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but, the Board may include professional engineers in a bargaining unit with other employees if the Board is satisfied that a majority of such professional engineers wish to be included in such bargaining unit. R.S.O. 1970, c. 232, s. 6 (3). Unit of professional engineers

(5) A bargaining unit consisting solely of dependent contractors shall be deemed by the Board to be a unit of employees appropriate for collective bargaining but the Board may include dependent contractors in a bargaining unit with other employees if the Board is satisfied that a majority of such dependent contractors wish to be included in such bargaining unit. 1975, c. 76, s. 3 (4). Dependent contractors

7.—(1) Upon an application for certification, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and the number of employees in the unit who were members of the trade union at such time as is determined under clause 103 (2) (j). R.S.O. 1970, c. 232, s. 7 (1). Determination of members in bargaining unit

(2) If the Board is satisfied that not less than 45 per cent and not more than 55 per cent of the employees in the bargaining unit are members of the trade union, the Board shall, and if the Board is satisfied that more than 55 per cent of such employees are members of the trade union, the Board may direct that a representation vote be taken. R.S.O. 1970, c. 232, s. 7 (2); 1975, c. 76, s. 4 (1). Representation vote

(3) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade union, and in other cases, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade union, the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit. R.S.O. 1970, c. 232, s. 7 (3); 1975, c. 76, s. 4 (2). Certification after vote

8. Where an employer or employers' organization contravenes this Act so that the true wishes of the employees of the employer or of a member of the employers' organization are not likely to be ascertained, and, in the opinion of the Board, a trade union has membership support adequate for the purposes of collective bargaining in a bargaining unit found by the Board pursuant to section 6 to be appropriate for collective bargaining, the Board may, on Certification where Act contravened



the application of the trade union, certify the trade union as the bargaining agent of the employees in the bargaining unit. 1975, c. 76, s. 5.

Pre-hearing  
votes

9.—(1) Upon an application for certification, the trade union may request that a pre-hearing representation vote be taken.

Voting  
constituency

(2) Upon such a request being made, the Board may determine a voting constituency and, if it appears to the Board on an examination of the records of the trade union and the records of the employer that not less than 35 per cent of the employees in the voting constituency were members of the trade union at the time the application was made, the Board may direct that a representation vote be taken among the employees in the voting constituency.

Sealing of  
ballot box

(3) The Board may direct that the ballot box containing the ballots cast in a representation vote taken under subsection (2) shall be sealed and that the ballots shall not be counted until the parties have been given full opportunity to present their evidence and make their submissions.

Effect of  
pre-hearing  
vote

(4) After a representation vote has been taken under subsection (2), the Board shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 35 per cent of the employees in such bargaining unit were members of the trade union at the time the application was made, the representation vote taken under subsection (2) has the same effect as a representation vote taken under subsection 7 (2). R.S.O. 1970, c. 232, s. 8.

Certification  
of councils  
of trade  
unions

10.—(1) Sections 5 to 13 and 117 and 119 apply with necessary modifications to an application for certification by a council of trade unions, but, before the Board certifies such a council as bargaining agent for the employees of an employer in a bargaining unit, the Board shall satisfy itself that each of the trade unions that is a constituent union of the council has vested appropriate authority in the council to enable it to discharge the responsibilities of a bargaining agent.

Postpone-  
ment of  
disposition

(2) Where the Board is of opinion that appropriate authority has not been vested in the applicant, the Board may postpone disposition of the application to enable the constituent unions to vest such additional or other authority as the Board considers necessary.

Membership

(3) For the purposes of sections 7 and 9, a person who is a member of any constituent trade union of a council shall be

deemed by the Board to be a member of the council.  
R.S.O. 1970, c. 232, s. 9.

**11.** Where employees of an employer reside on the property of the employer, or on property to which the employer has the right to control access, the employer shall, upon a direction from the Board, allow the representative of a trade union access to the property on which the employees reside for the purpose of attempting to persuade the employees to join a trade union. R.S.O. 1970, c. 232, s. 10. Right of access

**12.** The Board shall not include in a bargaining unit with other employees a person employed as a guard to protect the property of an employer, and no trade union shall be certified as bargaining agent for a bargaining unit of such guards and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person who is a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than guards. R.S.O. 1970, c. 232, s. 11. Security guards

**13.** The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry, age, sex or place of origin. R.S.O. 1970, c. 232, s. 12; 1975, c. 76, s. 6. What unions not to be certified

#### NEGOTIATION OF COLLECTIVE AGREEMENTS

**14.** Following certification, the trade union shall give the employer written notice of its desire to bargain with a view to making a collective agreement. R.S.O. 1970, c. 232, s. 13. Notice of desire to bargain

**15.** The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. R.S.O. 1970, c. 232, s. 14. Obligation to bargain

**16.—(1)** Where notice has been given under section 14 or 53, the Minister, upon the request of either party, shall appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement. Appointment of conciliation officer, where notice given

Idem, where  
no notice  
given

(2) Notwithstanding the failure of a trade union to give written notice under section 14 or the failure of either party to give written notice under sections 53 and 122, where the parties have met and bargained, the Minister, upon the request of either party, may appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement.

Idem,  
voluntary  
recognition

(3) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties, the Minister may, upon the request of either party, appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement.

Second  
conciliation

(4) Notwithstanding anything in this Act, where the Minister has appointed a conciliation officer or a mediator and the parties have failed to enter into a collective agreement within fifteen months from the date of such appointment, the Minister may, upon the joint request of the parties, again appoint a conciliation officer to confer with the parties and endeavour to effect a collective agreement, and, upon such appointment being made, sections 17 to 34 and 72 to 79 apply, but such appointment is not a bar to an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1970, c. 232, s. 15.

Appoint-  
ment of  
mediator

**17.**—(1) Where the Minister is required or authorized to appoint a conciliation officer, the Minister may, on the request in writing of the parties, appoint a mediator selected by them jointly before he has appointed a conciliation board or has informed the parties that he does not consider it advisable to appoint a conciliation board.

Idem

(2) Where the Minister has appointed a mediator after a conciliation officer has been appointed, the appointment of the conciliation officer is thereby terminated. R.S.O. 1970, c. 232, s. 16.

Duties

**18.**—(1) Where a conciliation officer is appointed, he shall confer with the parties and endeavour to effect a collective agreement and he shall, within fourteen days from his appointment, report the result of his endeavour to the Minister.

Extension  
of 14-day  
period

(2) The period mentioned in subsection (1) may be extended by agreement of the parties or by the Minister upon the

advice of the conciliation officer that a collective agreement may be made within a reasonable time if the period is extended.

(3) Where the conciliation officer reports to the Minister that the differences between the parties concerning the terms of a collective agreement have been settled, the Minister shall forthwith by notice in writing inform the parties of the report. R.S.O. 1970, c. 232, s. 17. Report of settlement

19. If the conciliation officer is unable to effect a collective agreement within the time allowed under section 18, Conciliation board, appointment of members

(a) the Minister shall forthwith by notice in writing request each of the parties, within five days of the receipt of the notice, to recommend one person to be a member of a conciliation board, and upon the receipt of the recommendations or upon the expiration of the five-day period he shall appoint two members who in his opinion represent the points of view of the respective parties, and the two members so appointed may, within three days after they are appointed, jointly recommend a third person to be a member and chairman of the board, and upon the receipt of the recommendation or upon the expiration of the three-day period, he shall appoint a third person to be a member and chairman of the board; or

(b) the Minister shall forthwith by notice in writing inform each of the parties that he does not consider it advisable to appoint a conciliation board. R.S.O. 1970, c. 232, s. 18.

20. No person shall act as a member of a conciliation board who has any pecuniary interest in the matters coming before it or who is acting, or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties. R.S.O. 1970, c. 232, s. 19. Certain persons prohibited as members

21.—(1) When the members of the conciliation board have been appointed, the Minister shall forthwith give notice of their names to the parties and thereupon the board shall be deemed to have been established. Notice to parties of appointment

(2) When notice under subsection (1) has been given, it shall be presumed conclusively that the conciliation board has been established in accordance with this Act, and no order shall be made or process entered or proceedings taken in any Presumption of establishment

court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question the establishment of the conciliation board or the appointment of any of its members, or to review, prohibit or restrain any of its proceedings. R.S.O. 1970, c. 232, s. 20.

Vacancies

**22.**—(1) If a person ceases to be a member of a conciliation board by reason of his resignation or death before it has completed its work, the Minister shall appoint a member in his place after consulting the party whose point of view was represented by such person.

Appoint-  
ment of  
new member  
in place  
of member

(2) If in the opinion of the Minister a member of a conciliation board has failed to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, the Minister may appoint a member in his place after consulting the party whose point of view was represented by such person.

Appoint-  
ment of  
new  
chairman

(3) If the chairman of a conciliation board is unable to enter on his duties so as to enable it to report to the Minister within a reasonable time after its appointment, he shall advise the Minister of his inability and the Minister may appoint a person to act as chairman in his place. R.S.O. 1970, c. 232, s. 21.

Terms of  
reference

**23.** As soon as a conciliation board has been established, the Minister shall deliver to its chairman a statement of the matters referred to it and the Minister may, either before or after its report is made, amend or add to the statement. R.S.O. 1970, c. 232, s. 22.

Oath of  
Office

**24.** Each member of a conciliation board shall, before entering upon his duties, take and subscribe before a person authorized to administer oaths or before another member of the board, and file with the Minister, an oath in the following form:

I do solemnly swear that I am not disqualified under section 20 of the *Labour Relations Act* from acting as a member of a conciliation board and that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability, execute and perform the office of member (or chairman) of the conciliation

board established to.....

.....  
and that I will not, except as I am legally authorized, disclose to any person any of the evidence or other matter brought before the board. So help me God.

**25.** As soon as a conciliation board is established, it shall <sup>Duties</sup> endeavour to effect agreement between the parties on the matters referred to it. R.S.O. 1970, c. 232, s. 24.

**26.**—(1) Subject to this Act, a conciliation board shall <sup>Procedure</sup> determine its own procedure.

(2) A conciliation board shall give full opportunity to the <sup>Presentation of evidence</sup> parties to present their evidence and make their submissions. R.S.O. 1970, c. 232, s. 25.

**27.** The chairman of a conciliation board shall, after <sup>Sittings</sup> consultation with the other members of the board, fix the time and place of its sittings, and he shall notify the parties and the other members of the board of the time and place so fixed. R.S.O. 1970, c. 232, s. 26.

**28.** The chairman of a conciliation board shall in writing, <sup>Minister to be informed of first sitting</sup> immediately upon the conclusion of its first sitting, inform the Minister of the date on which the sitting was held. R.S.O. 1970, c. 232, s. 27.

**29.** The chairman and one other member of a conciliation <sup>Quorum</sup> board or, in the absence of the chairman and with his written consent, the other two members constitute a quorum, but, in the absence of one of the members other than the chairman, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting. R.S.O. 1970, c. 232, s. 28.

**30.** If the members of a conciliation board are unable to <sup>Casting vote</sup> agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. R.S.O. 1970, c. 232, s. 29.

**31.** A conciliation board has power, <sup>Powers</sup>

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the board considers requisite to the full investigation and consideration of the matters referred to it in the same manner as a court of record in civil cases;
- (b) to administer oaths;
- (c) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;

(d) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the matters referred to the board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such matters;

(e) to authorize any person to do anything that the board may do under clause (d) and to report to the board thereon. R.S.O. 1970, c. 232, s. 30.

When  
report to  
be made

**32.**—(1) A conciliation board shall report its findings and recommendations to the Minister within thirty days after its first sitting.

Extension  
of period

(2) The period mentioned in subsection (1) may be extended,

(a) for a further period not exceeding thirty days,

(i) by the Minister at the request of the chairman of the conciliation board, or

(ii) by agreement of the parties; or

(b) for such further period beyond the period fixed in clause (a) as the parties may agree upon and as the Minister may approve.

Report

(3) The report of the majority constitutes the report of the conciliation board, but, where there is no majority agreement or where the board is unable to report within the time allowed under subsection (1) or (2), the chairman shall notify the Minister in writing that there has been no agreement or that the board is unable to report, as the case may be, and in either of such cases the notification constitutes the report of the board.

Clarification,  
etc., of  
report

(4) After a conciliation board has made its report, the Minister may direct it to clarify or amplify any part of its report, and the report shall not be deemed to have been received by the Minister until it has been so clarified or amplified.

Copies of  
reports to  
parties

(5) On receipt of the report of the conciliation board or the mediator, the Minister shall forthwith release a copy thereof to each of the parties. R.S.O. 1970, c. 232, s. 31.

**33.**—(1) Where a mediator is appointed, he shall confer with the parties and endeavour to effect a collective agreement. Duty of mediator

(2) A mediator has all the powers of a conciliation board under section 31. Powers

(3) Sections 28 and 32 apply with necessary modifications to a mediator. Sections 28 and 32 apply

(4) The report of a mediator has the same effect as the report of a conciliation board. R.S.O. 1970, c. 232, s. 32. Report

**34.** Failure of a conciliation officer to report to the Minister within the time provided in this Act does not invalidate the proceedings of the conciliation officer. R.S.O. 1970, c. 232, s. 33. Failure to report

**35.**—(1) The Minister may establish an industrial inquiry commission to inquire into and report to the Minister on any industrial matter or dispute that the Minister considers advisable. Industrial inquiry commission

(2) The industrial inquiry commission shall consist of one or more members appointed by the Minister and the commission shall have all the powers of a conciliation board under section 31. Composition and powers

(3) The chairman and members of the commission shall be paid remuneration and expenses at the same rate as is payable to a chairman and members of a conciliation board under this Act. R.S.O. 1970, c. 232, s. 34. Remuneration and expenses

**36.**—(1) Where, at any time during the operation of a collective agreement, the Minister considers that it will promote more harmonious industrial relations between the parties, he may appoint a special officer to confer with the parties and assist them in an examination and discussion of their current relationship or the resolution of anticipated bargaining problems. Appointment of special officer

(2) A special officer appointed under subsection (1) shall confer with the parties and shall report to the Minister within thirty days of his appointment and upon the filing of his report his appointment shall terminate unless it is extended by the Minister. Duties of special officer

(3) Any person knowledgeable in industrial relations may be appointed a special officer, whether or not he is an employee of the Crown. 1975, c. 76, s. 7, *part.* Qualifications of special officer



Disputes  
Advisory  
Committee

**37.**—(1) The Minister may appoint a Disputes Advisory Committee composed of one or more representatives of employers and one or more representatives of employees.

Purpose of  
Committee

(2) At any time during the course of bargaining, either before or after the commencement of a strike or lock-out, where it appears to the Minister that the normal conciliation and mediation procedures have been exhausted, the Minister may request that the Disputes Advisory Committee be convened to confer with, advise and assist the bargaining parties. 1975, c. 76, s. 7, *part*.

Voluntary  
arbitration

**38.**—(1) Notwithstanding any other provision of this Act, the parties may at any time following the giving of notice of desire to bargain under section 14 or 53, irrevocably agree in writing to refer all matters remaining in dispute between them to an arbitrator or a board of arbitration for final and binding determination.

Powers of  
arbitrator  
or board of  
arbitration

(2) The agreement to arbitrate shall supersede all other dispute settlement provisions of this Act, including those provisions relating to conciliation, mediation, strike and lock-out, and the provisions of subsections 44 (7), (8), (10), (11) and (12) apply with necessary modifications to the proceedings before the arbitrator or board of arbitration and to its decision under this section.

Effect of  
agreement

(3) For the purposes of section 61 and section 123, an irrevocable agreement in writing referred to in subsection (1) shall have the same effect as a collective agreement. 1975, c. 76, s. 7, *part*.

Where  
Minister  
may require  
ratification  
vote

**39.** Where, at any time after the commencement of a strike or lock-out, the Minister is of the opinion that it is in the public interest that the employees in the affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may, on such terms as he considers necessary, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held forthwith. 1975, c. 76, s. 7, *part*.

Vote on  
employer's  
offer

**40.**—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall, and in the construction industry the Minister may, on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made.

(2) A request for the taking of a vote, or the holding of a vote, under subsection (1) does not abridge or extend any time limits or periods provided for in this Act. 1980, c. 34, s. 1. Time limits and periods not affected

#### CONTENTS OF COLLECTIVE AGREEMENTS

**41.—**(1) Every collective agreement shall be deemed to provide that the trade union that is a party thereto is recognized as the exclusive bargaining agent of the employees in the bargaining unit defined therein. R.S.O. 1970, c. 232, s. 35 (1); 1975, c. 76, s. 8 (1). Recognition provision

(2) Every collective agreement to which an accredited employers' organization is a party shall be deemed to provide that the accredited employers' organization is recognized as the exclusive bargaining agent of the employers in the unit of employers for whom the employers' organization has been accredited. R.S.O. 1970, c. 232, s. 35 (2); 1975, c. 76, s. 8 (2). Recognition of accredited employers' organization

**42.—**(1) Every collective agreement shall provide that there will be no strikes or lock-outs so long as the agreement continues to operate. Provision against strikes and lock-outs

(2) If a collective agreement does not contain such a provision as is mentioned in subsection (1), it shall be deemed to contain the following provision: Statutory provision

"There shall be no strikes or lock-outs so long as this agreement continues to operate."

R.S.O. 1970, c. 232, s. 36.

**43.—**(1) Except in the construction industry and subject to section 47, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith. 1980, c. 34, s. 2 (1). Deduction and remittance of union dues

(2) In subsection (1), "regular union dues" means, Interpretation

- (a) in the case of an employee who is a member of the trade union, the dues uniformly and regularly paid by a member of the trade union in accordance with the constitution and by-laws of the trade union; and
- (b) in the case of an employee who is not a member of the trade union, the dues referred to in clause (a),

excluding any amount in respect of pension, superannuation, sickness insurance or any other benefit available only to members of the trade union. 1975, c. 76, s. 9, *part*.

Arbitration  
provision

44.—(1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable.

Idem

(2) If a collective agreement does not contain such a provision as is mentioned in subsection (1), it shall be deemed to contain the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

Where  
arbitration  
provision  
inadequate

(3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection (2) is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection (1), but, until so modified, the arbitration provision in the collective agreement or in subsection (2), as the case may be, applies.

Appoint-  
ment of  
arbitrator  
by Minister

(4) Notwithstanding subsection (3), if there is failure to appoint an arbitrator or to constitute a board of arbitration under a collective agreement, the Minister, upon the request of either party, may appoint the arbitrator or make such appointments as are necessary to constitute the board of arbitration, as the case may be, and any person so appointed

by the Minister shall be deemed to have been appointed in accordance with the collective agreement.

(5) Where the Minister has appointed an arbitrator or the chairman of a board of arbitration under subsection (4), each of the parties shall pay one-half the remuneration and expenses of the person appointed, and, where the Minister has appointed a member of a board of arbitration under subsection (4) on failure of one of the parties to make the appointment, that party shall pay the remuneration and expenses of the person appointed. R.S.O. 1970, c. 232, s. 37 (1-5). Payment of arbitrators

(6) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension. 1975, c. 76, s. 10. Extension of time

(7) Where a difference has been submitted to arbitration under this section and a party to the arbitration complains to the Minister that the arbitrator or the arbitration board, as the case may be, has failed to render a decision within a reasonable time, the Minister may, after consulting the parties and the arbitrator or the arbitration board, issue whatever order he considers necessary in the circumstances to ensure that a decision will be rendered in the matter without further undue delay. Where decision of arbitrator unduly delayed

(8) An arbitrator or the chairman of an arbitration board, as the case may be, has power, Powers of arbitrators, chairmen of arbitration boards, and arbitration boards

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases; and

(b) to administer oaths,

and an arbitrator or an arbitration board, as the case may be, has power,

(c) to accept such oral or written evidence as the arbitrator or the arbitration board, as the case may be, in its discretion considers proper, whether admissible in a court of law or not;

(d) to enter any premises where work is being done or has been done by the employees or in which the

employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or it, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences;

- (e) to authorize any person to do anything that the arbitrator or arbitration board may do under clause (d) and to report to the arbitrator or the arbitration board thereon.

**Substitution  
of penalty**

(9) Where an arbitrator or arbitration board determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator or arbitration board may substitute such other penalty for the discharge or discipline as to the arbitrator or arbitration board seems just and reasonable in all the circumstances.

**Effect of  
arbitrator's  
decision**

(10) The decision of an arbitrator or of an arbitration board is binding,

- (a) upon the parties; and
- (b) in the case of a collective agreement between a trade union and an employers' organization, upon the employers covered by the agreement who are affected by the decision; and
- (c) in the case of a collective agreement between a council of trade unions and an employer or an employers' organization, upon the members or affiliates of the council and the employer or the employers covered by the agreement, as the case may be, who are affected by the decision; and
- (d) upon the employees covered by the agreement who are affected by the decision,

and such parties, employers, trade unions and employees shall do or abstain from doing anything required of them by the decision.

**Enforcement  
of arbitration  
decisions**

(11) Where a party, employer, trade union or employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any party, employer, trade union or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision,

exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

(12) The *Arbitrations Act* does not apply to arbitrations under collective agreements. R.S.O. 1970, c. 232, s. 37 (6-11). R.S.O. 1980, c. 25 does not apply

45.—(1) Notwithstanding the arbitration provision in a collective agreement or deemed to be included in a collective agreement under section 44, a party to a collective agreement may request the Minister to refer to a single arbitrator, to be appointed by the Minister, any difference between the parties to the collective agreement arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. Referral of grievances to a single arbitrator

(2) Subject to subsection (3), a request under subsection (1) may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after thirty days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration. Request for reference

(3) Notwithstanding subsection (2), where a difference between the parties to a collective agreement is a difference respecting discharge from or other termination of employment, a request under subsection (1) may be made by a party to the collective agreement in writing after the grievance procedure under the agreement has been exhausted or after fourteen days have elapsed from the time at which the grievance was first brought to the attention of the other party, whichever first occurs, but no such request shall be made beyond the time, if any, stipulated in or permitted under the agreement for referring the grievance to arbitration. Idem

(4) Where a request is received under subsection (1), the Minister shall appoint a single arbitrator who shall have exclusive jurisdiction to hear and determine the matter referred to him, including any question as to whether a matter is arbitrable and any question as to whether the request was timely. Minister to appoint arbitrator

(5) Where a request or more than one request concerns several differences arising under the collective agreement, Idem

the Minister may in his discretion appoint an arbitrator under subsection (4) to deal with all the differences raised in the request or requests.

Settlement  
officer

(6) The Minister may appoint a settlement officer to confer with the parties and endeavour to effect a settlement prior to the hearing by an arbitrator appointed under subsection (4).

Powers and  
duties of  
arbitrator

(7) An arbitrator appointed under subsection (4) shall commence to hear the matter referred to him within twenty-one days after the receipt of the request by the Minister and the provisions of subsections 44 (6), (7), (8), (9), (10), (11) and (12) apply, with all necessary modifications, to the arbitrator, the parties and the decision of the arbitrator.

Oral  
decisions

(8) Upon the agreement of the parties, the arbitrator shall deliver an oral decision forthwith or as soon as practicable without giving his reasons in writing therefor.

Payment of  
arbitrator

(9) Where the Minister has appointed an arbitrator under subsection (4), each of the parties shall pay one-half of the remuneration and expenses of the person appointed.

Approval of  
arbitrators,  
etc.

(10) The Minister may establish a list of approved arbitrators and, for the purpose of advising him with respect to persons qualified to act as arbitrators and matters relating to arbitration, the Minister may constitute a labour-management advisory committee composed of a chairman to be designated by the Minister and six members, three of whom shall represent employers and three of whom shall represent trade unions, and their remuneration and expenses shall be as the Lieutenant Governor in Council determines.

Application

(11) This section does not apply to a collective agreement in operation on the day this section comes into force but applies to every collective agreement that is renewed or made after that date. 1979, c. 32, s. 1.

Permissive  
provisions

**46.—**(1) Notwithstanding anything in this Act, but subject to subsection (4), the parties to a collective agreement may include in it provisions,

- (a) for requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement or granting a preference of employment to members of the trade union, or

requiring the payment of dues or contributions to the trade union;

(b) for permitting an employee who represents the trade union that is a party to or is bound by the agreement to attend to the business of the trade union during working hours without deduction of the time so occupied in the computation of the time worked for the employer and without deduction of wages in respect of the time so occupied;

(c) for permitting the trade union that is a party to or is bound by the agreement to use the employer's premises for the purposes of the trade union without payment therefor.

(2) No trade union that is a party to a collective agreement containing a provision mentioned in clause (1) (a) shall require the employer to discharge an employee because,

Where  
non-member  
employee  
cannot be  
required  
to be  
discharged

(a) he has been expelled or suspended from membership in the trade union; or

(b) membership in the trade union has been denied to or withheld from the employee,

for the reason that the employee,

(c) was or is a member of another trade union;

(d) has engaged in activity against the trade union or on behalf of another trade union;

(e) has engaged in reasonable dissent within the trade union;

(f) has been discriminated against by the trade union in the application of its membership rules; or

(g) has refused to pay initiation fees, dues or other assessments to the trade union which are unreasonable.



Where  
subs. (2)  
does not  
apply

(3) Subsection (2) does not apply to an employee who has engaged in unlawful activity against the trade union mentioned in clause (1) (a) or an officer, official or agent thereof or whose activity against the trade union or on behalf of another trade union has been instigated or procured by his employer or any person acting on his employer's behalf or whose employer or a person acting on his employer's behalf has participated in such activity or contributed financial or other support to the employee in respect of such activity. R.S.O. 1970, c. 232, s. 38 (1-3).

Union  
security  
provision  
in first  
agreement

(4) A trade union and the employer of the employees concerned shall not enter into a collective agreement that includes provisions requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement unless the trade union has established at the time it entered into the agreement that not less than 55 per cent of the employees in the bargaining unit were members of the trade union, but this subsection does not apply,

- (a) where the trade union has been certified as the bargaining agent of the employees of the employer in the bargaining unit; or
- (b) where the trade union has been a party to or bound by a collective agreement with the employer for at least one year; or
- (c) where the employer becomes a member of an employers' organization that has entered into a collective agreement with the trade union or council of trade unions containing such a provision and agrees with the trade union or council of trade unions to be bound by such agreement; or
- (d) where the employer and his employees in the bargaining unit are engaged in the construction, alteration, decoration, repair or demolition of a building, structure, road, sewer, water or gas main, pipe line, tunnel, bridge, canal, or other work at the site thereof. R.S.O. 1970, c. 232, s. 38 (4); 1975, c. 76, s. 11.

Continuation  
of permissive  
provisions

(5) Notwithstanding anything in this Act, where the parties to a collective agreement have included in it any

of the provisions permitted by subsection (1), any of such provisions may be continued in effect during the period when the parties are bargaining with a view to the renewal, with or without modifications, of such agreement or to the making of a new agreement.

(6) Notwithstanding anything in this Act, where the <sup>Idem</sup> parties to a collective agreement have included in it any of the provisions permitted by subsection (1) and the employer who was a party to or was bound by the agreement sells his business within the meaning of section 63, any of such provisions as were included in the collective agreement may be continued in effect during the period when the person to whom the business was sold and the trade union that is the bargaining agent for his employees in the appropriate bargaining unit by reason of the sale bargain with a view to the making of a new agreement. R.S.O. 1970, c. 232, s. 38 (5, 6).

47.—(1) Where the Board is satisfied that an employee <sup>Religious objections</sup> because of his religious conviction or belief,

(a) objects to joining a trade union; or

(b) objects to the paying of dues or other assessments to a trade union,

the Board may order that the provisions of a collective agreement of the type mentioned in clause 46 (1) (a) do not apply to such employee and that the employee is not required to join the trade union, to be or continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, provided that amounts equal to any initiation fees, dues or other assessments are paid by the employee to or are remitted by the employer to a charitable organization mutually agreed upon by the employee and the trade union, but if the employee and the trade union fail to so agree then to such charitable organization registered as a charitable organization in Canada under Part I of the *Income Tax Act* (Canada) as may be designated by the Board. <sup>R.S.C. 1952, c. 148</sup>

(2) Subsection (1) applies to employees in the employ of an employer at the time a collective agreement containing a provision of the kind mentioned in subsection (1) is first entered into with that employer and only during the life of such collective agreement, and does not apply to employees whose employment commences after the entering into of the collective agreement. R.S.O. 1970, c. 232, s. 39, *revised*. <sup>Application of subs. (1)</sup>

## OPERATION OF COLLECTIVE AGREEMENTS

Certain agreements not to be treated as collective agreements

**48.** An agreement between an employer or an employers' organization and a trade union shall be deemed not to be a collective agreement for the purposes of this Act,

- (a) if an employer or an employers' organization participated in the formation or administration of the trade union or if an employer or an employers' organization contributed financial or other support to the trade union; or
- (b) if it discriminates against any person because of his race, creed, colour, nationality, ancestry, age, sex or place of origin. R.S.O. 1970, c. 232, s. 40; 1975, c. 76, s. 12.

More than one collective agreement prohibited

**49.** There shall be only one collective agreement at a time between a trade union or council of trade unions and an employer or employers' organization with respect to the employees in the bargaining unit defined in the collective agreement. R.S.O. 1970, c. 232, s. 41 (1).

Binding effect of collective agreements on employers, trade unions and employees

**50.** A collective agreement is, subject to and for the purposes of this Act, binding upon the employer and upon the trade union that is a party to the agreement whether or not the trade union is certified and upon the employees in the bargaining unit defined in the agreement. R.S.O. 1970, c. 232, s. 42.

Binding effect of collective agreements on members of employers' organizations

**51.—(1)** A collective agreement between an employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the employers' organization and each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union or council of trade unions as if it was made between each of such persons and the trade union or council of trade unions and upon the employees in the bargaining unit defined in the agreement, and, if any such person ceases to be a member of the employers' organization during the term of operation of the agreement, he shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

(2) When an employers' organization commences to bargain with a trade union or council of trade unions, it shall deliver to the trade union, or council of trade unions a list of the names of the employers on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members of the employers' organization for whose employees the trade union or council of trade unions is entitled to bargain and to make a collective agreement at that time, except an employer who, either by himself or through the employers' organization, has notified the trade union or council of trade unions in writing before the agreement was entered into that he will not be bound by a collective agreement between the employers' organization and the trade union or council of trade unions.

Duty to disclose

(3) A collective agreement between a certified council of trade unions and an employer is, subject to and for the purposes of this Act, binding upon each trade union that is a constituent union of such a council as if it had been made between each of such trade unions and the employer.

Binding effect of collective agreements on members of certified councils

(4) A collective agreement between a council of trade unions, other than a certified council of trade unions, and an employer or an employers' organization is, subject to and for the purposes of this Act, binding upon the council of trade unions and each trade union that was a member of or affiliated with the council of trade unions at the time the agreement was entered into and on whose behalf the council of trade unions bargained with the employer or employers' organization as if it was made between each of such trade unions and the employer or employers' organization, and upon the employees in the bargaining unit defined in the agreement and, if any such trade union ceases to be a member of or affiliated with the council of trade unions during the term of operation of the agreement, it shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the employer or employers' organization, as the case may be.

Binding effect of collective agreements on members or affiliates of councils of trade unions

(5) Where a council of trade unions, other than a certified council of trade unions, commences to bargain with an employer or an employers' organization, it shall deliver to the employer or employers' organization a list of the names of the trade unions on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members or affiliates of the council of

Duty to disclose

trade unions for whose employees the respective trade unions are entitled to bargain and to make a collective agreement at that time with the employer or the employers' organization, except a trade union that, either by itself or through the council of trade unions, has notified the employer or employer's organization in writing before the agreement is entered into that it will not be bound by a collective agreement between the council of trade unions and the employer or employers' organization. R.S.O. 1970, c. 232, s. 43.

Minimum  
term of  
collective  
agreements

52.—(1) If a collective agreement does not provide for its term of operation or provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate. R.S.O. 1970, c. 232, s. 44 (1).

Extension  
of term of  
collective  
agreement

(2) Notwithstanding subsection (1), the parties may, in a collective agreement or otherwise and before or after the collective agreement has ceased to operate, agree to continue the operation of the collective agreement or any of its provisions for a period of less than one year while they are bargaining for its renewal with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit and the continuation of the collective agreement may be terminated by either party upon thirty days notice to the other party. 1975, c. 76, s. 13.

Early  
termination  
of collective  
agreements

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Board on the joint application of the parties.

Idem

(4) Notwithstanding anything in this section, where an employer joins an employers' organization that is a party to a collective agreement with a trade union or council of trade unions and he agrees with the trade union or council of trade unions to be bound by the collective agreement between the trade union or council of trade unions and the employers' organization, the agreement ceases to be binding upon the employer and the trade union or council of trade unions at the same time as the agreement between the employers' organization and the trade union or council of trade unions ceases to be binding.

(5) Nothing in this section prevents the revision by mutual consent of the parties at any time of any provision of a collective agreement other than a provision relating to its term of operation. R.S.O. 1970, c. 232, s. 44 (3-5). Revision  
by mutual  
consent

**53.**—(1) Either party to a collective agreement may, within the period of ninety days before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement. Notice of  
desire to  
bargain  
for new  
collective  
agreement

(2) A notice given by a party to a collective agreement in accordance with provisions in the agreement relating to its termination or renewal shall be deemed to comply with subsection (1). Idem

(3) Where notice is given by or to an employers' organization that has a collective agreement with a trade union or council of trade unions, it shall be deemed to be a notice given by or to each member of the employers' organization who is bound by the agreement or who has ceased to be a member of the employers' organization but has not notified the trade union or council of trade unions in writing that he has ceased to be a member. Notice of  
desire for  
new  
collective  
agreement  
for  
employers'  
organization

(4) Where notice is given by or to a council of trade unions, other than a certified council of trade unions, that has a collective agreement with an employer or employers' organization, it shall be deemed to be a notice given by or to each member or affiliate of the council of trade unions that is bound by the agreement or that has ceased to be a member or affiliate of the council of trade unions but has not notified the employer or employers' organization in writing that it has ceased to be a member or affiliate. R.S.O. 1970, c. 232, s. 45. Idem

**54.** Sections 15 to 34 apply to the bargaining that follows the giving of a notice under section 53. R.S.O. 1970, c. 232, s. 46. Application  
of ss. 15-34

**55.**—(1) Where a certified council of trade unions is a party to or is bound by a collective agreement, no resolution, by-law or other action by the constituent unions of a certified council of trade unions to dissolve the council or by a constituent union of such a council to withdraw from the council, as the case may be, has effect, Dissolution  
of councils  
of certified  
trade unions

(a) unless a copy of such resolution, by-law or other action is delivered to the employer or the employers' organization and, in the case of a withdrawal, to the other constituent members and to the council at least ninety days before the collective agreement ceases to operate; and

(b) until the collective agreement ceases to operate.

Idem

(2) Where a certified council of trade unions is not a party to or is not bound by a collective agreement, no resolution, by-law or other action by the constituent unions of a certified council of trade unions to dissolve the council or by a constituent union of such a council to withdraw from the council, as the case may be, has effect until the ninetieth day after the day on which a copy of such resolution, by-law or other action is delivered to the employer or the employers' organization and, in the case of a withdrawal, to the other constituent members and to the council. R.S.O. 1970, c. 232, s. 47.

#### TERMINATION OF BARGAINING RIGHTS

Effect of  
certification

**56.**—(1) If the trade union that applies for certification under subsection 5 (4), (5) or (6) is certified as bargaining agent for any of the employees in the bargaining unit defined in the collective agreement, the trade union that was or is a party to the agreement, as the case may be, forthwith ceases to represent the employees in the bargaining unit determined in the certificate and the agreement ceases to operate in so far as it affects such employees.

Idem

(2) If the trade union that applies for certification under subsection 5 (2) is certified as bargaining agent for any of the employees in the bargaining unit defined in the certificate issued to the trade union that was previously certified, the latter trade union forthwith ceases to represent the employees in the bargaining unit defined in the certificate issued to the former trade union. R.S.O. 1970, c. 232, s. 48.

Application  
for termina-  
tion, no  
agreement

**57.**—(1) If a trade union does not make a collective agreement with the employer within one year after its certification, any of the employees in the bargaining unit determined in the certificate may, subject to section 61, apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit.

Idem.  
agreement

(2) Any of the employees in the bargaining unit defined in a collective agreement may, subject to section 61, apply

to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit,

- (a) in the case of a collective agreement for a term of not more than three years, only after the commencement of the last two months of its operation;
- (b) in the case of a collective agreement for a term of more than three years, only after the commencement of the thirty-fifth month of its operation and before the commencement of the thirty-seventh month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be;
- (c) in the case of a collective agreement referred to in clause (a) or (b) that provides that it will continue to operate for any further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, only during the last two months of each year that it so continues to operate or after the commencement of the last two months of its operation, as the case may be. R.S.O. 1970, c. 232, s. 49 (1, 2).

(3) Upon an application under subsection (1) or (2), the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and whether not less than 45 per cent of the employees in the bargaining unit have voluntarily signified in writing at such time as is determined under clause 103 (2) (j) that they no longer wish to be represented by the trade union, and, if not less than 45 per cent have so signified, the Board shall, by a representation vote, satisfy itself that a majority of the employees desire that the right of the trade union to bargain on their behalf be terminated. R.S.O. 1970, c. 232, s. 49 (3); 1975, c. 76, s. 14.

(4) If on the taking of the representation vote more than 50 per cent of the ballots cast are cast in opposition to the trade union, the Board shall declare that the trade union that was certified or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Representation  
vote

Declaration  
of  
termination  
following  
vote



Declaration  
of  
termination  
on aban-  
donment

(5) Upon an application under subsection (1) or (2), where the trade union concerned informs the Board that it does not desire to continue to represent the employees in the bargaining unit, the Board may declare that the trade union no longer represents the employees in the bargaining unit.

Declaration  
to terminate  
agreement

(6) Upon the Board making a declaration under subsection (4) or (5), any collective agreement in operation between the trade union and the employer that is binding upon the employees in the bargaining unit ceases to operate forthwith. R.S.O. 1970, c. 232, s. 49 (4-6).

Where  
certificate  
obtained  
by fraud

**58.** If a trade union has obtained a certificate by fraud, the Board may at any time declare that the trade union no longer represents the employees in the bargaining unit and, upon the making of such a declaration, the trade union is not entitled to claim any rights or privileges flowing from certification and, if it has made a collective agreement binding upon the employees in the bargaining unit, the collective agreement is void. R.S.O. 1970, c. 232, s. 50.

Termination,  
for failure  
to give  
notice

**59.—**(1) If a trade union fails to give the employer notice under section 14 within sixty days following certification or if it fails to give notice under section 53 and no such notice is given by the employer, the Board may, upon the application of the employer or of any of the employees in the bargaining unit, and with or without a representation vote, declare that the trade union no longer represents the employees in the bargaining unit.

for failure  
to bargain

(2) Where a trade union that has given notice under section 14 or section 53 or that has received notice under section 53 fails to commence to bargain within sixty days from the giving of the notice or, after having commenced to bargain but before the Minister has appointed a conciliation officer or mediator, allows a period of sixty days to elapse during which is has not sought to bargain, the Board may, upon the application of the employer or of any of the employees in the bargaining unit and with or without a representation vote, declare that the trade union no longer represents the employees in the bargaining unit. R.S.O. 1970, c. 232, s. 51.

Termination  
of bargaining  
rights after  
voluntary  
recognition

**60.—**(1) Where an employer and a trade union that has not been certified as the bargaining agent for a bargaining unit of employees of the employer enter into a collective agreement, or a recognition agreement as provided for in sub-

section 16 (3), the Board may, upon the application of any employee in the bargaining unit or of a trade union representing any employee in the bargaining unit, during the first year of the period of time that the first collective agreement between them is in operation or, if no collective agreement has been entered into, within one year from the signing of such recognition agreement, declare that the trade union was not, at the time the agreement was entered into, entitled to represent the employees in the bargaining unit.

(2) Before disposing of an application under subsection (1), the Board may make such inquiry, require the production of such evidence and the doing of such things, or hold such representation votes, as it considers appropriate. Powers of Board before disposing of application

(3) On an application under subsection (1), the onus of establishing that the trade union was entitled to represent the employees in the bargaining unit at the time the agreement was entered into rests on the parties to the agreement. Onus

(4) Upon the Board making a declaration under subsection (1), the trade union forthwith ceases to represent the employees in the defined bargaining unit in the recognition agreement or collective agreement and any collective agreement in operation between the trade union and the employer ceases to operate forthwith in respect of the employees affected by the application. R.S.O. 1970, c. 232, s. 52. Declaration to terminate agreement

#### TIMELINESS OF REPRESENTATION APPLICATIONS

**61.**—(1) Subject to subsection (3), where a trade union has not made a collective agreement within one year after its certification and the Minister has appointed a conciliation officer or a mediator under this Act, no application for certification of a bargaining agent of, or for a declaration that a trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made until, Application for certification or termination after conciliation

(a) thirty days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or

(b) thirty days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board; or

(c) six months have elapsed after the Minister has released to the parties a notice of a report of the

conciliation officer that the differences between the parties concerning the terms of a collective agreement have been settled,

as the case may be.

Application  
for certifica-  
tion or  
termination  
after  
conciliation

(2) Where notice has been given under section 53 and the Minister has appointed a conciliation officer or a mediator, no application for certification of a bargaining agent of any of the employees in the bargaining units as defined in the collective agreement and no application for a declaration that the trade union that was a party to the collective agreement no longer represents the employees in the bargaining unit as defined in the agreement shall be made after the date when the agreement ceased to operate or the date when the Minister appointed a conciliation officer or a mediator, whichever is later, unless, following the appointment of a conciliation officer or a mediator, if no collective agreement has been made,

- (a) at least twelve months have elapsed from the date of the appointment of the conciliation officer or a mediator; or
- (b) a conciliation board or a mediator has been appointed and thirty days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties; or
- (c) thirty days have elapsed after the Minister has informed the parties that he does not consider it desirable to appoint a conciliation board,

whichever is later.

Application  
for  
certification  
or termina-  
tion during  
lawful strike

(3) Where a trade union has given notice under section 14 and the employees in the bargaining unit on whose behalf the trade union was certified as bargaining agent thereafter engage in a lawful strike or the employer lawfully locks out such employees, no application for certification of a bargaining agent of, or for a declaration that the trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made,

- (a) until six months have elapsed after the strike or lock-out commenced; or
- (b) until seven months have elapsed after the Minister has released to the parties the report of the conciliation board or mediator or a notice that the

Minister does not consider it advisable to appoint a conciliation board,

whichever occurs first.

(4) Subsections (1) and (3) apply with necessary modifications to an application made under subsection 5 (3). R.S.O. 1970, c. 232, s. 53. Application of subss. (1), (3)

#### SUCCESSOR RIGHTS

**62.**—(1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer and any question arises in respect of its rights to act as the successor, the Board, in any proceeding before it or on the application of any person or trade union concerned, may declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Act of its predecessor, or the Board may dismiss the application. Declaration of successor union

(2) Before issuing a declaration under subsection (1), the Board may make such inquiry, require the production of such evidence or hold such representation votes as it considers appropriate. Idem

(3) Where the Board makes an affirmative declaration under subsection (1), the successor shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise, and the employer, the successor and the employees concerned shall recognize such status in all respects. R.S.O. 1970, c. 232, s. 54. Idem

**63.**—(1) In this section,

Interpretation

(a) "business" includes a part or parts thereof;

(b) "sells" includes leases, transfers and any other manner of disposition, and "sold" and "sale" have corresponding meanings.

(2) Where an employer who is bound by or is a party to a collective agreement with a trade union or council of trade unions sells his business, the person to whom the business has been sold is, until the Board otherwise declares, bound by the collective agreement as if he had been a Successor employer

party thereto and, where an employer sells his business while an application for certification or termination of bargaining rights to which he is a party is before the Board, the person to whom the business has been sold is, until the Board otherwise declares, the employer for the purposes of the application as if he were named as the employer in the application. R.S.O. 1970, c. 232, s. 55 (1, 2).

Idem

(3) Where an employer on behalf of whose employees a trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 14 or 53, sells his business, the trade union, or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement or the renewal, with or without modifications, of the agreement then in operation and such notice has the same effect as a notice under section 14 or 53, as the case requires. 1975, c. 76, s. 15 (1).

Powers of Board

(4) Where a business was sold to a person and a trade union or council of trade unions was the bargaining agent of any of the employees in such business or a trade union or council of trade unions is the bargaining agent of the employees in any business carried on by the person to whom the business was sold, and,

- (a) any question arises as to what constitutes the like bargaining unit referred to in subsection (3); or
- (b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsection (2) or (3), a conflict exists between the bargaining rights of the trade union or council of trade unions that represented the employees of the predecessor employer and the trade union or council of trade unions that represents the employees of the person to whom the business was sold,

the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (c) define the composition of the like bargaining unit referred to in subsection (3) with such modification, if any, as the Board considers necessary; and

- (d) amend, to such extent as the Board considers necessary, any bargaining unit in any certificate issued to any trade union or any bargaining unit defined in any collective agreement.

(5) The Board may, upon the application of any person, <sup>Idem</sup> trade union or council of trade unions concerned, made within sixty days after the successor employer referred to in subsection (2) becomes bound by the collective agreement, or within sixty days after the trade union or council of trade unions has given a notice under subsection (3), terminate the bargaining rights of the trade union or council of trade unions bound by the collective agreement or that has given notice, as the case may be, if, in the opinion of the Board, the person to whom the business was sold has changed its character so that it is substantially different from the business of the predecessor employer.

(6) Notwithstanding subsections (2) and (3), where a business <sup>Idem</sup> was sold to a person who carries on one or more other businesses and a trade union or council of trade unions is the bargaining agent of the employees in any of the businesses and such person intermingles the employees of one of the businesses with those of another of the businesses, the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (a) declare that the person to whom the business was sold is no longer bound by the collective agreement referred to in subsection (2);
- (b) determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) declare which trade union, trade unions or council of trade unions, if any, shall be the bargaining agent or agents for the employees in such unit or units; and
- (d) amend, to such extent as the Board considers necessary, any certificate issued to any trade union or council of trade unions or any bargaining unit defined in any collective agreement.

(7) Where a trade union or council of trade unions is declared to be the bargaining agent under subsection (6) and it is not already bound by a collective agreement with the successor employer with respect to the employees for whom it is declared to be the bargaining agent, it is entitled to give to the employer a written notice of its <sup>Notice to bargain</sup>

desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 14.

Powers of  
Board before  
disposing of  
application

(8) Before disposing of any application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate.

Where  
employer not  
required to  
bargain

(9) Where an application is made under this section, an employer is not required, notwithstanding that a notice has been given by a trade union or council of trade unions, to bargain with that trade union or council of trade unions concerning the employees to whom the application relates until the Board has disposed of the application and has declared which trade union or council of trade unions, if any, has the right to bargain with the employer on behalf of the employees concerned in the application.

Effect of  
notice or  
declaration

(10) For the purposes of sections 5, 57, 59, 61 and 123, a notice given by a trade union or council of trade unions under subsection (3) or a declaration made by the Board under subsection (6) has the same effect as a certification under section 7. R.S.O. 1970, c. 232, s. 55 (4-10).

Successor  
municipi-  
palities  
R.S.O. 1980,  
c. 303

(11) Where one or more municipalities as defined in the *Municipal Affairs Act* is erected into another municipality, or two or more such municipalities are amalgamated, united or otherwise joined together, or all or part of one such municipality is annexed, attached or added to another such municipality, the employees of the municipalities concerned shall be deemed to have been intermingled, and,

- (a) the Board may exercise the like powers as it may exercise under subsections (6) and (8) with respect to the sale of a business under this section;
- (b) the new or enlarged municipality has the like rights and obligations as a person to whom a business is sold under this section and who intermingles the employees of one of his businesses with those of another of his businesses; and
- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees

in two or more businesses under this section. R.S.O. 1970, c. 232, s. 55 (11); 1972, c. 1, s. 104 (6).

(12) Where, on any application under this section or in any other proceeding before the Board, a question arises as to whether a business has been sold by one employer to another, the Board shall determine the question and its decision thereon is final and conclusive for the purposes of this Act. R.S.O. 1970, c. 232, s. 55 (12).

Power of Board to determine whether sale

(13) Where, on an application under this section, a trade union alleges that the sale of a business has occurred, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. 1975, c. 76, s. 15 (2).

Duty of respondents

#### UNFAIR PRACTICES

**64.** No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. R.S.O. 1970, c. 232, s. 56.

Employers, etc., not to interfere with unions

**65.** No trade union and no person acting on behalf of a trade union shall participate in or interfere with the formation or administration of an employers' organization or contribute financial or other support to an employers' organization. R.S.O. 1970, c. 232, s. 57.

Unions not to interfere with employers' organizations

**66.** No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

Employers not to interfere with employees' rights

(a) shall refuse to employ or to continue to employ a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act;

(b) shall impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or



- (c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to cease to exercise any other rights under this Act. R.S.O. 1970, c. 232, s. 58.

Employers  
not to  
interfere  
with bar-  
gaining  
rights

**67.**—(1) No employer, employers' organization or person acting on behalf of an employer or an employers' organization shall, so long as a trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with any person or another trade union or a council of trade unions on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them.

Trade  
unions not  
to interfere  
with  
bargaining  
rights

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall, so long as another trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with an employer or an employers' organization on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. R.S.O. 1970, c. 232, s. 59.

Duty of fair  
representa-  
tion by  
trade union,  
etc.

**68.** A trade union or council of trade unions, so long as it continues to be entitled to represent employees in a bargaining unit, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit, whether or not members of the trade union or of any constituent union of the council of trade unions, as the case may be. R.S.O. 1970, c. 232, s. 60.

Duty of  
fair  
referral,  
etc., by  
trade unions

**69.** Where, pursuant to a collective agreement, a trade union is engaged in the selection, referral, assignment, designation or scheduling of persons to employment, it shall not act in a manner that is arbitrary, discriminatory or in bad faith. 1975, c. 76, s. 16.

Intimidation  
and coercion

**70.** No person, trade union or employers' organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of a trade union or of an employers' organization or to refrain from exercising

any other rights under this Act or from performing any obligations under this Act. R.S.O. 1970, c. 232, s. 61.

**71.** Nothing in this Act authorizes any person to attempt at the place at which an employee works to persuade him during his working hours to become or refrain from becoming or continuing to be a member of a trade union. R.S.O. 1970, c. 232, s. 62. Persuasion during working hours

**72.—(1)** Where a collective agreement is in operation, no employee bound by the agreement shall strike and no employer bound by the agreement shall lock out such an employee. R.S.O. 1970, c. 232, s. 63 (1). Strike or lock-out, agreement

**(2)** Where no collective agreement is in operation, no employee shall strike and no employer shall lock out an employee until the Minister has appointed a conciliation officer or a mediator under this Act and, No agreement

**(a)** seven days have elapsed after the day the Minister has released or is deemed pursuant to subsection 113 (3) to have released to the parties the report of a conciliation board or mediator; or

**(b)** fourteen days have elapsed after the day the Minister has released or is deemed pursuant to subsection 113 (3) to have released to the parties a notice that he does not consider it advisable to appoint a conciliation board. 1975, c. 76, s. 17.

**(3)** No employee shall threaten an unlawful strike and no employer shall threaten an unlawful lock-out of an employee. Threatening strike or lock-out

**(4)** A strike vote or a vote to ratify a proposed collective agreement taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed. R.S.O. 1970, c. 232, s. 63 (3, 4). Strike or ratification vote to be secret

**(5)** All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement. 1980, c. 34, s. 3. Right to vote

**(6)** Any vote mentioned in subsection (4) shall be conducted in such a manner that those entitled to vote have ample opportunity to cast their ballots. R.S.O. 1970, c. 232, s. 63 (5). Opportunity to vote

**Reinstatement of employee**

**73.**—(1) Where an employee engaging in a lawful strike makes an unconditional application in writing to his employer within six months from the commencement of the lawful strike to return to work, the employer shall, subject to subsection (2), reinstate the employee in his former employment, on such terms as the employer and employee may agree upon, and the employer in offering terms of employment shall not discriminate against the employee by reason of his exercising or having exercised any rights under this Act.

**Exceptions**

(2) An employer is not required to reinstate an employee who has made an application to return to work in accordance with subsection (1),

- (a) where the employer no longer has persons engaged in performing work of the same or similar nature to work which the employee performed prior to his cessation of work; or
- (b) where there has been a suspension or discontinuance for cause of an employer's operations, or any part thereof, but, if the employer resumes such operations, the employer shall first reinstate those employees who have made an application under subsection (1).  
R.S.O. 1970, c. 232, s. 64.

**Unlawful strike**

**74.** No trade union or council of trade unions shall call or authorize or threaten to call or authorize an unlawful strike and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike.  
R.S.O. 1970, c. 232, s. 65.

**Unlawful lock-out**

**75.** No employer or employers' organization shall call or authorize or threaten to call or authorize an unlawful lock-out and no officer, official or agent of an employer or employers' organization shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out. R.S.O. 1970, c. 232, s. 66.

**Causing unlawful strikes, lock-outs**

**76.**—(1) No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lock-out.

**Application of subs. (1)**

(2) Subsection (1) does not apply to any act done in connection with a lawful strike or lawful lock-out. R.S.O. 1970, c. 232, s. 67.

**77.** Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. <sup>Saving</sup>  
R.S.O. 1970, c. 232, s. 68.

**78.** No trade union shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in a strike that is unlawful under this Act. <sup>Refusal to engage in unlawful strike</sup>  
R.S.O. 1970, c. 232, s. 69.

**79.—(1)** Where notice has been given under section 14 or section 53 and no collective agreement is in operation, no employer shall, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty, of the employer, the trade union or the employees, and no trade union shall, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees, <sup>Working conditions may not be altered</sup>

(a) until the Minister has appointed a conciliation officer or a mediator under this Act, and,

(i) seven days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator, or

(ii) fourteen days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board,

as the case may be; or

(b) until the right of the trade union to represent the employees has been terminated,

whichever occurs first. R.S.O. 1970, c. 232, s. 70 (1).

**(2)** Where a trade union has applied for certification <sup>idem</sup> and notice thereof from the Board has been received by the employer, the employer shall not, except with the consent of the trade union, alter the rates of wages or any other term or condition of employment or any right, privilege or duty of the employer or the employees until,

(a) the trade union has given notice under section 14, in which case subsection (1) applies; or

- (b) the application for certification by the trade union is dismissed or terminated by the Board or withdrawn by the trade union. 1975, c. 76, s. 18.

Differences  
may be  
arbitrated

(3) Where notice has been given under section 53 and no collective agreement is in operation, any difference between the parties as to whether or not subsection (1) of this section was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and section 44 applies with necessary modifications thereto. R.S.O. 1970, c. 232, s. 70 (3).

Protection of  
witnesses  
rights

**80.**—(1) No employer, employers' organization or person acting on behalf of an employer or employers' organization shall,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

Idem

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceed-

ing under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act. R.S.O. 1970, c. 232, s. 71.

**81.** No person shall wilfully destroy, mutilate, obliterate, alter, deface or remove or cause to be destroyed, mutilated, obliterated, altered, defaced or removed any notice that the Board has required to be posted during the period that the notice is required to be posted. R.S.O. 1970, c. 232, s. 72.

Removal,  
etc., of  
posted  
notices

#### LOCALS UNDER TRUSTEESHIP

**82.**—(1) A provincial, national or international trade union that assumes supervision or control over a subordinate trade union, whereby the autonomy of such subordinate trade union, under the constitution or by-laws of the provincial, national or international trade union is suspended, shall, within sixty days after it has assumed supervision or control over the subordinate trade union, file with the Board a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Board, file such additional information concerning such supervision and control as the Minister may from time to time require.

Trusteeship  
over local  
unions

(2) Where a provincial, national or international trade union has assumed supervision or control over a subordinate trade union, such supervision or control shall not continue for more than twelve months from the date of such assumption, but such supervision or control may be continued for a further period of twelve months with the consent of the Board. R.S.O. 1970, c. 232, s. 73.

Duration of  
trusteeship

#### INFORMATION

**83.** Each party to a collective agreement shall, forthwith after it is made, file one copy thereof with the Minister. R.S.O. 1970, c. 232, s. 74.

Collective  
agreements  
to be filed

**84.** The Board may direct a trade union, council of trade unions or employers' organization to file with the Board within the time prescribed in the direction a copy of its constitution and by-laws and a statutory declaration of its president or secretary setting forth the names and addresses of its officers. R.S.O. 1970, c. 232, s. 75.

Officers,  
constitution,  
etc.

Duty of  
union to  
furnish  
financial  
statement  
to members

**85.**—(1) Every trade union shall upon the request of any member furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any member that the trade union has failed to furnish such a statement to him, the Board may direct the trade union to file with the Registrar of the Board, within such time as the Board may determine, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such members of the trade union as the Board in its discretion may direct, and the trade union shall comply with such direction according to its terms. R.S.O. 1970, c. 232, s. 76.

Complaint  
that  
financial  
statement  
inadequate

(2) Where a member of a trade union complains that an audited financial statement is inadequate, the Board may inquire into the complaint and the Board may order the trade union to prepare another audited financial statement in a form and containing such particulars as the Board considers appropriate and the Board may further order that the audited financial statement, as rectified, be certified by a person licensed under the *Public Accountancy Act* or a firm whose partners are licensed under that Act. 1975, c. 76, s. 19.

R.S.O. 1980,  
c. 405

Interpre-  
tation

**86.**—(1) In this section, “administrator” means any trade union, trustee or person responsible for the control, management or disposition of moneys received or contributed to a vacation pay fund or a welfare benefit or pension plan or fund for the members of a trade union or their survivors or beneficiaries.

Annual filing  
of statement

(2) Every administrator shall file annually with the Minister not later than the 1st day of June in each year or at such other time or times as the Minister may direct, a copy of the audited financial statement certified by a person licensed under the *Public Accountancy Act* or a firm whose partners are licensed under that Act of a vacation pay fund, or a welfare benefit or pension plan or fund setting out its financial condition for the preceding fiscal year and disclosing,

(a) a description of the coverage provided by the fund or plan;

(b) the amount contributed by each employer;

- (c) the amounts contributed by the members and the trade union, if any;
- (d) a statement of the assets, specifying the total amount of each type of asset;
- (e) a statement of liabilities, receipts and disbursements;
- (f) a statement of salaries, fees and commissions charged to the fund or plan, to whom paid, in what amount and for what purposes; and
- (g) such further information as the Minister may require.

(3) The administrator, upon the request in writing of any member of the trade union whose employer has made payments or contributions into the fund or plan, shall furnish to the member without charge a copy of the audited financial statement required to be filed by subsection (2).

Furnishing  
of copy to  
member of  
trade  
union

(4) Where an administrator has failed to comply with subsection (2) or (3), upon a certificate of failure so to comply signed by the Minister or upon complaint by the member, the Board may direct the administrator to comply within such time as the Board may determine. 1975, c. 76, s. 20.

Where  
Board  
may direct  
compliance

**87.**—(1) Every trade union and unincorporated employers' organization in Ontario that has members in Ontario shall, within fifteen days after it has enrolled its first member, file with the Board a notice in the prescribed form giving the name and address of a person resident in Ontario who is authorized by the trade union or unincorporated employers' organization to accept on its behalf service of process and notices under this Act.

Representa-  
tive for  
service of  
process

(2) Whenever a trade union or unincorporated employers' organization changes the authorization referred to in subsection (1), it shall file with the Board notice thereof in the prescribed form within fifteen days after making such change.

Change in  
representa-  
tive

(3) Service on the person named in a notice or the latest notice, as the case may be, filed under subsection (1) is good and sufficient service for the purposes of this Act on the trade union or unincorporated employers' organization that filed the notice. R.S.O. 1970, c. 232, s. 77.

Service of  
notice

**88.** Every publication that deals with the relations between employers or employers' organizations and trade

Publications



unions or employees shall bear the names and addresses of its printer and its publisher. R.S.O. 1970, c. 232, s. 78.

#### ENFORCEMENT

Inquiry  
by  
labour  
relations  
officer

**89.**—(1) The Board may authorize a labour relations officer to inquire into any complaint alleging a contravention of this Act.

Duties

(2) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Report

(3) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Remedy for  
discrimina-  
tion

(4) Where a labour relations officer is unable to effect a settlement of the matter complained of or where the Board in its discretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint of a contravention of this Act and where the Board is satisfied that an employer, employers' organization, trade union, council of trade unions, person or employee has acted contrary to this Act it shall determine what, if anything, the employer, employers' organization, trade union, council of trade unions, person or employee shall do or refrain from doing with respect thereto and such determination, without limiting the generality of the foregoing may include, notwithstanding the provisions of any collective agreement, any one or more of,

- (a) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to cease doing the act or acts complained of;
- (b) an order directing the employer, employers' organization, trade union, council of trade unions, employee or other person to rectify the act or acts complained of; or
- (c) an order to reinstate in employment or hire the person or employee concerned, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer, employers' organization, trade union, council of trade unions, employee or other person jointly or severally.

(5) On an inquiry by the Board into a complaint under subsection (4) that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment, the burden of proof that any employer or employers' organization did not act contrary to this Act lies upon the employer or employers' organization. 1975, c. 76, s. 21 (1). Burden of proof

(6) Where the trade union, council of trade unions, employer, employers' organization, person or employee, has failed to comply with any of the terms of the determination, any trade union, council of trade unions, employer, employers' organization, person or employee, affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the determination for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such. R.S.O. 1970, c. 232, s. 79 (5). Enforcement of determination

(7) Where the matter complained of has been settled, whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the trade union, council of trade unions, employer, employers' organization, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the trade union, council of trade unions, employer, employers' organization, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under subsection (1). R.S.O. 1970, c. 232, s. 79 (6); 1975, c. 76, s. 21 (2). Effect of settlement

**90.** For the purposes of section 80 and any complaint made under section 89, "person" includes any person otherwise excluded by subsection 1 (3). R.S.O. 1970, c. 232, s. 80. "Person" defined for purposes of ss. 80, 89

**91.—(1)** The Board may inquire into a complaint that a trade union or council of trade unions, or an officer, official or agent of a trade union or council of trade unions, was or is requiring an employer or an employers' organization to assign Jurisdictional disputes

particular work to persons in a particular trade union or in a particular trade, craft or class rather than to persons in another trade union or in another trade, craft or class, or that an employer was or is assigning work to persons in a particular trade union rather than to persons in another trade union, and it shall direct what action, if any, the employer, the employers' organization, the trade union or the council of trade unions or any officer, official or agent of any of them or any person shall do or refrain from doing with respect to the assignment of work.

Scope of  
Board's  
direction

(2) The Board may in any direction made under subsection (1) provide that it shall be binding on the parties for other jobs then in existence or undertaken in the future in such geographic area as the Board considers advisable.

Notice to  
jurisdictional  
representa-  
tives

(3) Where a trade union, council of trade unions, employer or employers' organization referred to in subsection 136 (1) files a complaint under subsection (1) and if each party affected by the complaint has designated a jurisdictional representative as provided under section 136, the Registrar of the Board or such other person as may be designated by the chairman shall immediately notify the respective designated jurisdictional representatives by telephone and telegram of the filing of the complaint.

Meeting of  
jurisdictional  
representa-  
tives

(4) The designated jurisdictional representatives involved shall forthwith meet and endeavour to effect a settlement of the matters complained of and shall report the results of their endeavours to the Board within fourteen days from the day of the filing of the complaint.

Filing of  
settlement  
with Board

(5) Where the designated jurisdictional representatives unanimously agree to a settlement of the matter complained of, it shall be reduced to writing, signed by the respective representatives and filed with the Board within the time set by subsection (4).

Filing of  
settlement  
in S.C.O.

(6) Where a settlement is filed with the Board under subsection (5), the Board, after such consultation with the designated jurisdictional representatives as it considers advisable in order to clarify the terms of the settlement, shall embody the settlement and any agreed to changes necessary for its clarification in the form of a direction under subsection (1) and shall file it in the prescribed form in the office of the Registrar of the Supreme Court, whereupon the direction shall be entered in the same way as a judgment or order of that court.

(7) Where the designated jurisdictional representatives are notified under subsection (3), the Board shall not, except as provided in subsection (8), proceed with the inquiry referred to in subsection (1) until the expiry of the fourteen-day period referred to in subsection (4). Time of inquiry

(8) Where a complaint is made under subsection (1) and the complainant alleges that a strike is imminent or is taking place by reason of the requirement as to the assignment of work or by reason of the assignment of work, the Board may, after consulting any employer, employers' organization, trade union or council of trade unions that in its opinion is concerned, make such interim order with respect to the assignment of the work as it in its discretion considers proper. Interim order in case of strike

(9) The Board may in an interim order or direction or at any time after the making of such interim order or direction direct any person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents to cease and desist from doing anything intended or likely to interfere with the terms of an interim order or direction respecting the assignment of work. Cease and desist directions

(10) The Board shall file in the office of the Registrar of the Supreme Court a copy of an interim order or direction made under this section, exclusive of the reasons therefor, in the prescribed form, whereupon the interim order or direction shall be entered in the same way as a judgment or order of that court. Filing in S.C.O.

(11) After an interim order or a direction has been entered, it is enforceable by a person, employee, employer, employers' organization, trade union or council of trade unions affected as a judgment or order of the Supreme Court on the day next after the day fixed for compliance in the interim order or direction. Enforcement

(12) A complaint made under this section may be withdrawn by the complainant only upon such terms and conditions as the Board may fix. Withdrawal of complaint

(13) Where a trade union or a council of trade unions and an employer or an employers' organization have made an arrangement to resolve any differences between them arising from the assignment of work, the Board may, upon such terms and conditions as it may fix, postpone inquiring into a complaint under this section until the difference has been dealt with in accordance with such arrangement. Postponement of inquiry

Where no  
complaint  
may be  
made

(14) The Board shall not inquire into a complaint made by a trade union, council of trade unions, employer or employers' organization that has entered into a collective agreement that contains a provision requiring the reference of any difference between them arising out of work assignment to a tribunal mutually selected by them with respect to any difference as to work assignment that can be resolved under the collective agreement, and such trade union, council of trade unions, employer or employers' organization shall do or abstain from doing anything required of it by the decision of such tribunal.

Alteration  
of bargain-  
ing unit

(15) The Board may in its discretion, or at any time following the release of its direction, alter the bargaining unit determined in a certificate or defined in a collective agreement as it considers proper, and the certificate or agreement, as the case may be, shall be deemed to have been altered accordingly.

Idem

(16) The Board may, upon the application of any person, employer, trade union, council of trade unions or employers' organization affected by a decision of a tribunal referred to in subsection (14), alter the bargaining unit determined in a certificate or defined in a collective agreement as it considers proper to enable the parties to conform to the decision of the tribunal, and the certificate or agreement, as the case may be, shall be deemed to have been altered accordingly.

Interim  
orders and  
directions  
prevail

(17) Where the Board has made an interim order or a direction under this section, the person, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents affected by the interim order or the direction may comply with it notwithstanding any provision of this Act or of any collective agreement relating to the assignment of the work to which the interim order or the direction relates, and the person, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents so complying shall be deemed not to have violated any provision of this Act or of any collective agreement.

Alteration  
of descrip-  
tion of  
bargaining  
unit in  
conflicting  
agreements

(18) Where an employer is a party to or is bound by two or more collective agreements and it appears that the description of the bargaining unit in one of such agreements conflicts with the description of the bargaining unit in the other or another of such agreements, the Board may, upon the application of the employer or any of the trade unions concerned, alter the description of the bargaining units in any such agreement as it considers proper, and the agreement or agreements shall be deemed to have been altered accordingly.

(19) Before disposing of an application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. R.S.O. 1970, c. 232, s. 81.

Powers of  
Board  
before  
disposing of  
application

92. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened to engage in an unlawful strike or that employees engaged in or threatened to engage in an unlawful strike, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike. 1975, c. 76, s. 22, *part*.

Declaration  
and direction  
by Board  
in respect  
of unlawful  
strike

93. Where, on the complaint of a trade union, council of trade unions, employer or employers' organization, the Board is satisfied that an employer or employers organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, the Board may so declare and, in addition, in its discretion, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out. 1975, c. 76, s. 22, *part*.

Declaration  
and direction  
by Board  
in respect  
of unlawful  
lock-out

94. The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under section 92 or 93, exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1975, c. 76, s. 22, *part*.

Enforcement  
of direction  
by Supreme  
Court

95.—(1) Where the Board declares that a trade union or council of trade unions has called or authorized an unlawful strike or that an employer or employers' organization has called or authorized an unlawful lock-out and no collective agreement is in operation between the trade union or council

Notice of  
claim for  
damages  
after  
unlawful  
strike or  
lock-out  
where no  
collective  
agreement

of trade unions and the employer or employers' organization, as the case may be, the trade union or council of trade unions or employer or employers' organization may, within fifteen days of the release of the Board's declaration, but not thereafter, notify the employer or employers' organization or trade union or council of trade unions, as the case may be, in writing of its intention to claim damages for the unlawful strike or lock-out, and the notice shall contain the name of its appointee to an arbitration board.

Appointment  
of arbitration  
board

(2) The recipient of the notice shall within five days inform the sender of the notice of the name of its appointee to the arbitration board.

Idem

(3) The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman.

Idem

(4) If the recipient of the notice fails to name an appointee, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.

Decision of  
arbitration  
board

(5) The arbitration board shall hear and determine the claim for damages including any question as to whether the claim is arbitrable and shall issue a decision and the decision is final and binding upon the parties to the arbitration, and,

(a) in the case of a council of trade unions, upon the members of affiliates of the council who are affected by the decision; and

(b) in the case of an employers' organization, upon the employers in the organization who are affected by the decision.

Idem

(6) The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

Remunera-  
tion of  
members of  
board

(7) The chairman and members of the arbitration board under this section shall be paid remuneration and expenses at the same rate as is payable to a chairman and members of a conciliation board under this Act, and the parties to the arbitration are jointly and severally liable for the payment of such fees and expenses.

Procedure  
of board

(8) In an arbitration under this section, subsections 44 (5), (7), (8), (11) and (12) apply with necessary modifications. R.S.O. 1970, c. 232, s. 84.

**96.**—(1) Every person, trade union, council of trade unions or employers' organization that contravenes any provision of this Act or of any decision, determination, interim order, order, direction, declaration or ruling made under this Act is guilty of an offence and on conviction is liable,

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation, trade union, council of trade unions or employers' organization, to a fine of not more than \$10,000.

(2) Each day that a person, trade union, council of trade unions or employers' organization contravenes any provision of this Act or of any decision, determination, interim order, order, direction, declaration or ruling made under this Act constitutes a separate offence.

(3) Every fine recovered for an offence under this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1970, c. 232, s. 85.

**97.** An information in respect of a contravention of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1970, c. 232, s. 86.

**98.** If a corporation, trade union, council of trade unions or employers' organization is guilty of an offence under this Act, every officer, official or agent thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence. R.S.O. 1970, c. 232, s. 87.

**99.**—(1) A prosecution for an offence under this Act may be instituted against a trade union or council of trade unions or employers' organization in the name of the union, council or organization.

(2) Any act or thing done or omitted by an officer, official or agent of a trade union or council of trade unions or employers' organization within the scope of his authority to act on behalf of the union, council or organization shall be deemed to be an act or thing done or omitted by the union, council or organization. R.S.O. 1970, c. 232, s. 88.



Proceedings  
in S.C.O.

**100.** Where a trade union, a council of trade unions or an unincorporated employers' organization is affected by a determination of the Board under section 89, an interim order or direction of the Board under section 91 or a direction of the Board under section 92, 93 or 135 or a decision of an arbitrator or arbitration board including a decision under section 95, proceedings to enforce the determination, interim order, direction or decision may be instituted in the Supreme Court by or against such union, council or organization in the name of the union, council or organization, as the case may be. R.S.O. 1970, c. 232, s. 89; 1975, c. 76, s. 23.

Consent

**101.**—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board.

Information

(2) An application for consent to institute a prosecution for an offence under this Act may be made *inter alia* by a trade union, a council of trade unions, a corporation or an employers' organization, and, if the consent is given by the Board, the information may be laid *inter alia* by any officer, official or member of the trade union, council of trade unions, corporation or employers' organization. R.S.O. 1970, c. 232, s. 90.

#### ADMINISTRATION

Board,  
continued

**102.**—(1) The Ontario Labour Relations Board is continued.

composition  
and appoint-  
ment

(2) The Board shall be composed of a chairman, one or more vice-chairmen and as many members equal in number representative of employers and employees respectively as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

alternate  
chairman

(3) The Lieutenant Governor in Council shall designate one of the vice-chairmen to be the alternate chairman.

divisions

(4) The chairman or, in the case of his absence from the office of the Board or his inability to act, the alternate chairman shall from time to time assign the members of the Board to its various divisions and may change any such assignment at any time.

construction  
industry  
division

(5) One of the divisions of the Board shall be designated by the chairman as the construction industry division, and it shall exercise the powers of the Board under this Act in proceedings to which sections 117 to 136 apply, but nothing

in this subsection impairs the authority of any other division to exercise such powers.

(6) Vacancies in the membership of the Board from any <sup>vacancies</sup> cause may be filled by the Lieutenant Governor in Council.

(7) Where a member of the Board resigns, he may carry <sup>resignation of member</sup> out and complete any duties or responsibilities and exercise any powers that he would have had if he had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he participated as a member of the Board.

(8) Each member of the Board shall, before entering <sup>oath of office</sup> upon his duties, take and subscribe before the Clerk of the Executive Council and file in his office an oath of office in the following form:

I do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of chairman, (or vice-chairman, or member) of the Ontario Labour Relations Board and I will not, except in the discharge of my duties, disclose to any person any of the evidence or any other matter brought before the Board. So help me God.

(9) The chairman or a vice-chairman, one member <sup>quorum</sup> representative of employers and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

(10) The Board may sit in two or more divisions <sup>may sit in divisions</sup> simultaneously so long as a quorum of the Board is present in each division.

(11) The decision of the majority of the members of the <sup>decisions</sup> Board present and constituting a quorum is the decision of the Board, but, if there is no majority, the decision of the chairman or vice-chairman governs. R.S.O. 1970, c. 232, s. 91 (1-11).

(12) Notwithstanding subsections (9), (10) and (11), and where <sup>when chairman or vice-chairman may sit alone</sup> in his opinion it is advisable to do so, the chairman, or in the case of his absence or inability to act, the alternate chairman, may sit alone to hear and determine or may authorize a vice-chairman to sit alone to hear and determine any application, request, complaint, matter or thing in respect of section 68 or 69 or section 92, 93 or 135, and to exercise all of the jurisdiction and powers of the Board when so sitting. 1975, c. 76, s. 24.

practice  
and  
procedure,  
etc.

(13) The Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

rules  
applicable to  
construction  
industry

(14) The Board may, subject to the approval of the Lieutenant Governor in Council, make rules to expedite proceedings before the Board to which sections 117 to 136 apply, and such rules may provide that, for the purposes of determining the merits of an application for certification to which sections 117 to 119 apply, the Board shall make or cause to be made such examination of records and such other inquiries as it considers necessary, but the Board need not hold a hearing on such an application.

registrars,  
etc.

(15) The Lieutenant Governor in Council may appoint a registrar, such other officers and such clerks and servants as are required for the purposes of the Board and they shall exercise such powers and perform such duties as are conferred or imposed upon them by the Board.

remunera-  
tion

(16) The members, the other officers and the clerks and servants of the Board shall be paid such remuneration as the Lieutenant Governor in Council may determine.

seal

(17) The Board shall have an official seal.

office;  
sittings

(18) The office of the Board shall be in Toronto, but the Board may sit at such other places as it considers expedient. R.S.O. 1970, c. 232, s. 91 (12-17).

Powers and  
duties of  
Board,  
general

**103.**—(1) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act.

specific

(2) Without limiting the generality of subsection (1), the Board has power,

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases;

(b) to administer oaths;

(c) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;

(d) to require persons or trade unions, whether or not they are parties to proceedings before the Board, to post and to keep posted upon their premises in a conspicuous place or places, where they are most likely to come to the attention of all persons concerned, any notices that the Board considers necessary to bring to the attention of such persons in connection with any proceedings before the Board;

(e) to enter any premises where work is being or has been done by the employees or in which the employer carries on business, whether or not the premises are those of the employer, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter and post therein any notice referred to in clause (d);

(f) to enter upon the premises of employers and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;

(g) to authorize any person to do anything that the Board may do under clauses (a) to (f) and to report to the Board thereon;

(h) to authorize the chairman or a vice-chairman to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Board, or any part of any of them, and to report to the Board thereon;

(i) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or trade union representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;

- (j) to determine the form in which and the time as of which evidence of membership in a trade union or of objection by employees to certification of a trade union or of signification by employees that they no longer wish to be represented by a trade union shall be presented to the Board on an application for certification or for a declaration terminating bargaining rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined;
- (k) to determine the form in which and the time as of which evidence of representation by an employers' organization or of objection by employers to accreditation of an employers' organization or of signification by employers that they no longer wish to be represented by an employers' organization shall be presented to the Board in an application for accreditation or for a declaration terminating bargaining rights of an employers' organization and to refuse to accept any evidence of representation or objection or signification that is not presented in the form and as of the time so determined.

Subsequent applications for certification, etc.

(3) Notwithstanding sections 5 and 57, where an application has been made for certification of a trade union as bargaining agent for employees in a bargaining unit or for a declaration that the trade union no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Board at the time a subsequent application for such certification or for such a declaration is made with respect to any of the employees affected by the original application, the Board may,

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Board on the original application; or
- (c) refuse to entertain the subsequent application.

Determination of union membership

(4) Where the Board is satisfied that a trade union has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter,

constitution or by-laws, the Board, in determining whether a person is a member of a trade union, need not have regard for such eligibility requirements.

(5) Where the Board determines that a representation vote is to be taken amongst the employees in a bargaining unit or voting constituency, the Board may hold such additional representation votes as it considers necessary to determine the true wishes of the employees. <sup>Additional votes</sup>

(6) Where, in the taking of a representation vote, the Board determines that the employees are to be given a choice between two or more trade unions, <sup>Idem</sup>

(a) the Board may include on a ballot a choice indicating that an employee does not wish to be represented by a trade union; and

(b) the Board, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast. R.S.O. 1970, c. 232, s. 92.

104. Where in any proceedings before the Board the Board is satisfied that a *bona fide* mistake has been made with the result that the proper person or trade union has not been named as a party or has been incorrectly named, the Board may order the proper person or trade union to be substituted or added as a party to the proceedings or to be correctly named upon such terms as appear to the Board to be just. R.S.O. 1970, c. 232, s. 93. <sup>Mistakes in names of parties</sup>

105. Where in any proceeding under this Act the Board has found or finds that an organization of employees is a trade union within the meaning of clause 1 (1) (p), such finding is *prima facie* evidence in any subsequent proceeding under this Act that the organization of employees is a trade union for the purposes of this Act. R.S.O. 1970, c. 232, s. 94. <sup>Proof of status of trade union</sup>

106.—(1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it, and the action or decision of the Board thereon is final and conclusive for all purposes, but nevertheless the Board may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling. <sup>Jurisdiction</sup>

Idem

(2) If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee or as to whether a person is a guard, the question may be referred to the Board and the decision of the Board thereon is final and conclusive for all purposes.

Findings  
of hearing-  
officer  
conclusive

(3) Where the Board has authorized the chairman or a vice-chairman to make an inquiry under clause 103 (2) (*h*), his findings and conclusions on facts are final and conclusive for all purposes, but nevertheless he may, if he considers it advisable to do so, reconsider his findings and conclusions on facts and vary or revoke any such finding or conclusion. R.S.O. 1970, c. 232, s. 95.

Reference of  
questions

**107.**—(1) Where a request is made under section 16, subsection 44 (4) or subsection 45 (1), the Minister may refer to the Board any question that arises that in his opinion relates to his authority to make an appointment under any such provision that is mentioned in the reference, and the Board shall report to the Minister its decision on the question. 1979, c. 32, s. 2.

Idem

(2) Where a question referred under subsection (1) involves an issue as to whether one trade union is the successor of another trade union or whether a business has been sold by one employer to another or where such question involves an issue under subsection 63 (11), the Board has the same powers and authority as it has under section 62 or 63, as the case may be, as if an application had been made thereunder, and the Board may issue such directions as to the conduct of the proceedings as it considers advisable. R.S.O. 1970, c. 232, s. 96 (2).

Board's  
orders not  
subject to  
review

**108.** No decision, order, direction, declaration or ruling of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings. R.S.O. 1970, c. 232, s. 97.

Testimony  
in civil suits,  
etc.

**109.** Except with the consent of the Board, no member of the Board, nor its registrar, nor any of its other officers, nor any of its clerks or servants shall be required to give testimony in any civil suit or in any proceeding before the Board or in any proceeding before any other tribunal respecting information obtained in the discharge of their duties

or while acting within the scope of their employment under this Act. 1975, c. 76, s. 25.

**110.** The production in a court of a document purporting to be or to contain a copy of a decision, determination, report, interim order, order, direction, declaration or ruling of the Board, a conciliation board, a mediator, an arbitrator or an arbitration board and purporting to be signed by a member of the Board or its registrar, the chairman of the conciliation board, the mediator, the arbitrator or the chairman of the arbitration board, as the case may be, is *prima facie* proof of such document without proof of the appointment, authority or signature of the person who signed the document. R.S.O. 1970, c. 232, s. 99.

Docu-  
mentary  
evidence

#### GENERAL

**111.**—(1) The records of a trade union relating to membership or any records that may disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union produced in a proceeding before the Board is for the exclusive use of the Board and its officers and shall not, except with the consent of the Board, be disclosed, and no person shall, except with the consent of the Board, be compelled to disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union. R.S.O. 1970, c. 232, s. 100 (1).

Secrecy as  
to union  
membership

(2) No information or material furnished to or received by a conciliation officer or a mediator,

Non-  
disclosure

(a) under this Act; or

(b) in the course of any endeavour that a conciliation officer may make under the direction of the Minister to effect a collective agreement after the Minister,

(i) has released the report of a conciliation board or a mediator, or

(ii) has informed the parties that he does not consider it advisable to appoint a conciliation board,

shall be disclosed except to the Minister, the Deputy Minister of Labour or the chief conciliation officer of the Ministry of Labour. R.S.O. 1970, c. 232, s. 100 (2); 1972, c. 1, s. 1.



Idem

(3) No report of a conciliation officer shall be disclosed except to the Minister, the Deputy Minister of Labour or the chief conciliation officer of the Ministry of Labour. R.S.O. 1970, c. 232, s. 100 (3); 1972, c. 1, s. 1.

Competency  
as witness

(4) The Minister, the Deputy Minister of Labour, the chief conciliation officer of the Ministry of Labour or any conciliation officer or mediator appointed under this Act or any person designated by the Minister to endeavour to effect a collective agreement is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection (2) or (3), or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement. R.S.O. 1970, c. 232, s. 100 (4); 1972, c. 1, s. 1.

Idem

(5) The chairman or any other member of a conciliation board is not a competent or compellable witness in proceedings before a court or other tribunal respecting,

- (a) any information or material furnished to or received by him;
- (b) any evidence or representation submitted to him; or
- (c) any statement made by him,

in the course of his duties under this Act. R.S.O. 1970, c. 232, s. 100 (5).

Secrecy of  
information  
given labour  
relations  
officers

(6) No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the Board or other tribunal respecting any such information, material or report. 1975, c. 76, s. 26.

Delegation  
of Minister's  
powers to  
Deputy  
Minister

**112.** Where an appointment, order or direction is required to be made under this Act by the Minister, he may authorize the Deputy Minister of Labour to make the appointment, order or direction, and a document purporting to be or to contain a copy of such an appointment, order or direction purporting to be signed by the Minister or by the Deputy Minister shall be accepted by any court as evidence of the appointment, order or direction. R.S.O. 1970, c. 232, s. 101.

**113.**—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. Mailed notices

(2) An application for certification or accreditation or for a declaration that a trade union or employers' organization no longer represents the employees or employers, as the case may be, in a bargaining unit, if sent by registered mail addressed to the Board at Toronto, shall be deemed to have been made on the date on which it was so mailed. Time of making certain applications

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the Board, a notice from the Minister that he does not consider it advisable to appoint a conciliation board, a notice from the Minister of a report of a conciliation board or of a mediator, or a decision of an arbitrator or of an arbitration board, Time of release of documents

(a) if sent by mail to the person, employers' organization, trade union or council of trade unions concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed; or

(b) if delivered to a person, employers' organization, trade union or council of trade unions concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered. R.S.O. 1970, c. 232, s. 102 (1-3).

(4) Proof by a person, employers' organization, trade union or council of trade unions of failure to receive a determination under section 89 or an interim order or direction under section 91 or a direction of the Board under section 92, 93 or 135, or a decision of an arbitrator or of an arbitration board including a decision under section 95 sent by mail to such person, employers' organization, trade union or council of trade unions addressed to him or it at his or its last-known address is a defence by such person, employers' organization, trade union or council of trade unions to an application for consent to institute a prosecution or to any proceedings to enforce as a judgment or order of the Supreme Court such determination, interim order, direction or decision. R.S.O. 1970, c. 232, s. 102 (4); 1975, c. 76, s. 27. Failure to receive documents a defence

Second  
notice of  
desire to  
bargain

(5) Where a notice has been given under section 53 by registered mail and the addressee claims that he or it has not received the notice, the person, employers' organization, trade union or council of trade unions that gave the notice may give a second notice to the addressee forthwith after he or it ascertains that the first notice had not been received, but in no case may the second notice be given more than three months after the day on which the first notice was mailed, and the second notice has the same force and effect for the purposes of this Act as the first notice would have had if it had been received by the addressee. R.S.O. 1970, c. 232, s. 102 (5).

Defects  
in form;  
technical  
irregularities

**114.** No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. R.S.O. 1970, c. 232, s. 103.

Adminis-  
tration  
cost

**115.** The expenses incurred in the administration of this Act shall be paid out of the moneys that are appropriated by the Legislature for the purpose. R.S.O. 1970, c. 232, s. 104.

Regulations

**116.** The Lieutenant Governor in Council may make regulations,

- (a) providing for and regulating the engagement of experts, investigators and other assistants by conciliation boards;
- (b) governing the assignment of arbitrators to conduct arbitrations and the carrying out and completion of such assignments;
- (c) providing for and prescribing a scale of fees and expenses allowable to arbitrators in respect of arbitrations and limiting or restricting the application of such a regulation;
- (d) providing a procedure for the review and determination of disputes concerning the fees and expenses charged or claimed by an arbitrator;
- (e) respecting the filing of schedules of fees and expenses by arbitrators;
- (f) respecting training programs for arbitrators;

- (g) providing for and fixing the remuneration and expenses of chairmen and other members of conciliation boards and mediators;
- (h) governing the conduct of arbitration hearings and prescribing procedures therefor;
- (i) requiring the filing with the Ministry of Labour of awards of arbitrators and arbitration boards;
- (j) prescribing amounts for the expense of proceedings under section 124 and providing for the adjustment of such amounts in exceptional circumstances;
- (k) prescribing forms and providing for their use, including the form in which the documents mentioned in sections 44, 89, 91, 94, 95 and 135 shall be filed in the Supreme Court;
- (l) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1970, c. 232, s. 105; 1972, c. 1, s. 1; 1975, c. 76, s. 28; 1979, c. 32, s. 3.

#### CONSTRUCTION INDUSTRY

**117.** In this section and in sections 118 to 136,

Interpre-  
tation

- (a) "council of trade unions" means a council that is formed for the purpose of representing or that according to established bargaining practice represents trade unions as defined in clause (f);
- (b) "employee" includes an employee engaged in whole or in part in off-site work but who is commonly associated in his work or bargaining with on-site employees;
- (c) "employer" means a person who operates a business in the construction industry, and for purposes of an application for accreditation means an employer for whose employees a trade union or council of trade unions affected by the application has bargaining rights in a particular geographic area and sector or areas or sectors or parts thereof;
- (d) "employers' organization" means an organization that is formed for the purpose of representing or represents employers as defined in clause (c);

(e) "sector" means a division of the construction industry as determined by work characteristics and includes the industrial, commercial and institutional sector, the residential sector, the sewers and water-mains sector, the roads sector, the heavy engineering sector, the pipeline sector and the electrical power systems sector;

(f) "trade union" means a trade union that according to established trade union practice pertains to the construction industry. R.S.O. 1970, c. 232, s. 106; 1975, c. 76, s. 29.

**Conflict**

**118.** Where there is conflict between any provision in sections 119 to 136 and any provision in sections 5 to 57 and 62 to 116, the provisions in sections 119 to 136 prevail. R.S.O. 1970, c. 232, s. 107.

**Bargaining units in the construction industry**

**119.**—(1) Where a trade union applies for certification as bargaining agent of the employees of an employer, the Board shall determine the unit of employees that is appropriate for collective bargaining by reference to a geographic area and it shall not confine the unit to a particular project.

**Determination of number of members in bargaining unit**

(2) In determining whether a trade union to which subsection (1) applies has met the requirements of subsection 7 (2), the Board need not have regard to any increase in the number of employees in the bargaining unit after the application was made. R.S.O. 1970, c. 232, s. 108.

**Notice of desire to bargain**

**120.**—(1) Where notice has been given by a trade union to an employer under section 14 or by a trade union or a council of trade unions or an employer or employers' organization under section 53, the parties shall meet within five days from the giving of such notice or within such further period as the parties agree upon.

**Extension of 14-day period for conciliation officer's report**

(2) Where the Minister appoints a conciliation officer or a mediator at the request of a trade union, council of trade unions or an employer or employers' organization to confer with the parties and endeavour to effect a collective agreement binding upon employees of the employer or upon employees of members of the employers' organization, the period mentioned in subsection 18 (1) may be extended only by agreement of the parties.

**Appointment of conciliation board**

(3) Where the Minister has appointed a conciliation officer under subsection (2) and the conciliation officer is unable to effect a collective agreement within the time allowed, the

Minister shall, unless the parties inform him in writing that they desire him to appoint a conciliation board, forthwith by notice in writing inform each of the parties that he does not consider it advisable to appoint a conciliation board.

(4) Where a conciliation board has been appointed under subsection (3), it shall report its findings and recommendations to the Minister within fourteen days after its first sitting, but such period may be extended,

When  
report to  
be made

(a) for a further period not exceeding thirty days by agreement of the parties; or

(b) for such further period beyond the period fixed in clause (a) as the parties may agree upon and as the Minister may approve. R.S.O. 1970, c. 232, s. 109.

**121.** An agreement in writing between an employer or employers' organization, on the one hand, and a trade union that has been certified as bargaining agent for a unit of employees of the employer, or a trade union or a council of trade unions that is entitled to require the employer or the employers' organization to bargain with it for the renewal, with or without modifications, of the agreement then in operation or for the making of a new agreement, on the other hand, shall be deemed to be a collective agreement notwithstanding that there were no employees in the bargaining unit or units affected at the time the agreement was entered into. R.S.O. 1970, c. 232, s. 110.

What  
deemed  
to be a  
collective  
agreement

**122.** Each party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may, within the period of ninety days before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement, and any such notice has for all purposes the same effect as a notice under section 53. R.S.O. 1970, c. 232, s. 111.

Notice of  
desire to  
bargain  
for new  
collective  
agreement

**123.—(1)** If a trade union does not make a collective agreement with the employer within six months after its certification, any of the employees in the bargaining unit determined in the certificate may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit.

Application  
for termina-  
tion, no  
agreement

(2) Notwithstanding subsection 57 (2), any of the employees in the bargaining unit defined in a first agreement between an

Agreement

employer and a trade union, where the trade union has not been certified as the bargaining agent of the employees of the employer in the bargaining unit, may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit after the 305th day of its operation and before the 365th day of its operation.

Application  
of s. 57,  
subss. (3-6)

(3) Subsections 57 (3) to (6) apply to an application under subsection (1) or (2). R.S.O. 1970, c. 232, s. 112.

Referral of  
grievance  
to Board

**124.**—(1) Notwithstanding the grievance and arbitration provisions in a collective agreement or deemed to be included in a collective agreement under section 44, a party to a collective agreement between an employer or employers' organization and a trade union or council of trade unions may refer a grievance concerning the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable, to the Board for final and binding determination. 1975, c. 76, s. 30, *part*; 1977, c. 31, s. 2.

Hearing

(2) A referral under subsection (1) may be made in writing in the prescribed form by a party at any time after delivery of the written grievance to the other party, and the Board shall appoint a date for and hold a hearing within fourteen days after receipt of the referral and may appoint a labour relations officer to confer with the parties and endeavour to effect a settlement before the hearing.

Jurisdiction  
of Board

(3) Upon a referral under subsection (1), the Board has exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it, including any question as to whether the matter is arbitrable, and the provisions of subsections 44 (6), (8), (9), (10), (11) and (12) apply with necessary modifications to the Board and to the enforcement of the decision of the Board.

Expense

(4) The expense of proceedings under this section, in the amount fixed by the regulations, shall be jointly paid by the parties to the Board for payment into the Consolidated Revenue Fund. 1975, c. 76, s. 30, *part*.

Accredita-  
tion of  
employers'  
organization

**125.** Where a trade union or council of trade unions has been certified or has been granted voluntary recognition under section 16 as the bargaining agent for a unit of employees of more than one employer in the construction industry or where a trade union or council of trade unions has entered into collective agreements with more than one employer covering a unit of employees in the construction industry,

an employers' organization may apply to the Board to be accredited as the bargaining agent for all employers in a particular sector of the industry and in the geographic area described in the said certificates, voluntary recognition documents or collective agreements, as the case may be. R.S.O. 1970, c. 232, s. 113.

**126.**—(1) Upon an application for accreditation, the Board shall determine the unit of employers that is appropriate for collective bargaining in a particular geographic area and sector, but the Board need not confine the unit to one geographic area or sector but may, if it considers it advisable, combine areas or sectors or both or parts thereof.

Board to determine appropriateness of unit

(2) The unit of employers shall comprise all employers as defined in clause 117 (c) in the geographic area and sector determined by the Board to be appropriate. R.S.O. 1970, c. 232, s. 114.

Idem

**127.**—(1) Upon an application for accreditation, the Board shall ascertain,

Determinations by Board

(a) the number of employers in the unit of employers on the date of the making of the application who have within one year prior to such date had employees in their employ for whom the trade union or council of trade unions has bargaining rights in the geographic area and sector determined by the Board to be appropriate;

(b) the number of employers in clause (a) represented by the employers' organization on the date of the making of the application; and

(c) the number of employees of employers in clause (a) on the payroll of each such employer for the weekly payroll period immediately preceding the date of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause (a), such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

(2) If the Board is satisfied,

Accreditation

(a) that a majority of the employers in clause (1) (a) is represented by the employers' organization; and



(b) that such majority of employers employed a majority of the employees in clause (1) (c),

the Board, subject to subsection (3), shall accredit the employers' organization as the bargaining agent of the employers in the unit of employers and for such other employers for whose employees the trade union or council of trade unions may, after the date of the making of the application, obtain bargaining rights through certification or voluntary recognition in the appropriate geographic area and sector.

Authority  
of employers'  
organization

(3) Before accrediting an employers' organization under subsection (2), the Board shall satisfy itself that the employers' organization is a properly constituted organization and that each of the employers whom it represents has vested appropriate authority in the organization to enable it to discharge the responsibilities of an accredited bargaining agent.

Idem

(4) Where the Board is of the opinion that appropriate authority has not been vested in the employers' organization, the Board may postpone disposition of the application to enable employers represented by the organization to vest such additional or other authority in the organization as the Board considers necessary. R.S.O. 1970, c. 232, s. 115 (1-4).

What  
employers'  
organization  
not to be  
accredited

(5) The Board shall not accredit any employers' organization if any trade union or council of trade unions has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry, age, sex or place of origin. R.S.O. 1970, c. 232, s. 115 (5); 1975, c. 76, s. 31.

Effect of  
accreditation

**128.**—(1) Upon accreditation, all rights, duties and obligations under this Act of employers for whom the accredited employers' organization is or becomes the bargaining agent apply with necessary modifications to the accredited employers' organization.

Effect of  
accreditation  
on collective  
agreements

(2) Upon accreditation, any collective agreement in operation between the trade union or council of trade unions and any employer in clause 127 (1) (a) is binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision therein respecting its renewal.

Idem

(3) When any collective agreement mentioned in subsection (2) ceases to operate, the employer shall thereupon be bound

by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties.

(4) Where, after the date of the making of an application <sup>Idem</sup> for accreditation, the trade union or council of trade unions obtains bargaining rights for the employees of an employer through certification or voluntary recognition, that employer is bound by any collective agreement in existence at the time of the certification or voluntary recognition between the trade union or council of trade unions and the applicant employers' organization or subsequently entered into by the said parties.

(5) A collective agreement between a trade union or council <sup>Idem</sup> of trade unions and an employer who, but for the one-year requirement, would have been included in clause 127 (1) (a) is binding on the parties thereto only for the remainder of the term of operation of the agreement regardless of any provisions therein respecting its renewal.

(6) Where any collective agreement mentioned in subsection <sup>Idem</sup> (5) ceases to operate, the employer shall thereupon be bound by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties.

(7) Where, under the provisions of this section, an <sup>Application of s. 52, subs. (1)</sup> employer becomes bound by a collective agreement between a trade union or council of trade unions and an accredited employers' organization after the said agreement has commenced to operate, the agreement ceases to be binding on the employer in accordance with the terms thereof, notwithstanding subsection 52 (1). R.S.O. 1970, c. 232, s. 116.

**129.**—(1) Subsections 51 (1) and (2) do not apply to an <sup>Application of s. 51, subss. (1), (2)</sup> accredited employers' organization.

(2) A collective agreement between an accredited <sup>Binding effect of collective agreement on employer</sup> employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the accredited employers' organization and the trade union or council of trade unions, as the case may be, and upon each employer in the unit of employers represented by the accredited employers' organiz-

ation at the time the agreement was entered into and upon such other employers as may subsequently be bound by the said agreement, as if it was made between each of such employers and the trade union or council of trade unions and, if any such employer ceases to be represented by the accredited employers' organization during the term of operation of the agreement, the employer shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

Binding  
effect of  
collective  
agreement  
on employees

(3) A collective agreement between an accredited employers' organization and a trade union or council of trade unions is binding on the employees in the bargaining unit defined in the agreement of any employer bound by the collective agreement. R.S.O. 1970, c. 232, s. 117.

Termination  
of accred-  
itation

**130.**—(1) If an accredited employers' organization does not make a collective agreement with the trade union or council of trade unions, as the case may be, within one year after its accreditation, any of the employers in the unit of employers determined in the accreditation certificate may apply to the Board only during the two months following the said one year for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Idem

(2) Any of the employers in the unit of employers defined in a collective agreement between an accredited employers' organization and a trade union or council of trade unions, as the case may be, may apply to the Board only during the last two months of its operation for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Determina-  
tion by  
Board

(3) Upon an application under subsection (1) or (2), the Board shall ascertain,

- (a) the number of employers in the unit of employers on the date of the making of the application;
- (b) the number of employers in the unit of employers who, within the two-month period immediately preceding the date of the making of the application, have voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and
- (c) the number of employees affected by the application of employers in the unit of employers on the

payroll of each such employer for the weekly payroll period immediately preceding the date of the making of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause (a), such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

(4) If the Board is satisfied,

Declaration  
by Board

(a) that a majority of the employers in clause (3) (a) has voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and

(b) that such majority of employers employed a majority of the employees in clause (3) (c),

the Board shall declare that the employers' organization that was accredited or that was or is a party to the collective agreement, as the case may be, no longer represents the employers in the unit of employers.

(5) Upon an application under subsection (1) or (2), when the employers' organization informs the Board that it does not desire to continue to represent the employers in the unit of employers, the Board may declare that the employers' organization no longer represents the employers in the unit.

Declaration  
of termina-  
tion on  
abandon-  
ment

(6) Upon the Board making a declaration under subsection (4) or (5),

Effect of  
declaration

(a) any collective agreement in operation between the trade union or council of trade unions and the employers' organization that is binding upon the employers in the unit of employers ceases to operate forthwith;

(b) all rights, duties and obligations under this Act of the employers' organization revert with necessary modifications to the individual employers represented by the employers' organization; and

(c) the trade union or council of trade unions, as the case may be, is entitled to give to any employer in the unit of employers a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect

as a notice under section 14. R.S.O. 1970, c. 232, s. 118.

Individual bargaining prohibited

**131.**—(1) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of such employer, trade union or council of trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, bargain with each other with respect to such employees or enter into a collective agreement designed or intended to be binding upon such employees and if any such agreement is entered into it is void.

Agreements to provide employees during lawful strike or lock-out prohibited.

(2) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of the employer, trade union or council of trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, enter into any agreement or understanding, oral or written, that provides for the supply of employees during a legal strike or lock-out, and if any such agreement or understanding is entered into it is void and no such trade union or council of trade unions or person shall supply such employees to the employer.

Saving

(3) Nothing in this Act prohibits an employer, represented by an accredited employers' organization, from continuing or attempting to continue his operations during a strike or lock-out involving employees of employers represented by the accredited employers' organization. R.S.O. 1970, c. 232, s. 119.

Duty of fair representation by employers' organization

**132.** An accredited employers' organization, so long as it continues to be entitled to represent employers in a unit of employers, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the unit, whether members of the accredited employers' organization or not. R.S.O. 1970, c. 232, s. 120.

Membership in employers' organization

**133.** Membership in an accredited employers' organization shall not be denied or terminated except for cause which, in the opinion of the Board, is fair and reasonable. R.S.O. 1970, c. 232, s. 121.

Fees

**134.** An accredited employers' organization shall not charge, levy or prescribe initiation fees, dues or assessments

that, in the opinion of the Board, are unreasonable or discriminatory. R.S.O. 1970, c. 232, s. 122.

**135.**—(1) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful strike or threatened an unlawful strike, or that employees engaged in or threatened to engage in an unlawful strike, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

Direction by  
Board re  
unlawful  
strike

(2) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out. R.S.O. 1970, c. 232, s. 123 (1, 2).

Direction by  
Board re  
unlawful  
lock-out

(3) The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under this section, exclusive of the reasons therefor, in the prescribed form, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such. R.S.O. 1970, c. 232, s. 123 (3); 1975, c. 76, s. 32.

Enforcement  
of direction  
by S.C.O.

**136.**—(1) Every trade union, council of trade unions, employer and employers' organization in the construction industry shall, within fifteen days after it has entered into a collective agreement, file with the Board a notice in the prescribed form giving the name and address of a person resident in Ontario who is authorized by the trade union, council of trade unions, employer or employers' organization to act as a designated jurisdictional representative in the event of a dispute as to the assignment of work.

Designation  
of  
jurisdictional  
representa-  
tive

Idem

(2) Whenever a trade union, council of trade unions, employer or employers' organization changes the authorization referred to in subsection (1), it shall file with the Board notice thereof in the prescribed form within fifteen days after making such change.

Idem

(3) Where a trade union, council of trade unions, employer or employers' organization files a complaint under subsection 91 (1) and it has not complied with subsection (1) or (2), it shall file the required notice with the complaint. R.S.O. 1970, c. 232, s. 124.

#### PROVINCE-WIDE BARGAINING

Interpre-  
tation

**137.**—(1) In this section and in sections 138 to 151,

- (a) "affiliated bargaining agent" means a bargaining agent that, according to established trade union practice in the construction industry, represents employees who commonly bargain separately and apart from other employees and is subordinate or directly related to, or is, a provincial, national or international trade union, and includes an employee bargaining agency;
- (b) "bargaining", except when used in reference to an affiliated bargaining agent, means province-wide, multi-employer bargaining in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e);
- (c) "employee bargaining agency" means an organization of affiliated bargaining agents that are subordinate or directly related to the same provincial, national or international trade union, and that may include the parent or related provincial, national or international trade union, formed for purposes that include the representation of affiliated bargaining agents in bargaining and which may be a single provincial, national or international trade union;
- (d) "employer bargaining agency" means an employers' organization or group of employers' organizations formed for purposes that include the representation of employers in bargaining;
- (e) "provincial agreement" means an agreement in writing covering the whole of the Province of

Ontario between a designated or accredited employer bargaining agency that represents employers, on the one hand, and a designated or certified employee bargaining agency that represents affiliated bargaining agents, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer bargaining agency, the employers represented by the employer bargaining agency and for whose employees the affiliated bargaining agents hold bargaining rights, the affiliated bargaining agents represented by the employee bargaining agency, or the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e). 1977, c. 31, s. 3, *part*.

(2) Where an employer is represented by a designated or accredited employer bargaining agency, the employer shall be deemed to have recognized all of the affiliated bargaining agents represented by a designated or certified employee bargaining agency that bargains with the employer bargaining agency as the bargaining agents for the purpose of collective bargaining in their respective geographic jurisdictions in respect of the employees of the employer employed in the industrial, commercial or institutional sector of the construction industry referred to in clause 117 (e), except those employees for whom a trade union other than one of the affiliated bargaining agents holds bargaining rights. 1979, c. 113, s. 1.

Deemed recognition of affiliated bargaining agents

**138.** Where there is conflict between any provision in sections 139 to 151 and any provision in sections 5 to 57 and 62 to 136, the provisions in sections 139 to 151 prevail. 1977, c. 31, s. 3, *part*.

Conflict

**139.—**(1) The Minister may, upon such terms and conditions as the Minister considers appropriate,

Designation by Minister

- (a) designate employee bargaining agencies to represent in bargaining provincial units of affiliated bargaining agents, and describe those provincial units;
- (b) notwithstanding an accreditation of an employers' organization as the bargaining agent of employers, designate employer bargaining agencies to represent in bargaining provincial units of employers for whose employees affiliated bargaining agents hold bargaining rights, and describe those provincial units.



Exclusion  
of certain  
bargaining  
relation-  
ships

(2) Where affiliated bargaining agents that are subordinate or directly related to different provincial, national or international trade unions bargain as a council of trade unions with a single employer bargaining agency for a province-wide collective agreement, the Minister may exclude such bargaining relationships from the designations made under subsection (1), and subsection 146 (2) shall not apply to such exclusion.

Minister  
may convene  
conference

(3) Where a designation is not made by the Minister of an employee bargaining agency or an employer bargaining agency under subsection (1) within sixty days after the 27th day of October, 1977, the Minister may convene a conference of trade unions, councils of trade unions, employers and employers' organizations, as the case may be, for the purpose of obtaining recommendations with respect to the making of a designation.

Reference of  
question

(4) The Minister may refer to the Board any question that arises concerning a designation, or any terms or conditions therein, and the Board shall report to the Minister its decision on the question.

Minister  
may alter,  
etc.,  
designation

(5) Subject to sections 140 and 141, the Minister may alter, revoke or amend any designation from time to time and may make another designation.

R.S.O. 1980,  
c. 446 does  
not apply

(6) The *Regulations Act* does not apply to a designation made under subsection (1). 1977, c. 31, s. 3, *part*.

Application  
to Board  
by employee  
bargaining  
agency

**140.**—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employee bargaining agency, whether designated or not, may apply to the Board to be certified to represent in bargaining a provincial unit of affiliated bargaining agents.

Certification  
by Board

(2) Where the Board is satisfied that a majority of the affiliated bargaining agents falling within the provincial unit is represented by the employee bargaining agency and that such majority of affiliated bargaining agents holds bargaining rights for a majority of employees that would be bound by a provincial agreement, the Board shall certify the employee bargaining agency. 1977, c. 31, s. 3, *part*.

Application  
to Board  
by employer  
bargaining  
agency

**141.**—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employer bargaining agency, whether designated or not, may apply to the Board to be accredited to represent in

bargaining a provincial unit of employers for whose employees affiliated bargaining agents hold bargaining rights.

(2) Where the Board is satisfied that a majority of employers falling within the provincial unit is represented by the employer bargaining agency and that such majority of employers employ a majority of the employees for whom the affiliated bargaining agents hold bargaining rights, the Board shall accredit the employer bargaining agency. 1977, c. 31, s. 3, *part*. Accreditation by Board

**142.** Where an employee bargaining agency has been designated under section 139 or certified under section 140 to represent a provincial unit of affiliated bargaining agents, all rights, duties and obligations under this Act of the affiliated bargaining agents for which it bargains shall vest in the employee bargaining agency, but only for the purpose of conducting bargaining and, subject to the ratification procedures of the employee bargaining agency, concluding a provincial agreement. 1977, c. 31, s. 3, *part*. Employee bargaining agencies, vesting of rights, etc.

**143.** Where an employer bargaining agency has been designated under section 139 or accredited under section 141 to represent a provincial unit of employers, Employer bargaining agencies, vesting of rights, etc.

(a) all rights, duties and obligations under this Act of employers for which it bargains shall vest in the employer bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement; and

(b) an accreditation heretofore made under section 127 of an employers' organization as bargaining agent of the employers in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e) represented or to be represented by the employer bargaining agency is null and void from the time of such designation under section 139 or accreditation under section 141. 1977, c. 31, s. 3, *part*.

**144.—(1)** An application for certification as bargaining agent which relates to the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e) shall be brought by either, Application for certification in the industrial, commercial and institutional sector

(a) an employee bargaining agency; or

(b) one or more affiliated bargaining agents of the employee bargaining agency,

on behalf of all affiliated bargaining agents of the employee bargaining agency and the unit of employees shall include all employees who would be bound by a provincial agreement together with all other employees in at least one appropriate geographic area unless bargaining rights for such geographic area have already been acquired under subsection (3) or by voluntary recognition.

Certification

(2) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade unions on whose behalf the application is brought, or, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade unions on whose behalf the application is brought, the Board shall certify the trade unions as the bargaining agent of the employees in the bargaining unit and in so doing shall issue a certificate confined to the industrial, commercial and institutional sector and issue another certificate in relation to all other sectors in the appropriate geographic area or areas.

Saving

(3) Notwithstanding subsection 119 (1), a trade union represented by an employee bargaining agency may bring an application for certification in relation to a unit of employees employed in all sectors of a geographic area other than the industrial, commercial and institutional sector and the unit shall be deemed to be a unit of employees appropriate for collective bargaining.

Voluntary  
recognition  
agreements

(4) A voluntary recognition agreement in so far as it relates to the industrial, commercial and institutional sector of the construction industry shall be between an employer on the one hand and either,

- (a) an employee bargaining agency;
- (b) one or more affiliated bargaining agents represented by an employee bargaining agency; or
- (c) a council of trade unions on behalf of one or more affiliated bargaining agents affiliated with the council of trade unions,

on the other hand, and shall be deemed to be on behalf of all the affiliated bargaining agents of the employee bargaining agency and the defined bargaining unit in the agreement shall include those employees who would be bound by a provincial agreement.

Exception

(5) Notwithstanding subsections (1) and (4), a trade union that is not represented by a designated or certified employee bargaining agency may bring an application for certification or enter into a voluntary recognition agreement on its own behalf. 1980, c. 31, s. 1.

**145.**—(1) Subject to subsection (2), any collective agreement in operation on the 27th day of October, 1977 in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e) and represented by affiliated bargaining agents is enforceable by and binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision respecting its renewal. Termination of collective agreement

(2) Notwithstanding subsection 52 (1), every collective agreement in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e) and represented by affiliated bargaining agents entered into after the 1st day of January, 1977 and before the 30th day of April, 1978 shall be deemed to expire not later than the 30th day of April, 1978, regardless of any provision respecting its term of operation or its renewal. Idem

(3) Where any collective agreement mentioned in subsection (1) ceases to operate, the affiliated bargaining agent, the employer and the employees for whom the affiliated bargaining agent holds bargaining rights shall be bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and the employer bargaining agency representing the employer. Provincial agreement binding

(4) After the 30th day of April, 1978, where an affiliated bargaining agent obtains bargaining rights through certification or voluntary recognition in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e), the employer, the affiliated bargaining agent, and the employees for whom the affiliated bargaining agent has obtained bargaining rights are bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and an employer bargaining agency representing a provincial unit of employers in which the employer would have been included. Idem

(5) Notwithstanding subsection 52 (1), where, under the provisions of this section, an employer, affiliated bargaining agent or employees become bound by a provincial agreement after the agreement has commenced to operate, the agreement ceases to be binding on the employer, affiliated bargaining agent or employees in accordance with the terms thereof. 1977, c. 31, s. 3, *part*. When provincial agreement ceases to operate

**146.**—(1) An employee bargaining agency and an employer bargaining agency shall make only one provincial agreement for each provincial unit that it represents. Agency shall make only one agreement

No agreement  
other than  
provincial  
agreement

(2) On and after the 30th day of April, 1978 and subject to sections 139 and 145, no person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency shall bargain for, attempt to bargain for, or conclude any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection (1), and any collective agreement or other arrangement that does not comply with subsection (1) is null and void.

Expiry of  
provincial  
agreement

(3) Every provincial agreement shall provide for the expiry of the agreement on the 30th day of April calculated biennially from the 30th day of April, 1978. 1977, c. 31, s. 3, *part*.

Non-  
application  
of s. 51

**147.**—(1) Section 51 does not apply to a designated or accredited employer bargaining agency or a designated or certified employee bargaining agency. 1977, c. 31, s. 3, *part*.

Provincial  
agreement  
binding

(2) A provincial agreement is, subject to and for the purposes of this Act, binding upon the employer bargaining agency, the employers represented by the employer bargaining agency, the employee bargaining agency, the affiliated bargaining agents represented by the employee bargaining agency, the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e), and upon such employers, affiliated bargaining agents and employees as may be subsequently bound by the said agreement. 1979, c. 113, s. 3.

Parties

(3) Any employee bargaining agency, affiliated bargaining agent, employer bargaining agency and employer bound by a provincial agreement shall be considered to be a party for the purposes of section 124. 1977, c. 31, s. 3, *part*.

Calling of  
strikes

**148.**—(1) Where an employee bargaining agency desires to call or authorize a lawful strike, all of the affiliated bargaining agents it represents shall call or authorize the strike in respect of all the employees represented by all affiliated bargaining agents affected thereby in the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e), and no affiliated bargaining agent shall call or authorize a strike of such employees except in accordance with this subsection.

Calling of  
lock-outs

(2) Where an employer bargaining agency desires to call or authorize a lawful lock-out, all employers it represents shall call or authorize the lock-out in respect of all employees employed by such employers and represented by all the affiliated bargaining agents affected thereby in the industrial, commercial and institu-

tional sector of the construction industry referred to in clause 117 (e) and no employer shall lock out such employees except in accordance with this subsection. 1979, c. 113, s. 4, *part*.

**149.**—(1) Where a memorandum of settlement of the terms of a provincial agreement is subject to ratification, the ratification shall take place within thirty days of the signing of the memorandum of settlement. Time for ratification

(2) Where ratification or rejection of a memorandum of settlement of the terms of a provincial agreement does not take place within the period of thirty days, the memorandum of settlement shall come into effect as though it had been ratified and shall constitute a provincial agreement. 1979, c. 113, s. 4, *part*. Effect of failure to ratify within prescribed time

**150.** The Board shall, upon the application of a trade union, a council of trade unions, or an employer or employers' organization, determine any question that arises as to whether work performed or to be performed by employees is within the industrial, commercial and institutional sector of the construction industry referred to in clause 117 (e). 1977, c. 31, s. 3, *part*. Power of Board

**151.**—(1) A designated or certified employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of the affiliated bargaining agents in the provincial unit of affiliated bargaining agents for which it bargains, whether members of the designated or certified employee bargaining agency or not and in the representation of employees, whether members of an affiliated bargaining agent or not. Bargaining agency not to act in bad faith, etc.

(2) A designated or accredited employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the provincial unit of employers for which it bargains, whether members of the designated or accredited employer bargaining agency or not. 1977, c. 31, s. 3, *part*. Idem

