

1950

## c 194 Labour Relations Act

Ontario

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## CHAPTER 194

**The Labour Relations Act****1.—(1) In this Act,**Interpre-  
tation.

- (a) “bargaining unit” means a unit of employees appropriate for collective bargaining, whether it is an employer unit or a plant unit or any subdivision of either of them;
- (b) “Board” means Ontario Labour Relations Board;
- (c) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union representing 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;
- (d) “conciliation services” means the services of a conciliation officer and, if necessary, a conciliation board;
- (e) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (f) “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 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;
- (g) “Minister” means Minister of Labour;
- (h) “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;

- (i) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

Idem.

(2) For the purposes of this Act no person shall be deemed 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.

Idem.

(3) For the purposes of this Act, no person shall be deemed to be an employee,

- (a) who is a member of the architectural, dental, engineering, legal or medical profession entitled to practise in Ontario and employed in a professional capacity; or
- (b) who is a manager or superintendent or who exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. 1950, c. 34, s. 1.

#### APPLICATION OF ACT

Where Act  
not to  
apply.

**2.** This Act does not apply,

- (a) to any domestic employed in a private home;
- (b) to any person employed in agriculture, horticulture, hunting or trapping;
- (c) to any member of a police force within the meaning of *The Police Act*;
- (d) to any full-time fire fighter within the meaning of *The Fire Departments Act*; or
- (e) to any teacher as defined in *The Teaching Profession Act*. 1950, c. 34, s. 2.

Rev. Stat.,  
c. 279.

Rev. Stat.,  
c. 138.

Rev. Stat.,  
c. 385.

#### 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. 1950, c. 34, 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. 1950, c. 34, s. 4.

## ESTABLISHMENT OF BARGAINING RIGHTS BY CERTIFICATION

**5.** A trade union may apply to the Board for certification as bargaining agent of the employees of an employer in a unit which it claims to be appropriate for collective bargaining. Application for certification.  
1950, c. 34, s. 5.

**6.—(1)** Upon an application for certification the Board shall determine the unit of employees that is appropriate for collective bargaining, but which in every case shall consist of more than one employee. Board to determine appropriateness of units.

**(2)** 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 craft 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. 1950, c. 34, s. 6. Craft units.

**7.—(1)** Upon an application for certification the Board shall ascertain, by an examination of the records of the trade union and the records of the employer, the number of employees in the bargaining unit who are members of the trade union. Determination of number of union members in bargaining unit.

**(2)** If on an examination under subsection 1 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. Representation vote.

**(3)** If on the taking of a representation vote more than 50 per cent of the ballots of all those eligible to vote 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. Certification after vote.

**(4)** In determining the number of eligible voters for the purpose of subsection 3, employees who are absent from work during voting hours and who do not cast their ballots shall not be counted as eligible. Absent employees.

Certification  
without vote.

(5) If on an examination under subsection 1 the Board is satisfied that more than 50 per cent of the employees in the bargaining unit are members of the trade union and that the true wishes of the employees are not likely to be disclosed by a representation vote, the Board may certify the trade union as bargaining agent without taking a representation vote. 1950, c. 34, s. 7.

Security  
guards.

8. The Board shall not include in a bargaining unit with other employees any person employed as a guard to protect the property of his employer and no trade union shall be certified as bargaining agent for a bargaining unit of such guards if it admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards. 1950, c. 34, s. 8.

What  
unions not  
to be  
certified.

9. The Board shall not certify any 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. 1950, c. 34, s. 9.

#### NEGOTIATION OF COLLECTIVE AGREEMENTS

Notice of  
desire to  
bargain.

10. Following certification, the trade union shall give the employer written notice of its desire to bargain with a view to making a collective agreement. 1950, c. 34, s. 10.

Obligation  
to bargain.

11. The parties shall meet within 20 days from the giving of the notice or within such further period as the parties may agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. 1950, c. 34, s. 11.

Composition  
of  
bargaining  
committee.

12. During bargaining a trade union shall be represented by a bargaining committee consisting of employees of the employer who are in the bargaining unit, or in the case of bargaining between a trade union and an employers' organization, consisting of employees of one or more members of such organization who are in the bargaining unit, and in either case a bargaining committee may include one or more officers or other representatives of the trade union. 1950, c. 34, s. 12.

Requests for  
conciliation  
services.

13.—(1) Where 50 days or more have elapsed from the giving of the notice and it appears that a collective agreement will not be made within a reasonable time, either party may file with the Board a request that conciliation services be made available to the parties, whereupon the Board shall grant the request, but before doing so it may postpone con-

sideration of the request from time to time to a specified date and direct the parties to continue to bargain in the meantime.

(2) Upon the joint request of the parties, or upon the request Idem. of either of them, the Board, if it is satisfied that no progress in bargaining is being made, may grant the request for conciliation services notwithstanding that the fifty-day period mentioned in subsection 1 has not elapsed. 1950, c. 34, s. 13.

**14.**—(1) Where the Board grants a request for conciliation services the Minister shall forthwith appoint a conciliation Conciliation officer, appointment; officer.

(2) The conciliation officer shall confer with the parties duties. and endeavour to effect a collective agreement and he shall, within 14 days from his appointment, report the result of his endeavour to the Minister.

(3) The period mentioned in subsection 2 may be extended Extension of 14-day period. 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 such period is extended. 1950, c. 34, s. 14.

**15.** If the conciliation officer is unable to effect a collective agreement within the time allowed under section 14, the Minister shall forthwith by notice in writing request each of the parties, within seven days of the receipt of the notice, to recommend one person to be a member of a conciliation board, and the Minister shall, upon the receipt of the recommendations or upon the expiration of the seven-day period appoint two members who, in his opinion, represent the points of view of the respective parties, and the two members so appointed may, within five days after they are appointed, jointly recommend a third person to be a member and chairman of the board, and the Minister shall, upon the receipt of the recommendation or upon the expiration of the five-day period, appoint a third person to be a member and chairman of the board. 1950, c. 34, s. 15. Conciliation board, appointment of members.

**16.** 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. 1950, c. 34, s. 16. Certain persons prohibited as members.

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

Presumption  
of establish-  
ment.

(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 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. 1950, c. 34, s. 17.

Vacancies.

**18.** 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. 1950, c. 34, s. 18.

Terms of  
reference.

**19.** 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 such statement. 1950, c. 34, s. 19.

Oath of  
office.

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

I do solemnly swear that I am not disqualified under section 16 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 may be legally authorized, disclose to any person any of the evidence or other matter brought before the board. So help me God.

1950, c. 34, s. 20.

Duties.

**21.** As soon as a conciliation board is established it shall endeavour to effect agreement between the parties on the matters referred to it. 1950, c. 34, s. 21.

Procedure.

**22.—(1)** Subject to this Act, a conciliation board shall determine its own procedure.

Presentation  
of evidence.

(2) A conciliation board shall give full opportunity to the parties to present their evidence and to make their submissions. 1950, c. 34, s. 22.

**23.** 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. 1950, c. 34, s. 23.

**24.** The chairman and one other member of a conciliation <sup>Quorum.</sup> board shall constitute a quorum but, in the absence of any member, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting. 1950, c. 34, s. 24.

**25.** If the members of a conciliation board are unable to <sup>Casting</sup> agree among themselves on matters of procedure or as to the <sup>vote.</sup> admissibility of evidence, the decision of the chairman shall govern. 1950, c. 34, s. 25.

**26.** A conciliation board shall have 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 deems 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 may deem 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. 1950, c. 34, s. 26.

**27.—(1)** A conciliation board shall, within 14 days from <sup>When report</sup> the appointment of its chairman, report its findings and <sup>to be made.</sup> recommendations to the Minister and the report of the majority shall be the report of the board.



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 board that agreement may be effected between the parties on the matters referred to the board if such period is extended.

Clarification  
etc., of  
report.

(3) 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.

(4) On receipt of the report of the conciliation board the Minister shall forthwith cause a copy thereof to be sent to each of the parties. 1950, c. 34, s. 27.

Remun-  
eration.

**28.** The members of a conciliation board shall be remunerated for their services as follows:

1. To a member, other than the chairman, an allowance of \$5 for considering the recommendation of a person to be the third member of the board.
2. To a member, other than the chairman, an allowance of \$20 and to the chairman, an allowance of \$25, for each day he is present when the board sits and for each day necessarily spent in travelling from his place of residence to its meetings and returning therefrom, and for each day, not exceeding two, he is engaged in preparing the report of the board.
3. To each member, his actual, necessary and reasonable travelling and living expenses for each day that he is absent from his place of residence in connection with the work of the board. 1950, c. 34, s. 28.

Failure  
to report.

**29.** Failure of a conciliation officer or conciliation board to report to the Minister within the time provided in this Act shall not invalidate the proceedings of the conciliation officer or conciliation board or terminate the authority of the conciliation board under this Act. 1950, c. 34, s. 29.

#### CONTENTS OF COLLECTIVE AGREEMENTS

Recognition  
provision.

**30.—**(1) Every collective agreement made after the 1st day of September, 1950, shall 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.

(2) If any collective agreement made either before or after the 1st day of September, 1950, does not contain such a provision as is mentioned in subsection 1, it may be added to the agreement at any time by the Board upon the application of either party. 1950, c. 34, s. 30. Addition by Board.

**31.**—(1) Every collective agreement made after the 1st day of September, 1950, 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 any collective agreement made either before or after the 1st day of September, 1950, does not contain such a provision as is mentioned in subsection 1, it may be added to the agreement at any time by the Board upon the application of either party. 1950, c. 34, s. 31. Addition by Board.

**32.**—(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. Arbitration provision.

(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: Idem.

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 advise 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 shall be final and binding upon the parties and upon any employee affected by it. The decision of a majority shall be the decision of the arbitration board, but if there is no majority the decision of the chairman shall govern.

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 any such 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, shall apply.

Effect of arbitrator's decision.

(4) The decision of an arbitrator or of an arbitration board shall be binding upon the parties and 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 upon the employees covered by the agreement who are affected by the decision, and such parties, employers and employees shall do or abstain from doing anything required of them by the decision.

Rev. Stat., c. 20 not to apply.

(5) *The Arbitration Act* shall not apply to arbitrations under collective agreements. 1950, c. 34, s. 32.

Permissive provisions.

**33.**—(1) Notwithstanding anything in this Act, 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 the agreement or granting a preference of employment to members of such trade union, or requiring the payment of dues or contributions to such trade union;
- (b) for permitting an employee who represents the trade union that is a party to 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 the agreement to use the employers' premises for the purposes of the trade union without payment therefor.

Membership in two unions.

(2) No employer shall discharge an employee who is expelled or suspended from membership in the trade union mentioned in clause *a* of subsection 1 solely because he is a member of another trade union. 1950, c. 34, s. 33.

## OPERATION OF COLLECTIVE AGREEMENTS

**34.** 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,

Certain agreements not to be treated as collective agreements.

(a) if any employer or any employers' organization participated in the formation or administration of the trade union or if any employer or any employers' organization contributed financial or other support to the trade union; or

(b) if it discriminates against any person because of his race or creed. 1950, c. 34, s. 34.

**35.** A collective agreement made before or after the 1st day of September, 1950, shall, subject to and for the purposes of this Act, be 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. 1950, c. 34, s. 35.

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

**36.—(1)** A collective agreement made after the 1st day of September, 1950, between an employers' organization and a trade union shall, subject to and for the purposes of this Act, be binding upon each person who was a member of the employers' organization at the time bargaining commenced and on whose behalf the employers' organization bargained with the trade union as if it was made between each of such persons and the trade union, 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.

Binding effect of collective agreements on members of employers' organizations.

(2) When an employers' organization commences to bargain with a trade union, it shall deliver to the trade union 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 is entitled to bargain and to make a collective agreement at that time. 1950, c. 34, s. 36.

Duty to disclose.

**37.—(1)** If a collective agreement made before or after the 1st day of September, 1950, 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.

Minimum term of collective agreements.

Extension  
of term  
of  
collective  
agreements.

(2) Notwithstanding subsection 1, the parties may, before or after a collective agreement has ceased to operate, agree to continue its operation or any of its provisions for any period less than one year while they are bargaining for the renewal, with or without modifications of it, or for a new agreement, but such continued operation shall not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit.

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.

Revision  
by mutual  
consent.

(4) Nothing in this section shall be deemed to prevent 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. 1950, c. 34, s. 37.

Notice of  
desire to  
bargain  
for new  
collective  
agreement.

**38.**—(1) Either party to a collective agreement made before or after the 1st day of September, 1950, may within the period of two months 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.

Idem.

(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.

Notice of  
desire for  
new  
collective  
agreement  
for  
employers'  
organization.

(3) Where notice is given by or to an employers' organization that has a collective agreement with a trade union, it shall be deemed to be a notice given by or to each member of the employers' organization who is bound by the agreement. 1950, c. 34, s. 38.

Application  
of ss. 11  
to 29.

**39.** Sections 11 to 29 shall apply to the bargaining that follows the giving of a notice under section 38. 1950, c. 34, s. 39.

#### TERMINATION OF BARGAINING RIGHTS

Application  
for new  
certification,  
one-year  
agreements;

**40.**—(1) Where a collective agreement is for a term of one year a trade union may apply for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the agreement has been in operation for 10 months.

(2) Where a collective agreement is for a term of one year and it provides that it will continue to operate for a further term of one year or for successive terms of one year if either party fails to give to the other party 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 and no such notice is given, a trade union may apply for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the agreement has been in operation for ten months and before it has been in operation for twelve months or during a similar two-month period at the end of each year that the agreement continues to operate, as the case may be. agreements from year to year;

(3) Where a collective agreement is for a term of more than one year, a trade union may apply for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the agreement has been in operation for ten months and before it has been in operation for twelve months or during a similar two-month period at the end of each year that the agreement continues to operate or not more than two months before the agreement ceases to operate, as the case may be. agreements for more than one year;

(4) If the trade union that applies for certification under subsection 1, 2, or 3 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, shall forthwith cease to represent the employees in the bargaining unit determined in the certificate and the agreement shall cease to operate in so far as it affects such employees. 1950, c. 34, s. 40. effect of certification.

**41.—(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 apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit. Application for termination, no agreement;

(2) Any of the employees in the bargaining unit defined in a collective agreement may apply to the Board for a declaration that the trade union no longer represents the employees in the bargaining unit, agreement.

- (a) in the case of an agreement for a term of one year, only after the agreement has been in operation for ten months;
- (b) in the case of an agreement for a term of one year that provides that it will continue to operate for a

further term of one year or for successive terms of one year if either party fails to give to the other party 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 and no such notice is given, only after the agreement has been in operation for ten months and before it has been in operation for twelve months or during a similar two-month period at the end of each year that the agreement continues to operate, as the case may be;

- (c) in the case of an agreement for a term of more than one year only after the agreement has been in operation for ten months and before it has been in operation for twelve months or during a similar two-month period at the end of each year that the agreement continues to operate or not more than two months before the agreement ceases to operate, as the case may be.

Representation  
vote.

(3) Upon an application under subsection 1 or 2 the Board shall ascertain whether a majority of the employees in the bargaining unit have signified in writing that they no longer wish to be represented by the trade union and, if a majority so signify, 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.

Declaration  
of  
termination.

(4) If on the taking of the representation vote more than 50 per cent of the ballots of all those eligible to vote 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.

Absent  
employees.

(5) In determining the number of eligible voters for the purpose of subsection 4, employees who are absent from work during voting hours and who do not cast their ballots shall not be counted as eligible.

Declaration  
to terminate  
agreement.

(6) Upon the Board making a declaration under subsection 4, any collective agreement in operation between the trade union and the employer that is binding upon the employees in the bargaining unit shall cease to operate forthwith. 1950, c. 34, s. 41.

Where  
certificate  
obtained  
by fraud.

**42.** 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 shall not be 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, such agreement shall be null and void. 1950, c. 34, s. 42.

**43.**—(1) If a trade union fails to give the employer notice under section 10 within 60 days following certification or if it fails to give notice under section 38 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. Termination, for failure to give notice;

(2) Where a trade union that has given notice under section 10 or section 38 or that has received notice under section 38 fails to commence to bargain within 60 days from the giving of the notice, or after having commenced to bargain but before the Board has granted a request for conciliation services, allows a period of 60 days to elapse during which it 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. 1950, c. 34, s. 43. for failure to bargain.

**44.**—(1) Where notice is given under section 38 and the Board grants a request for conciliation services, no application for certification of a bargaining agent of any of the employees in the bargaining unit as defined in the collective agreement shall be made after the date when the agreement ceases to operate or the date when the request is granted, whichever is later, unless following the granting of the request a collective agreement has been made between the parties and it has operated for at least 10 months. Application for certification after conciliation services granted.

(2) Where notice is given under section 38 and the Board grants a request for conciliation services, no application for a declaration that the trade union that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit as defined in the agreement shall be made after the date when the agreement ceases to operate or the date when the request is granted, whichever is later, unless following the granting of the request a collective agreement has been made between the parties and it has operated for at least 10 months, or if no such agreement has been made, unless at least 12 months have elapsed from the date of the granting of the request. 1950, c. 34, s. 44. Application for termination after conciliation services granted.



## UNFAIR PRACTICES

Employers  
not to  
interfere  
with unions.

**45.** 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 or administration of a trade union or contribute financial or other support to a trade union. 1950, c. 34, s. 45.

Unions not  
to interfere  
with  
employers'  
organiza-  
tions.

**46.** 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. 1950, c. 34, s. 46.

Employers  
not to  
interfere  
with  
employees'  
rights.

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

- (a) shall refuse to employ or to continue to employ any person, or discriminate against any person in regard to employment or any term or condition of employment because the person is a member of a trade union 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 exercise any other rights under this Act. 1950, c. 34, s. 47.

Intimidation  
and coercion.

**48.—(1)** No person 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.

Persuasion  
during  
working  
hours.

**(2)** Nothing in this Act shall be deemed to authorize 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. 1950, c. 34, s. 48.

**49.**—(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. 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 a trade union has become entitled to give and has given notice under section 10 or has given notice under section 38 on behalf of the employee to his employer, or in the case of a notice under section 38, has received such notice, and conciliation services have been granted and seven days have elapsed after the conciliation board has reported to the Minister. 1950, c. 34, s. 49. no agreement.

**50.** No trade union shall call or authorize, and no officer, official or agent of a trade union shall counsel, procure, support or encourage an unlawful strike. 1950, c. 34, s. 50. Unlawful strikes.

**51.** No employer or employers' organization shall call or authorize, and no officer, official or agent of an employer or employers' organization shall counsel, procure, support or encourage an unlawful lock-out. 1950, c. 34, s. 51. Unlawful lock-outs.

**52.** Nothing in this Act shall be deemed to prohibit 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. 1950, c. 34, s. 52. Saving.

**53.** Where notice has been given under section 10 or section 38 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 until conciliation services have been granted and seven days have elapsed after the conciliation board has reported to the Minister or until the right of the trade union to represent the employees has been terminated, whichever occurs first. 1950, c. 34, s. 53. Working conditions may not be altered.

#### INFORMATION

**54.** Each party to a collective agreement shall, forthwith after it is made, file one signed copy thereof with the Board. 1950, c. 34, s. 54. Collective agreements to be filed.

**55.** The Board may direct any trade union 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 Officers, constitution, etc.

statutory declaration of its president or secretary setting forth the names and addresses of its officers. 1950, c. 34, s. 55.

Publications.

**56.** Every publication that deals with the relations between employers or employers' organizations and trade unions or employees shall bear the names and addresses of its printer and its publisher. 1950, c. 34, s. 56.

#### ENFORCEMENT

Inquiry by  
conciliation  
officer;

**57.**—(1) The Minister may appoint a conciliation officer to inquire into any complaint that any person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act.

duties;

(2) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of.

report.

(3) The conciliation officer shall report the results of his inquiry and endeavours to the Minister. 1950, c. 34, s. 57.

Commis-  
sioners,  
appoint-  
ment;

**58.**—(1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may appoint a commissioner and shall forthwith communicate the name of the commissioner to the parties and thereupon it shall be presumed conclusively that the commissioner was appointed in accordance with this Act, 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 the appointment of the commissioner, or to review, prohibit or restrain any of his proceedings.

powers;

(2) The commissioner shall have all the powers of a conciliation board under section 26.

duties;

(3) The commissioner shall give the parties full opportunity to present evidence and to make submissions and if he finds that the complaint is supported by the evidence he shall recommend to the Minister the course that ought to be taken with respect to the complaint, which may include reinstatement with or without compensation for loss of earnings and other benefits.

clarification  
etc., of  
recommen-  
dations;

(4) After a commissioner has made his recommendations, the Minister may direct him to clarify or amplify any of his recommendations and they shall not be deemed to have been

received by the Minister until they have been so clarified or amplified.

(5) The Minister shall issue whatever order he deems <sup>Minister's order;</sup> necessary to carry the recommendations of the commissioner into effect and the order shall be final and shall be complied with in accordance with its terms.

(6) A commissioner shall be remunerated for his services <sup>remuneration.</sup> at the same rate as the chairman of a conciliation board. 1950, c. 34, s. 58.

**59.** Where a trade union calls or authorizes a strike which <sup>Declaration of unlawful strikes.</sup> the employer or employers' organization concerned alleges is unlawful, the employer or employers' organization may apply to the Board for a declaration that the strike is unlawful and the Board may make such a declaration. 1950, c. 34, s. 59.

**60.** Where an employer or employers' organization calls <sup>Declaration of unlawful lock-outs.</sup> or authorizes a lock-out which any of the employees or the trade union concerned alleges is unlawful, any of the employees or the trade union may apply to the Board for a declaration that the lock-out is unlawful and the Board may make such a declaration. 1950, c. 34, s. 60.

**61.**—(1) Every person, trade union or employers' organization <sup>Offences and penalties.</sup> who fails to comply with any provision of this Act or of any decision, order, direction, declaration or ruling made under this Act shall be guilty of an offence and on summary conviction shall be liable,

(a) if an individual, to a penalty of not more than \$100; or

(b) if a corporation, trade union or employers' organization, to a penalty of not more than \$1,000.

(2) Each day that any person, trade union or employers' <sup>Continued offences.</sup> organization fails to comply with any provision of this Act or of any decision, order, direction, declaration or ruling made under this Act shall be deemed to constitute a separate offence.

(3) Every penalty recovered for an offence under this Act <sup>Disposition of penalties.</sup> shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1950, c. 34, s. 61.

**62.** An information or complaint in respect of any con- <sup>Information may be in respect of one or more offences.</sup> travention of this Act may be for one or more offences and no information, complaint, 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. 1950, c. 34, s. 62.

Parties.

**63.** If a corporation, trade union 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. 1950, c. 34, s. 63.

Style of prosecutions.

**64.** A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the union or organization shall be deemed to be an act or thing done or omitted by the union or organization. 1950, c. 34, s. 64.

Consent.

**65.** No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board. 1950, c. 34, s. 65.

#### ADMINISTRATION

Board continued;

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

composition;

(2) The Board shall consist of a chairman and four other members who shall be equally representative of employers and employees.

appointments;

(3) The chairman and other members of the Board shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

vice-chairman;

(4) The Lieutenant-Governor in Council may appoint a vice-chairman who shall act as chairman and as a member of the Board only,

(a) at such times or in such matters as the chairman may direct; and

(b) at such times as the chairman is unable to act.

oath of office;

(5) Each member of the Board shall, before entering 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 member (*or* chairman, *or* vice-chairman)

of the Ontario Labour Relations Board and 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.

(6) The office of the Board shall be in Toronto but the office; Board may sit at such other places as it deems expedient.

(7) A majority of the members of the Board shall constitute quorum; a quorum.

(8) The decision of the majority of the members of the decisions; Board present and constituting a quorum shall be the decision of the Board, and in the event of a tie the chairman or vice-chairman, as the case may be, shall have a casting vote.

(9) The Board shall have an official seal. seal;

(10) The Board shall determine its own practice and pro- procedure; cedure 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 prescribing such forms as may be deemed advisable.

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

(12) The chairman, the vice-chairman, if any, the other remun- members of the Board and its registrar and other officers shall eration. be paid such remuneration as may be fixed by the Lieutenant-Governor in Council. 1950, c. 34, s. 66.

**67.**—(1) The Board shall exercise such powers and per- Powers and form such duties as may be conferred or imposed upon it by duties of or under this Act. Board, general;

(2) Without limiting the generality of subsection 1 the specific. Board shall have 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 deems 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 may deem proper, whether admissible in a court of law or not;
- (d) to require employers 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 employees concerned, any notices that the Board deems necessary to bring to the attention of such employees 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, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (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 may deem 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 bar an unsuccessful applicant for certification or for a declaration that a trade union no longer represents the employees from filing a new application for any period that the Board may specify not exceeding 10 months. 1950, c. 34, s. 67.

**Jurisdiction.**

**68.**—(1) The Board shall have exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and without limiting the generality of the foregoing, if any question arises in any proceeding,

- (a) as to whether a person is an employer or an employee;
- (b) as to whether an organization is a trade union or an employers' organization;
- (c) as to whether a collective agreement has been made or as to whether it is in operation or as to who the parties are or who are bound by it or on whose behalf it was made;
- (d) as to whether a group of employees constitute a bargaining unit;

- (e) as to whether the parties have bargained in good faith and made every reasonable effort to make a collective agreement;
- (f) as to whether a trade union represents the employees in a bargaining unit; or
- (g) as to whether a person is a member of a trade union,

the decision of the Board thereon shall be 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.

(2) If in the course of bargaining for a collective agreement, *Idem.* or, if during the period of operation of a collective agreement, any question arises as to whether a person is an employee, the question may be referred to the Board and the decision of the Board thereon shall be final and conclusive for all purposes. 1950, c. 34, s. 68.

**69.** 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. 1950, c. 34, s. 69.

Board's orders not subject to review.

**70.** 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 respecting information obtained in the discharge of their duties under this Act. 1950, c. 34, s. 70.

Protection from being called as witness.

**71.** Any document purporting to be or to contain a copy of a decision, order, direction, declaration or ruling of the Board and purporting to be signed by a member of the Board or by its registrar shall be accepted by any court as evidence of such decision, order, direction, declaration or ruling. 1950, c. 34, s. 71.

Documentary evidence.

#### GENERAL

**72.—(1)** The records of a trade union relating to membership or any records that may disclose whether any 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 any proceeding before the Board shall be for the exclusive use of the Board

Secrecy as to union membership.



and its officers and shall not, save with the consent of the Board, be disclosed, and no person shall, save with the consent of the Board, be compelled to disclose whether any person is or is not a member of a trade union or does or does not desire to be represented by a trade union.

Secrecy of  
information  
given  
conciliation  
officers.

(2) No information or material furnished to or received by a conciliation officer under this Act and 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 Department of Labour, and no conciliation officer shall be a competent or compellable witness in any proceedings before any court or other tribunal respecting any such information, material or report. 1950, c. 34, s. 72.

Delegation  
of Minister's  
powers to  
Deputy  
Minister.

**73.** 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 such appointment, order or direction, and any document purporting to be or to contain a copy of any such 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 such appointment, order or direction. 1950, c. 34, s. 73.

Mailed  
notices.

**74.** For the purposes of this Act and of any proceedings taken under it, any notice or communication sent through His Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. 1950, c. 34, s. 74.

Defects in  
form;  
technical  
irregularities.

**75.** No proceedings under this Act shall be deemed invalid by reason of any defect of form or any technical irregularity nor shall such proceedings be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. 1950, c. 34, s. 75.

Administra-  
tion cost.

**76.** The expenses incurred in the administration of this Act shall be paid out of such moneys as may be appropriated by the Legislature for the purpose. 1950, c. 34, s. 76.

Regulations.

**77.** The Lieutenant-Governor in Council may make regulations,

- (a) to provide for and regulate the engagement of experts, investigators and other assistants by conciliation boards;
- (b) to prescribe procedures regulating the payment of expenses of conciliation boards;

- (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 34, s. 77.

**78.** Any municipality as defined in *The Department of Municipal Affairs Act* may declare that this Act shall not apply to it in its relations with its employees or any of them. 1950, c. 34, s. 81.

Municipalities, local boards, etc.  
Rev. Stat., c. 96.

