1980

c 108 Crown Employees Collective Bargaining Act

Ontario
CHAPTER 108

Crown Employees Collective Bargaining Act

1.—(1) In this Act,

(a) "bargaining agent" means an employee organization that has representation rights under this Act;

(b) "bargaining unit" means a unit of employees established for collective bargaining in accordance with this Act;

(c) "board" means a board of arbitration established under this Act;

(d) "collective agreement" means an agreement in writing between the employer and an employee organization covering terms and conditions of employment;

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

(f) "employee" means a Crown employee as defined in the Public Service Act but does not include,

(i) a member of the Ontario Provincial Police Force,

(ii) an employee of a college of applied arts and technology,

(iii) a person employed in a managerial or confidential capacity,

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

(v) a student employed during the student's regular vacation period or on a co-operative educational training program,
(vi) a person not ordinarily required to work more than one-third of the normal period for persons performing similar work except where the person works on a regular and continuing basis,

(vii) a person engaged under contract in a professional or other special capacity, or for a project of a non-recurring kind, or on a temporary work assignment arranged by the Civil Service Commission in accordance with its program for providing temporary help,

(viii) a person engaged and employed outside Ontario,

(ix) a person employed in the office of the Provincial Auditor, or

(x) a person employed by or under the Tribunal or the Grievance Settlement Board;

(g) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that,

(i) receives from any of its members who are employees any money for activities carried on by or on behalf of any political party,

(ii) handles or pays in its own name on behalf of members who are employees any money for activities carried on by or on behalf of any political party,

(iii) requires as a condition of membership therein the payment by any of its members who are employees of any money for activities carried on by or on behalf of any political party,

(iv) supports or requires its members who are employees otherwise to support any political party, or

(v) discriminates against any employee because of age, sex, race, national origin, colour or religion;
"employer" means the Crown in right of Ontario;

"lock-out" includes the closing of a place of employment, a suspension of work or a refusal by the employer to continue to employ a number of employees with a view to compel or induce the 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, the employee organization or the employees;

"Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

"party" means the employee organization that is the bargaining agent for a bargaining unit, on the one hand, and the employer, on the other hand, and "parties" means the two of them;

"person employed in a managerial or confidential capacity" means a person who,

(i) is employed in a position confidential to the Lieutenant Governor, a Minister of the Crown, a judge of a provincial court, the deputy head of a ministry of the Government of Ontario or the chief executive officer of any agency of the Crown,

(ii) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the Government or an agency of the Crown or in the formulation of budgets of the Government or an agency of the Crown,

(iii) spends a significant portion of his time in the supervision of employees,

(iv) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,

(v) adjudicates or determines claims for compensation which are made pursuant to the provisions of any statute,
(vi) is employed in a position confidential to any person described in subclause (i), (ii), (iii), (iv) or (v).

(vii) is employed in a confidential capacity in matters relating to employee relations including a person employed in a clerical, stenographic or secretarial position in the Civil Service Commission or in a personnel office in a ministry or agency of the Government of Ontario, or

(viii) is not otherwise described in subclauses (i) to (vii) but who in the opinion of the Tribunal should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

(m) “public servant” means a public servant as defined in the Public Service Act and “public service” has a corresponding meaning;

(n) “regulations” means the regulations made under this Act;

(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 interfere with work or services;

(p) “Tribunal” means the Ontario Public Service Labour Relations Tribunal. 1972, c. 67, s. 1 (1); 1974, c. 135, s. 1, revised.

(2) The employer may be represented, in the case of the public service, by the Management Board of Cabinet, and in the case of an agency of the Crown, by the body designated by the regulations.

(3) No employee shall be deemed to have ceased to be employed by reason only of his ceasing to work for the employer as a result of a lock-out contrary to section 27 or by reason only of his being dismissed by the employer contrary to this Act or to a collective agreement. 1972, c. 67, s. 1 (2, 3).
2.—(1) Where no employee organization has representation rights in respect of a unit of employees that the employee organization claims to be appropriate for collective bargaining, an employee organization may apply at any time to the Tribunal for representation rights as bargaining agent of the employees in such unit.

(2) Where a collective agreement is for a term of not more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

(3) Where a collective agreement is for a term of more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the thirty-day period immediately prior to the last ninety days,

(a) of the operation of the third year of the agreement;

(b) of each year that the agreement continues to operate after the third year; or

(c) of the termination of the agreement.

(4) Every application for representation rights shall be accompanied by the financial statement of the employee organization for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, and an affidavit both in the same form as required under subsections 47 (1) and (2).

(5) Every employee organization designated by the regulations shall be deemed to have been granted representation rights under this Act on the 29th day of December, 1972 in relation to such bargaining unit or units as are designated by the regulations. 1972, c. 67, s. 2, revised.

3.—(1) Upon an application for representation rights, the Tribunal shall, subject to subsection (2), determine the unit of employees that is appropriate for collective bargaining purposes under this Act.

(2) The bargaining units designated in the regulations are appropriate units for collective bargaining purposes under this Act. 1972, c. 67, s. 3.
4.—(1) Upon an application for representation rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Tribunal upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall grant representation rights to the employee organization as the bargaining agent of the employees in the bargaining unit. 1972, c. 67, s. 4.

5.—(1) Upon an application for representation rights, the employee organization may request that a pre-hearing representation vote be taken.

(2) Upon such a request being made, the Tribunal may, subject to subsection 3 (2), determine a voting constituency and, if it appears to the Tribunal on an examination of the records of the employee organization and the records of the employer that not less than 35 per cent of the employees in the voting constituency are members of the employee organization at the time the application was made, the Tribunal may direct that a representation vote be taken among the employees in the voting constituency.

(3) The Tribunal shall 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.

(4) After a representation vote has been taken under subsection (2), the Tribunal 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 the bargaining unit are members of the employee organization at the time the application was made, the representation vote taken under subsection (2) shall be deemed to be a representation vote taken under subsection 4 (2). 1974, c. 135, s. 2.

6. The Tribunal shall not grant representation rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Tribunal, participation by the employer or any person acting on behalf
of the employer of such a nature as to impair the employee organization's fitness to represent the interests of employees in the bargaining unit. 1972, c. 67, s. 5.

NEGOTIATION OF AGREEMENTS

7. Upon being granted representation rights, the employee organization is authorized to bargain with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 18 (1), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by employees including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, promotions, demotions, transfers, lay-offs or reappointments of employees, the procedures applicable to the processing of grievances, the classification and job evaluation system, and the conditions applicable to leaves of absence for other than any elective public office or political activities or training and development. 1974, c. 135, s. 3.

8.—(1) Upon being granted representation rights under section 4, the employee organization may give the employer written notice of its desire to bargain with the view to making a collective agreement.

(2) 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. 1972, c. 67, s. 7.

MEDIATION

9.—(1) Where notice has been given under section 8 or 22, following consultation with the parties, the Tribunal may, when advised in writing by either party that the parties are unable to reach agreement, prescribe such mediation procedure as the Tribunal decides will be most effective to realize a collective agreement.

(2) In the exercise of its power under subsection (1), the Tribunal may appoint such person or persons as it may determine to be appropriate in order to give effect to the procedure prescribed by the Tribunal. 1974, c. 135, s. 4, part.
10. If a collective agreement is not realized in accordance with
the procedure prescribed by the Tribunal within thirty days after
the appointment of the person or persons under subsection 9(2), or
such longer period as the Tribunal may direct or the parties may
agree upon, or if the Tribunal decides that the establishment
of such procedure will not be effective, all matters in dispute
coming within the scope of collective bargaining under this Act
shall be decided by a board of arbitration in accordance with this
Act. 1974, c. 135, s. 4, part, revised.

11.—(1) Upon written notification by the Tribunal, each of
the parties shall, within ten days of the notification, appoint to
a board of arbitration a member who has indicated his willing-
ness to act and shall each notify in writing the other party
and the Tribunal of the name and address of the member so
appointed.

(2) Where a party fails to appoint a member of a board
within the period of ten days mentioned in subsection (1),
the Tribunal shall appoint as a member such person as
the Tribunal considers suitable.

(3) The two members so appointed shall, within five
days after the appointment of the second of them, appoint
a third person to act as chairman of the board of arbitration
and shall notify the Tribunal of the name and address of
the chairman, and where no chairman is agreed upon within
such time, the members or either of them, shall notify the
Tribunal which shall appoint the chairman.

(4) No person shall be appointed a member of a board
who has any direct pecuniary interest in the matters coming
before it or who is acting or has, within a period of six
months immediately preceding the date of his appointment,
acted as solicitor, counsel or agent of either of the parties.

(5) Where a member appointed under subsection (1) or (2)
ceases to act by reason of resignation, death or otherwise
before the board has completed its work, the party whose
point of view the member represented shall, within ten days
of the member so ceasing to act, appoint a replacement and
notify in writing the other party and the Tribunal of the
name and address of the replacement, and where the party
fails to so appoint a replacement or to notify the Tribunal,
the Tribunal shall appoint as a replacement such person as
the Tribunal considers suitable and the board of arbitration
shall continue to function as if the replacement member were
a member of the board from the beginning.
(6) Where the chairman of a board is unable to enter on or to carry on his duties so as to enable the board to render a decision within a reasonable time after its establishment, the Tribunal shall appoint a person to act as chairman in his place and the arbitration shall begin anew.

(7) The chairman and the members of a board shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine. 1974, c. 135, s. 5.

(8) A board shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

(9) If the members of a board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

(10) The decision of a majority of the members of a board is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.

(11) A board has all the powers of the Tribunal,

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath or affirmation;

(b) to administer oaths and affirmations; and

(c) to accept or exclude any oral testimony, document or other thing.

(12) A board may,

(a) enter any premises of the employer 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 it or him, 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; and
(b) authorize any person to do anything that the board may do under clause a and to report thereon to the board. 1972, c. 67, s. 10 (9-13).

12.—(1) The board shall examine into and decide on matters that are in dispute within the scope of collective bargaining under this Act. 1972, c. 67, s. 11 (1).

(2) In the conduct of proceedings before it and in rendering a decision in respect of a matter in dispute, the board shall consider any factor that to it appears to be relevant to the matter in dispute including,

(a) the needs of the Crown and its agencies for qualified employees;

(b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the board may consider relevant;

(c) the desirability to maintain appropriate relationships in the conditions of employment as between classifications of employees; and

(d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered. 1972, c. 67, s. 11 (2); 1974, c. 135, s. 7.

(3) The board may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the board, amend, alter or vary the decision where it is shown to the satisfaction of the board that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

(4) The Arbitrations Act and the Statutory Powers Procedure Act do not apply to arbitrations under this Act. 1972, c. 67, s. 11 (3, 4).

13.—(1) Where, during the bargaining under this Act or during the proceedings before the board, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under this Act.
(2) Where, during the bargaining under this Act or during the proceedings before the board, the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision, except as otherwise agreed by the parties, shall be confined to the matters not agreed upon by the parties, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

(3) The board shall, in its decision, fix the time within which and the place where the parties shall execute the document.

(4) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under this Act, effective from the day designated in the order or, failing such designation, from the day upon which the order was made. 1972, c. 67, s. 12.

14. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation. 1972, c. 67, s. 13.

15. Every collective agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. 1972, c. 67, s. 14.

16.—(1) The parties to a collective agreement may provide for the payment by the employees of dues or contributions to the employee organization.

(2) Where the Tribunal is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Tribunal shall order that the provisions of the collective agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization
mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Tribunal.

(3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization. 1972, c. 67, s. 15.

17.—(1) If a collective agreement does not provide for its term of operation, or provides for its operation for an unspecified term, it shall be deemed to provide for a term of two years. 1972, c. 67, s. 16 (1).

(2) If the parties fail to agree on the term of a collective agreement, the board shall determine its term of operation. 1974, c. 135, s. 8.

(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 Tribunal on the joint application of the parties. 1972, c. 67, s. 16 (3).

18.—(1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine,

(a) employment, appointment, complement, organization, assignment, discipline, dismissal, suspension, work methods and procedures, kinds and locations of equipment and classification of positions; and

(b) merit system, training and development, appraisal and superannuation, the governing principles of which are subject to review by the employer with the bargaining agent,

and such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

(2) In addition to any other rights of grievance under a collective agreement, an employee claiming,

(a) that his position has been improperly classified;

(b) that he has been appraised contrary to the governing principles and standards; or

(c) that he has been disciplined or dismissed or suspended from his employment without just cause,
may process such matter in accordance with the grievance procedure provided in the collective agreement, and failing final determination under such procedure, the matter may be processed in accordance with the procedure for final determination applicable under section 19. 1974, c. 135, s. 9, part.

19.—(1) Every collective agreement shall be deemed to provide that in the event the parties are unable to effect a settlement of any differences between them arising from the interpretation, application, administration or alleged contravention of the agreement, including any question as to whether a matter is arbitrable, such matter may be referred for arbitration to the Grievance Settlement Board and the Board after giving full opportunity to the parties to present their evidence and to make their submissions, shall decide the matter and its decision is final and binding upon the parties and the employees covered by the agreement.

(2) The Grievance Settlement Board has the same powers as a board of arbitration under subsections 11 (11) and (12).

(3) Where the Grievance Settlement Board determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances. 1974, c. 135, s. 9, part.

(4) Where, in exercising its authority under subsection (3), the Grievance Settlement Board finds that an employee who works in a facility,

(a) has applied force to a resident in the facility, except the minimum force necessary for self-defence or the defence of another person or necessary to restrain the resident; or

(b) has sexually molested a resident in the facility,

the Grievance Settlement Board shall not provide for the employment of the employee in a position that involves direct responsibility for or that provides an opportunity for contact with residents in a facility, but the Board may provide for the employment of the employee in another substantially equivalent position.

(5) In subsection (4),

(a) "facility" means,

(i) a children's mental health centre under the Children's Mental Health Services Act, R.S.O. 1980, c. 69
(ii) a facility under the *Developmental Services Act*,

(iii) The Ontario School for the Deaf, The Ontario School for the Blind or a school for the deaf or a school for the blind continued or established under section 12 of the *Education Act*,

(iv) a psychiatric facility under the *Mental Health Act*,

(v) a correctional institution under the *Ministry of Correctional Services Act*,

(vi) an observation and detention home under the *Provincial Courts Act*, or

(vii) a training school under the *Training Schools Act*; and

(b) “resident” means a person who is an inmate, patient, pupil or resident in or is detained or cared for in a facility. 1978, c. 79, s. 1.

(6) Where a party or an employee has failed to comply with any of the terms of the decision of the Grievance Settlement Board, any party 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, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1974, c. 135, s. 9, part.

20.—(1) There shall be a Grievance Settlement Board composed of a chairman, one or more vice-chairmen and an equal number, that shall be determined by the Lieutenant Governor in Council, of members representing the employees that are represented by a bargaining agent and members representing the employer.

(2) The Lieutenant Governor in Council shall appoint, for a term of not more than two years and may reappoint for one or more subsequent terms of not more than two years each, the chairman and the vice-chairman or vice-chairmen after requesting and considering the views, if any, of each bargaining agent.
(3) The members who are representative of the employer shall be appointed by the Lieutenant Governor in Council and the members who are representative of the interests of employees shall be appointed by the Lieutenant Governor in Council after requesting and considering the views, if any, of each bargaining agent and such appointments shall be for a term of not more than two years and a member may be reappointed for one or more subsequent terms of not more than two years each.

(4) The Grievance Settlement Board may sit in two or more panels as decided and assigned by the chairman so long as a quorum is present in each panel.

(5) The chairman or a vice-chairman, one member representative of employee interest and one member representative of employer interest constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Grievance Settlement Board.

(6) The decision of a majority of the members present and constituting a quorum is the decision of the Grievance Settlement Board, and, if there is no majority, the decision of the chairman or vice-chairman governs.

(7) Where a member of the Grievance Settlement Board resigns, he may carry 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 Grievance Settlement Board.

(8) The Grievance Settlement 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 Grievance Settlement Board may, subject to the approval of the Lieutenant Governor in Council, make regulations governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

(9) The Lieutenant Governor in Council may appoint a registrar, such other officers and such staff and persons as are required for the purposes of the Grievance Settlement Board and they shall exercise such powers and perform such duties as are conferred upon them by the Grievance Settlement Board.

(10) The chairman, the vice-chairman or vice-chairmen and the members, the officers and staff of the Grievance
Settlement Board shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine.

(11) The Grievance Settlement Board shall have an official seal.

(12) The office of the Grievance Settlement Board shall be in the City of Toronto, but the Grievance Settlement Board may sit at such other places as it considers expedient. 1974, c. 135, s. 9, part.

**OPERATION OF AGREEMENTS**

21.—(1) A collective agreement is, subject to and for the purposes of this Act, binding upon the employer, upon the employee organization that is a party thereto and upon the employees in the bargaining unit covered by the agreement.

(2) Subsection (1) applies to every collective agreement covering a bargaining unit to which subsection 3 (2) applies which is in operation on the 29th day of December, 1972. 1972, c. 67, s. 19.

22.—(1) Either party to a collective agreement desiring to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or the making of a new agreement, may, only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement, give notice in writing thereof to the other party accompanied by a statement in writing of its proposed modifications, if any. 1972, c. 67, s. 20.

(2) 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 renew the collective agreement. 1974, c. 135, s. 11.

23.—(1) Where notice has been given by the employee organization under section 8, the conditions then in effect applicable to or binding upon the employer, the employee organization or the employees which are subject to collective bargaining within the meaning of this Act shall not be altered without the consent of the employer, the employee organization or the employees, as the case may be.

(2) Where notice has been given by either party to a collective agreement under section 22, except as altered by an agreement in writing of the parties, the terms and provisions of the agreement then in operation shall continue to operate
TERMINATION OF REPRESENTATION RIGHTS

24.—(1) If an employee organization does not enter into a collective agreement with the employer within one year after being granted representation rights or fails to give notice of its intention to bargain as provided under section 22 and no such notice has been given by the employer, the employer or any employee in the bargaining unit concerned may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit.

(2) Any employee in the bargaining unit covered by a collective agreement may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

(3) Upon the application under subsection (2), the Tribunal shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Tribunal shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Tribunal shall declare that the employee organization that was granted representation rights 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.

(5) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision of a board applying to the bargaining unit ceases to have effect. 1972, c. 67, s. 22.

25.—(1) Where the Tribunal is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Tribunal,
upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act on behalf of the employees, the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where lack of qualification or obtained by fraud

(2) Where the Tribunal,

(a) upon application thereto by the employer or any employee concerned, determines that an employee organization would not, if it were applying for representation rights in respect of a bargaining unit, be granted such rights by the Tribunal by reason of failure to qualify under clause 1 (1) (g); or

(b) is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud,

the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Effect of termination

(3) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision made by a board applying to the bargaining unit ceases to have effect. 1972, c. 67, s. 23.

PROHIBITIONS

26. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization except as the employer and a bargaining agent may otherwise agree. 1974, c. 135, s. 12.

27. The employer shall not cause a lock-out, and an employee shall not strike. 1972, c. 67, s. 25.

28. 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. 1972, c. 67, s. 26.

29.—(1) No person who is acting on behalf of the employer shall participate in or interfere with the selection, formation or administration of an employee organization or the rep-
representation of employees by such an organization, but nothing in this section shall be deemed to deprive the employer or any person acting on behalf of the employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence.

(2) The employer or any person acting on behalf of the employer shall not,

(a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

(b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;

(c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act;

(d) refuse to employ or continue to employ or discriminate against a person with regard to employment only because the person refused to make a contribution or expenditure to or on behalf of any political party or to or on behalf of a candidate for public office,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

(3) No person or employee 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 an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act. 1972, c. 67, s. 27.

30. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not. 1972, c. 67, s. 28.
31. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel, procure or support the declaration or authorization of a strike of employees or the participation of employees in a strike. 1972, c. 67, s. 29.

ENFORCEMENT

32.—(1) The Tribunal may appoint an investigator with authority to inquire into a complaint that,

(a) 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;

(b) a person has been suspended, expelled or penalized in any way contrary to section 36;

(c) an employee organization, employer or any person or persons has acted in any way contrary to section 30 or 37.

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

(3) The investigator shall report the results of his inquiry and endeavours to the Tribunal.

(4) Where an investigator is unable to effect a settlement of the matter or where the Tribunal in its discretion considers it advisable to dispense with an inquiry by an investigator, the Tribunal may inquire into the complaint and,

(a) if the Tribunal is satisfied that the person concerned 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 by the employer or by any person or employee organization it shall determine what, if anything, the employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss
of earnings and other employment benefits for which compensation may be assessed against the employer, person or employee organization, jointly or severally, and the employer, person or employee organization shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination;

(b) if the Tribunal is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 36 it shall so declare, and thereupon the suspension, expulsion or penalty is void; or

(c) if the Tribunal is satisfied that the employee organization, employer, person or employee concerned has acted contrary to section 30 or 37, it shall determine what, if anything, the employee organization, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, employer, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator 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 employee organization, employer, person or employee who agreed to the settlement and shall be complied with according to its terms, and a complaint that the employee organization, employer, person or employee who agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause (1) (a), (b) or (c), as the case may be. 1972, c. 67, s. 30.

33. Where it is alleged that an employee organization has declared or authorized a strike or that employees are engaging in a strike, the employer may apply to the Tribunal for a declaration that such action would be or is contrary to section 27, and the Tribunal, after affording an opportunity to the employer and the employee organization or to the employees, as the case may be, to be heard on the application, may make such a declaration. 1972, c. 67, s. 31.

34. Where it is alleged that the employer has declared or authorized a lock-out or is engaging in a lock-out, any of the employees directly affected thereby or the employee
organization concerned may apply to the Tribunal for a declaration that such action was or is contrary to section 27, and the Tribunal after affording an opportunity to the employer and the employees or employee organization, as the case may be, to be heard on the application, may make such a declaration. 1972, c. 67, s. 32.

35. 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 take any action contrary to section 27. 1972, c. 67, s. 33.

36. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 27. 1972, c. 67, s. 34.

37.—(1) The employer or any person acting on behalf of the employer shall not,

(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.

(2) No employee organization or person acting on behalf of an employee organization 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 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. 1972, c. 67, s. 35.
38.—(1) There is hereby established a tribunal to be known as the Ontario Public Service Labour Relations Tribunal.

(2) The Tribunal shall be composed of a chairman, one or more vice-chairmen and an equal number, that shall be determined by the Lieutenant Governor in Council, of members representing employees and members representing the employer.

(3) The Lieutenant Governor in Council shall appoint, for a term of not more than two years and may reappoint for one or more subsequent terms of not more than two years each, the chairman and the vice-chairman or vice-chairmen after requesting and considering the views, if any, of each bargaining agent.

(4) The members of the Tribunal who are representative of the employer shall be appointed by the Lieutenant Governor in Council and the members who are representative of the interests of employees shall be appointed by the Lieutenant Governor in Council after requesting and considering the views, if any, of each bargaining agent and such appointments shall be for a term of not more than two years and a member may be reappointed for one or more subsequent terms of not more than two years each.

(5) The Lieutenant Governor in Council shall designate one of the vice-chairmen as the alternate chairman.

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

(7) Vacancies in the membership of the Tribunal from any cause may be filled by the Lieutenant Governor in Council after requesting and considering the views, if any, of representatives of each bargaining agent.

(8) Where the chairman, a vice-chairman or a member of the Tribunal resigns, he may carry out and complete any duties or responsibilities and exercise any powers that he would have had if he had not resigned in connection with any matter in respect of which there was any proceeding in which he participated as the chairman, a vice-chairman or a member of the Tribunal.
(9) The chairman, each vice-chairman and each member of the Tribunal shall, before entering upon his duties, take and subscribe before the Clerk of the Executive Council and file in the office of the Clerk 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 Public Service Labour Relations Tribunal 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 Tribunal. So help me God.

(10) The chairman or a vice-chairman, one member representative of the employer and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Tribunal.

(11) The Tribunal may sit in two or more divisions as decided and assigned by the chairman so long as a quorum is present in each division.

(12) A decision of the majority of the members of the Tribunal present and constituting a quorum is the decision of the Tribunal, but, if there is no majority, the decision of the chairman or vice-chairman presiding governs.

(13) The Tribunal 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 Tribunal 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.

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

(15) The chairman, vice-chairman or vice-chairmen and the members, officers and staff of the Tribunal shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine.

(16) The Tribunal shall have an official seal.

(17) The office of the Tribunal shall be in the City of Toronto, but the Tribunal may sit at such other places as it considers expedient. 1974, c. 135, s. 13.
39. The Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact or law that arise in any matter before it, and, except as otherwise provided in this Act, the action or decision of the Tribunal thereon is final and binding for all purposes, but nevertheless the Tribunal 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. 1972, c. 67, s. 37.

40.—(1) 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, the question may be referred to the Tribunal and its decision thereon is final and binding for all purposes. 1972, c. 67, s. 38.

(2) If, in the course of bargaining for a collective agreement or during proceedings before a board of arbitration, a question arises as to whether a matter comes within the scope of collective bargaining under this Act, either party or the board of arbitration may refer the question to the Tribunal and its decision thereon is final and binding for all purposes. 1974, c. 135, s. 15.

41.—(1) The Tribunal shall exercise such powers and perform such duties as are conferred upon it by this Act, including power,

(a) to enter any premises of the employer 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;

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

(c) to authorize any persons to do anything that the Tribunal may do under clauses (a) and (b) and to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Tribunal, or any part of any of them, and to report to the Tribunal thereon;
(d) 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 employee organization representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;

(e) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Tribunal on an application for representation rights or for a declaration terminating representation 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; and

(f) to administer oaths and affirmations. 1972, c. 67, s. 39 (1); 1974, c. 135, s. 16.

(2) Notwithstanding sections 2 and 24, where an application has been made for representation rights of an employee organization as bargaining agent for employees in a bargaining unit or for a declaration that the employee organization no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Tribunal at the time a subsequent application for such representation rights or for such a declaration is made with respect to any of the employees affected by the original application, the Tribunal 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 Tribunal on the original application; or

(c) refuse to entertain the subsequent application.

(3) Where the Tribunal is satisfied that an employee organization has an established practice of admitting persons to
membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Tribunal in determining whether a person is a member of an employee organization, need not have regard for such eligibility requirements provided that any person so admitted to membership is accorded full membership status for all purposes by the employee organization.

(4) Where, in the taking of a representation vote, the Tribunal determines that the employees are to be given a choice between two or more employee organizations,

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

(b) the Tribunal, 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. 1972, c. 67, s. 39 (2-4).

42.—(1) The Tribunal may of its own motion and shall upon the request of any party state a case in writing to the Divisional Court upon any question of law.

(2) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised.

(3) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the Tribunal with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. 1972, c. 67, s. 40.

43.—(1) The Tribunal shall determine its own practice and procedure but shall afford to the parties to any proceedings an opportunity for a hearing to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules, not inconsistent with the provisions of this Act, governing its practice and procedure and the exercise of its powers.

(2) The Statutory Powers Procedure Act applies to the proceedings of the Tribunal. 1972, c. 67, s. 41.
OFFENCES

44.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than $500 for each day upon which such contravention occurs or continues.

(2) Every employee organization that contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than $5,000 for every day upon which such contravention occurs or continues.

(3) If an employee organization is guilty of an offence under this Act, every officer or representative thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection (1) as if he had been convicted of an offence under subsection (1).

(4) An information in respect of a contravention of any provision 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.

(5) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Tribunal, which may only be granted after affording an opportunity to the parties or to the employees, as the case may be, to be heard. 1972, c. 67, s. 42.

45. A prosecution for an offence may be brought against an employee organization in the name of that organization, and, for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the apparent scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization. 1972, c. 67, s. 43.

GENERAL

46.—(1) If the autonomy of an employee organization is suspended under the constitution and by-laws of its parent body, written notice thereof shall be given the Tribunal by the parent body within thirty days of the commencement of such suspension together with 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 Tribunal, file such additional information as the Tribunal from time to time may require.

(2) Any such supervision or control shall not continue for more than twelve months from the date of such suspension but such supervision or control may be continued for such further period as the Tribunal may prescribe. 1972, c. 67, s. 44.

47.—(1) Every employee organization having representation rights under this Act shall, within three months after the coming into force of this Act and thereafter within three months after the end of each calendar year, file a statement with the Tribunal, certified as to the truth and accuracy thereof by the president and the treasurer, containing the following particulars:

(a) the name of the organization;

(b) the address of the headquarters of the organization in Ontario to which communications for the purposes of this Act may be directed;

(c) the constitution and by-laws of the organization;

(d) the name and address of each officer of the organization and the position held by each such officer;

(e) the name and address of each officer and employee of the organization resident in Canada, other than a person performing primarily clerical or stenographic duties, the position held by each such officer and employee and the manner in which he was elected or appointed;

(f) a financial statement for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, consisting of,

(i) a balance sheet showing the assets and liabilities of the organization made up for such fiscal year, and

(ii) a statement of income and expenditure for such fiscal year, in such form and containing such particulars and other information relating to the financial position of the organization as may be prescribed by the regulations.
(2) Every financial statement shall be certified by a person licensed under the Public Accountancy Act and shall be accompanied by an affidavit completed by the president and treasurer of the employee organization affirming that throughout the fiscal period reported upon the employee organization was at all times qualified as an employee organization under this Act.

(3) An employee organization having representation rights under this Act shall publish for its members its financial statement in the same form and within the same periods prescribed under subsections (1) and (2).

(4) Each party to a collective agreement shall, forthwith after it is made, file one copy thereof with the Tribunal. 1972, c. 67, s. 45.

48. Any action or proceeding to restrain a contravention or otherwise enforce the provisions of this Act may be commenced in the Supreme Court after notice has been given to the employees affected by posting or publication in such manner as the Tribunal may direct, and, in the case of an employee organization, by service thereupon at the address shown in the statement required pursuant to subsection 47 (1). 1972, c. 67, s. 46.

49. No chairman, vice-chairman or member of the Tribunal or of a board or of the Grievance Settlement Board and no person appointed thereby shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act. 1974, c. 135, s. 17.

50.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication, except in relation to a final decision or order of the Tribunal, 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.

(2) An application for representation rights or for a declaration that an employee organization no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Tribunal at Toronto, shall be deemed to have been made on the date on which it was so mailed.

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the board, a notice from the Tribunal that it does not deem it advisable to appoint a mediator or a decision of a board,
(a) if sent by mail to the person, employer or employee organization 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, the employer or employee organization 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. 1972, c. 67, s. 48.

51.—(1) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Tribunal is for the exclusive use of the Tribunal and its officers and shall not, except with the consent of the Tribunal, be disclosed, and no person shall, except with the consent of the Tribunal, be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

(2) No information or material furnished to or received by a mediator under this Act shall be disclosed, except to the Tribunal, unless otherwise authorized by the party providing the information or material.

(3) No report of a mediator shall be disclosed except to the Tribunal.

(4) A mediator appointed under this Act 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. 1972, c. 67, s. 49 (1-4).

(5) The chairman, vice-chairman or vice-chairmen or any member of the Tribunal or of a board or of the Grievance Settlement 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. 1974, c. 135, s. 18.

52. Where, upon an application by a bargaining agent for recognition of a change in the name of the bargaining agent, the Tribunal is satisfied that the change has been made in conformity with the charter or constitution of the employee organization, the Tribunal shall make an affirmative declaration and the bargaining agent shall be conclusively presumed to have retained all rights, privileges, duties and obligations whether under a collective agreement or otherwise, and the employer and the employees concerned shall recognize such status in all respects. 1974, c. 135, s. 19, part.

58.—(1) Where an employee organization claims that by reason of a merger or a transfer of jurisdiction it is the successor of a bargaining agent, the employee organization may, notwithstanding the provisions of subsections 2 (2) and (3) and subsection 21 (1), make application to the Tribunal for recognition as the successor bargaining agent and for the Tribunal to conduct a vote of employees to determine if they are in favour of the employee organization being granted representation rights as the successor bargaining agent for the bargaining unit concerned.

(2) The Tribunal may make such inquiry, including requiring the production of such evidence and the doing of such things, as it may consider appropriate.

(3) Following its inquiry under subsection (2), the Tribunal may dismiss the application or direct that a vote be taken of the employees in the bargaining unit to determine whether they favour the employee organization being granted representation rights as the successor bargaining agent.

(4) Where, on the taking of a vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall declare that the employee organization has acquired representation rights as successor bargaining agent of the employees in the bargaining unit.

(5) Where the Tribunal makes an affirmative declaration under subsection (4), the successor bargaining agent shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges, duties and obligations of its predecessor whether under a collective agreement or otherwise, and the employer, the successor bargaining agent and the employees concerned shall recognize such status in all respects. 1974, c. 135, s. 19, part.
54.—(1) Where two or more existing bargaining units are merged either partially or completely, or where employees represented by a bargaining agent are transferred into a bargaining unit represented by another bargaining agent or into a unit of employees for which there is no bargaining agent, the Tribunal, on the application to it by a bargaining agent affected, may make such inquiry, including requiring the production of such evidence and the doing of such things as it may consider appropriate.

(2) Where, following the inquiry under subsection (1), the Tribunal determines that the merged or enlarged unit of employees is appropriate for collective bargaining purposes and is satisfied that more than 50 per cent of the employees in the merged or enlarged unit of employees are members of a bargaining agent and that application has not been made by another bargaining agent affected and representing 35 per cent or more of the employees, as members, in the merged or enlarged unit of employees, it shall determine that the bargaining agent has acquired or retained, as the case may be, representation rights as the bargaining agent of the employees in the bargaining unit concerned.

(3) Where, following the inquiry under subsection (1), the Tribunal determines that the merged or enlarged unit of employees is appropriate for collective bargaining purposes and is satisfied that a bargaining agent represents not less than 35 per cent and not more than 50 per cent, of the employees in the merged or enlarged unit of employees as members, it shall direct that a representation vote be taken.

(4) Where an employee organization is declared to be the bargaining agent under subsection (3) and it is not already bound by a collective agreement with the 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 desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 8.

(5) Where the employee organization is declared to retain representation rights by the Tribunal it shall continue to be bound by the collective agreement with the employer with respect to the employees for whom it is declared to be the bargaining agent.

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

(7) A declaration made by the Tribunal under subsection (2) has the same effect as the granting of representation rights under subsection 4 (2), except as provided in subsection (5) of this section. 1974, c. 135, s. 19, part.

55. 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. 1972, c. 67, s. 50.

56. The Lieutenant Governor in Council may make regulations,

(a) designating the body to represent any agency of the Crown for the purpose of subsection 1 (2);

(b) prescribing the form and content of a statement of income and expenditure of an employee organization;

(c) designating,

(i) units of employees that are appropriate bargaining units for collective bargaining purposes under this Act, and

(ii) designating the employee organization that shall have representation rights in relation to each of such bargaining units,

upon the day this Act comes into force, being the 29th day of December, 1972;

(d) prescribing forms and providing for their use. 1972, c. 67, s. 51; 1974, c. 135, s. 20.

57. The moneys required by the Crown for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1972, c. 67, s. 52, revised.