1960

c 202 Labour Relations Act

Ontario
CHAPTER 202

The Labour Relations Act

1.—(1) In this Act,

(a) “bargaining unit” means a unit of employees appropriate for collective bargaining, whether it is an employer unit or a plant unit or a subdivision of either of them;

(b) “Board” means the 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 that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees;

(d) “conciliation services” means the services of a conciliation officer and, if necessary, a conciliation board;

(e) “council of trade unions” includes an allied council, a trades council, a joint board and any other association of trade unions;

(f) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(g) “lock-out” includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view to compel or induce his employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers’ organization, the trade union, or the employees;
(h) "Minister" means the Minister of Labour;

(i) "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;

(j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union. R.S.O. 1950, c. 194, s. 1 (1); 1954, c. 42, s. 1; 1957, c. 57, s. 1 (1, 2).

(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. R.S.O. 1950, c. 194, s. 1 (2).

(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, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. R.S.O. 1950, c. 194, s. 1 (3); 1957, c. 57, s. 1 (3).

APPLICATION OF ACT

2. This Act does not apply,

(a) to a domestic employed in a private home;

(b) to a person employed in agriculture, hunting or trapping;

(c) to a person, other than an employee of a municipality or a person employed in silviculture, who is employed in horticulture by an employer whose primary business is agriculture or horticulture;

(d) to a member of a police force within the meaning of The Police Act;
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(e) to a full-time fire fighter within the meaning of The Fire Departments Act; or

(f) to a teacher as defined in The Teaching Profession Act.  R.S.O. 1950, c. 194, s. 2; 1960, c. 54, s. 1.

FREEDOMS

3. Every person is free to join a trade union of his own choice and to participate in its lawful activities.  R.S.O. 1950, c. 194, s. 3.

4. Every person is free to join an employers’ organization of his own choice and to participate in its lawful activities.  R.S.O. 1950, c. 194, s. 4.

ESTABLISHMENT OF BARGAINING RIGHTS BY CERTIFICATION

5.—(1) Where no trade union has been certified as bargaining agent of the employees of an employer in a unit that a trade union claims to be appropriate for collective bargaining and the employees in the unit are not bound by a collective agreement, a trade union may, subject to section 46, apply at any time to the Board for certification as bargaining agent of the employees in the unit.

(2) Where a collective agreement is for a term of not more than two years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the last two months of its operation.

(3) Where a collective agreement is for a term of more than two years, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agreement only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be.

(4) Where a collective agreement referred to in subsection 2 or 3 provides that it will continue to operate for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, a trade union may apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit defined in the agree-
ment during the further term or successive terms only during the last two months of each year that it so continues to operate, or after the commencement of the last two months of its operation, as the case may be. 1960, c. 54, s. 2.

6.—(1) Upon an application for certification, the Board shall determine the unit of employees that is appropriate for collective bargaining, but in every case the unit shall consist of more than one employee and the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit. R.S.O. 1950, c. 194, s. 6 (1); 1954, c. 42, s. 2 (1).

Craft 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, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made. R.S.O. 1950, c. 194, s. 6 (2); 1954, c. 42, s. 2 (2); 1960, c. 54, s. 3.

7.—(1) Upon an application for certification, the Board shall ascertain the number of employees in the bargaining unit at the time the application was made and the number of employees in the unit who were members of the trade union at such time as is determined under clause j of subsection 2 of section 77. 1960, c. 54, s. 4 (1).

Representation vote

(2) If the Board is satisfied that not less than 45 per cent and not more than 55 per cent of the employees in the bargaining unit are members of the trade union, the Board shall, and if the Board is satisfied that more than 55 per cent of such employees are members of the trade union, the Board may direct that a representation vote be taken. R.S.O. 1950, c. 194, s. 7 (2); 1960, c. 54, s. 4 (2).

Certification after 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.

(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. R.S.O. 1950, c. 194, s. 7 (3, 4).

(5) If 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. R.S.O. 1950, c. 194, s. 7 (5), revised.

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

(2) Upon such a request being made, the Board may determine a voting constituency and, if it appears to the Board on an examination of the records of the trade union and the records of the employer that not less than 45 per cent of the employees in the voting constituency were members of the trade union at the time the application was made, the Board may direct that a representation vote be taken among the employees in the voting constituency.

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

(4) After a representation vote has been taken under subsection 2, the Board shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 45 per cent of the employees in such bargaining unit were members of the trade union at the time the application was made, the representation vote taken under subsection 2 has the same effect as a representation vote taken under subsection 2 of section 7. 1960, c. 54, s. 5.

9. The Board shall not include in a bargaining unit with other employees a 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 and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person employed as a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards. R.S.O. 1950, c. 194, s. 8; 1954, c. 42, s. 3.
10. The Board shall not certify a trade union if any employer or any employers' organization has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1950, c. 194, s. 9; 1960, c. 54, s. 6.

NEGOTIATION OF COLLECTIVE AGREEMENTS

11. Following certification, the trade union shall give the employer written notice of its desire to bargain with a view to making a collective agreement. R.S.O. 1950, c. 194, s. 10.

12. The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. R.S.O. 1950, c. 194, s. 11; 1954, c. 42, s. 4.

13.—(1) Either party may file with the Board a request that conciliation services be made available to the parties.

(2) Where thirty-five or more days have elapsed from the giving of the notice under section 11 or 40 or upon the joint request of the parties or where the Board is satisfied that no progress in bargaining is being made, the Board shall grant the request, but before doing so it may postpone the granting of the request from time to time to a specified date and direct the parties to continue to bargain in the meantime.

(3) Where the parties have met and bargained, the Board may grant the request for conciliation services notwithstanding the failure of the trade union to give written notice under section 11 or the failure of either party to give written notice under section 40.

(4) The Board may deny the request where during bargaining the trade union has not been represented by a bargaining committee.

(5) A bargaining committee,

(a) shall consist of employees of the employer who are in the bargaining unit; or

(b) in the case of bargaining between a trade union and an employers' organization, shall consist of employees of one or more members of such organization who are in the bargaining unit; or

(c) in the case of bargaining between a trade union and a group of employers bargaining jointly or through
representatives of such employers, shall consist of employees of one or more of the employers in such group who are in the bargaining unit; or

\[(d)\] in the case of bargaining between a council of trade unions and an employer, an employers' organization or a group of employers bargaining jointly, shall consist of employees of the employer or of one or more members of such organization or of one or more of the employers in such group, as the case may be, who are in the bargaining unit,

and in any case a bargaining committee may include one or more officers or other representatives of the trade union.

\[(6)\] Notwithstanding subsection 5, where a bargaining unit consists of not more than fifteen employees, the bargaining committee may consist of one of such employees. 1960, c. 54, s. 7.

14. Where the Board grants a request for conciliation services, the Minister shall forthwith appoint a conciliation officer or, upon the joint request of the parties in writing, he may appoint a mediator selected by them jointly. R.S.O. 1950, c. 194, s. 14 (1); 1960, c. 54, s. 8 (1).

15.—(1) Where a conciliation officer is appointed, he shall confer with the parties and endeavour to effect a collective agreement and he shall, within fourteen days from his appointment, report the result of his endeavour to the Minister. R.S.O. 1950, c. 194, s. 14 (2); 1960, c. 54, s. 8 (2).

(2) The period mentioned in subsection 1 may be extended by agreement of the parties or by the Minister upon the advice of the conciliation officer that a collective agreement may be made within a reasonable time if the period is extended. R.S.O. 1950, c. 194, s. 14 (3).

16. If the conciliation officer is unable to effect a collective agreement within the time allowed under section 15,

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

(b) the Minister shall forthwith by notice in writing
inform each of the parties that he does not deem it
advisable to appoint a conciliation board. 1954,
c. 42, s. 7.

17. No person shall act as a member of a conciliation
board who has any pecuniary interest in the matters coming
before it or who is acting, or has, within a period of six months
preceding the date of his appointment, acted as solicitor,
counsel or agent of either of the parties. R.S.O. 1950, c. 194,
s. 16.

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

(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 other-
wise, to question the establishment of the conciliation board or
the appointment of any of its members, or to review, prohibit
or restrain any of its proceedings. R.S.O. 1950, c. 194, s. 17.

19.—(1) If a person ceases to be a member of a conciliation
board by reason of his resignation or death before it has
completed its work, the Minister shall appoint a member in
his place after consulting the party whose point of view was
represented by such person. R.S.O. 1950, c. 194, s. 18.

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

(3) If the chairman of a conciliation board is unable to
enter on his duties so as to enable it to report to the Minister
within a reasonable time after its appointment, he shall advise
the Minister of his inability and the Minister may appoint a
person to act as chairman in his place. 1960, c. 54, s. 9.
20. As soon as a conciliation board has been established, the Minister shall deliver to its chairman a statement of the matters referred to it and the Minister may, either before or after its report is made, amend or add to the statement. R.S.O. 1950, c. 194, s. 19.

21. 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 17 of The Labour Relations Act, from acting as a member of a conciliation board and that I will faithfully, truly and impartially, to the best of my knowledge, skill and ability, execute and perform the office of member (or chairman) of the conciliation board established to... and that I will not, except as I am legally authorized, disclose to any person any of the evidence or other matter brought before the board. So help me God.


22. As soon as a conciliation board is established, it shall endeavour to effect agreement between the parties on the matters referred to it. R.S.O. 1950, c. 194, s. 21.

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

(2) A conciliation board shall give full opportunity to the parties to present their evidence and make their submissions.

R.S.O. 1950, c. 194, s. 22.

24. The chairman of a conciliation board shall, after consultation with the other members of the board, fix the time and place of its sittings, and he shall notify the parties and the other members of the board of the time and place so fixed. R.S.O. 1950, c. 194, s. 23.

25. The chairman of a conciliation board shall in writing, immediately upon the conclusion of its first sitting, inform the Minister of the date on which the sitting was held. 1960, c. 54, s. 10.

26. The chairman and one other member of a conciliation board constitutes a quorum, but, in the absence of a member, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting. R.S.O. 1950, c. 194, s. 24.

27. If the members of a conciliation board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs. R.S.O. 1950, c. 194, s. 25.
28. A conciliation board has power,

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the board 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 deems proper, whether admissible in a court of law or not;

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

(e) to authorize any person to do anything that the board may do under clause d and to report to the board thereon. R.S.O. 1950, c. 194, s. 26.

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

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

(a) by agreement of the parties for such further period, not exceeding ninety days except with the consent of the Minister, as they deem desirable; or

(b) by the Minister at the request of the chairman of the conciliation board for such further period, not exceeding thirty days, as the chairman deems desirable.

(3) The report of the majority constitutes the report of the conciliation board, but, where there is no majority agreement or where the board is unable to report within the time allowed under subsection 1 or 2, the chairman shall notify the Minister in writing that there has been no agreement or that the board is unable to report, as the case may be, and in either of such cases the notification constitutes the report of the board. 1960, c. 54, s. 11 (1).

(4) After a conciliation board has made its report, the Minister may direct it to clarify or amplify any part of its
report, and the report shall not be deemed to have been received by the Minister until it has been so clarified or amplified. R.S.O. 1950, c. 194, s. 27 (3).

(5) On receipt of the report of the conciliation board or the mediator, the Minister shall forthwith release a copy thereof to each of the parties. 1960, c. 54, s. 11 (2).

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

(2) A mediator has all the powers of a conciliation board under section 28.

(3) Sections 25 and 29 apply mutatis mutandis to a mediator.

(4) The report of a mediator has the same effect as the report of a conciliation board.

(5) The remuneration and expenses of a mediator shall be borne equally by the parties. 1960, c. 54, s. 12.

31. Failure of a conciliation officer to report to the Minister within the time provided in this Act does not invalidate the proceedings of the conciliation officer. R.S.O. 1950, c. 194, s. 29; 1960, c. 54, s. 13.

CONTENTS OF COLLECTIVE AGREEMENTS

32.—(1) Every collective agreement 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 a collective agreement 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. R.S.O. 1950, c. 194, s. 30, amended.

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

(2) If a collective agreement 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. R.S.O. 1950, c. 194, s. 31, amended.

34.—(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.

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

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

(3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection 2 is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection 1, but, until so modified, the arbitration provision in the collective agreement or in subsection 2, as the case may be, applies. R.S.O. 1950, c. 194, s. 32 (1-3).

(4) Notwithstanding subsection 3, if there is failure to appoint an arbitrator or to constitute a board of arbitration under a collective agreement, the Minister, upon the request of either party, may appoint the arbitrator or make such appointments as are necessary to constitute the board of arbitration, as the case may be, and any person so appointed by the Minister shall be deemed to have been appointed in accordance with the collective agreement. 1954, c. 42, s. 8 (1).

(5) Where a request is made under subsection 4 and the question arises 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 is made, the Minister may refer the question to the Board, and thereupon the question shall be deemed to be a question arising in a proceeding under subsection 1 of section 79. 1958, c. 47, s. 1.
(6) Where a difference has been submitted to arbitration under this section and a party to the arbitration complains to the Minister that the arbitrator or the arbitration board, as the case may be, has failed to render a decision within a reasonable time, the Minister may, after consulting the parties and the arbitrator or the arbitration board, issue whatever order he deems necessary in the circumstances to ensure that a decision will be rendered in the matter without further undue delay.

(7) An arbitrator or the chairman of an arbitration board, as the case may be, has power,

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

(b) to administer oaths,

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

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

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

(e) to authorize any person to do anything that the arbitrator or arbitration board may do under clause d and to report to the arbitrator or the arbitration board thereon. 1960, c. 54, s. 14, part.

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

(a) upon the parties; and

(b) in the case of a collective agreement between a trade union and an employers' organization, upon the employers covered by the agreement who are affected by the decision; and

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

(d) upon the employees covered by the agreement who
are affected by the decision,

and such parties, employers, trade unions and employees shall
do or abstain from doing anything required of them by the
decision. 1954, c. 42, s. 8 (2).

(9) Where a party, employer, trade union or employee has
failed to comply with any of the terms of the decision of an
arbitrator or arbitration board, any party, employer, trade
union or employee affected by the decision may, after the ex­
piration 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 Su­
preme Court a copy of the decision, exclusive of the reasons
therefor, in the prescribed form, whereupon the decision shall
be entered in the same way as a judgment or order of that
court and is enforceable as such. 1960, c. 54, s. 14, part.

(10) The Arbitrations Act does not apply under collective agreements. R.S.O. 1950, c. 194, s. 32 (5).

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

(a) for requiring, as a condition of employment, member­
ship in the trade union that is a party to or is bound
by the agreement or granting a preference of em­
ployment to members of the trade union, or requiring
the payment of dues or contributions to the trade
union;

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

(c) for permitting the trade union that is a party to or
is bound by the agreement to use the employer's
premises for the purposes of the trade union without
payment therefor. R.S.O. 1950, c. 194, s. 33 (1);
1954, c. 42, s. 9; 1960, c. 54, s. 15 (1).
(2) No employer shall discharge an employee,

(a) who has been expelled or suspended from membership in the trade union mentioned in clause a of subsection 1; or

(b) to or from whom membership in the trade union mentioned in clause a of subsection 1 has been denied or withheld,

because he was or is a member in another trade union or has engaged in activity against the trade union mentioned in clause a of subsection 1 or on behalf of another trade union.

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

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

(a) where the trade union has been certified as the bargaining agent of the employees of the employer in the bargaining unit; or

(b) where the trade union has been a party to or bound by a collective agreement with the employer for at least one year; or

(c) where the employer becomes a member of an employers' organization that has entered into a collective agreement with the trade union or council of trade unions containing such a provision and agrees with the trade union or council of trade unions to be bound by such agreement; or

(d) where the employer and his employees in the bargaining unit are engaged in the construction, alteration, decoration, repair or demolition of a building, structure, road, sewer, water or gas main, pipe line, tunnel, bridge, canal, or other work at the site thereof. 1960, c. 54, s. 15 (2).
Certain agreements not to be treated as collective agreements

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

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

(b) if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. R.S.O. 1950, c. 194, s. 34; 1960, c. 54, s. 16.

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

37. A collective agreement is, subject to and for the purposes of this Act, binding upon the employer and upon the trade union that is a party to the agreement whether or not the trade union is certified and upon the employees in the bargaining unit defined in the agreement. R.S.O. 1950, c. 194, s. 35, amended.

38.—(1) A collective agreement between an employers' organization and a trade union is, subject to and for the purposes of this Act, binding upon each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union 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.

(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, except an employer who, either by himself or through the employers' organization, has notified the trade union in writing before the agreement was entered into that he will not be bound by a collective agreement between the employers' organization and the trade union.

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

(4) Where a council of trade unions commences to bargain with an employer or an employers' organization, it shall deliver to the employer or employers' organization a list of the names of the trade unions on whose behalf it is bargaining and, in default of so doing, it shall be deemed to bargain for all members or affiliates of the council of trade unions for whose employees the respective trade unions are entitled to bargain and to make a collective agreement at that time with the employer or the employers' organization, except a trade union that, either by itself or through the council of trade unions, has notified the employer or employers' organization in writing before the agreement is entered into that it will not be bound by a collective agreement between the council of trade unions and the employer or employers' organization. 1954, c. 42, s. 10.

39.—(1) If a collective agreement does not provide for its term of operation or provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate. R.S.O. 1950, c. 194, s. 37 (1), amended.

(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 a period of less than one year while they are bargaining for its renewal, with or without modifications or for a new agreement, but such continued operation does not bar an application for certification or for a declaration that the trade union no longer represents the employees in the bargaining unit.

(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. R.S.O. 1950, c. 194, s. 37 (2, 3).

(4) Notwithstanding anything in this section, where an employer joins an employers' organization that is a party to a collective agreement with a trade union or council of trade
unions and he agrees with the trade union or council of trade unions to be bound by the collective agreement between the trade union or council of trade unions and the employers' organization, the agreement ceases to be binding upon the employer and the trade union or council of trade unions at the same time as the agreement between the employers' organization and the trade union or council of trade unions ceases to be binding. 1960, c. 54, s. 17.

(5) Nothing in this section prevents the revision by mutual consent of the parties at any time of any provision of a collective agreement other than a provision relating to its term of operation. R.S.O. 1950, c. 194, s. 37 (4).

40.—(1) Either party to a collective agreement 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. R.S.O. 1950, c. 194, s. 38 (1), amended.

(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. R.S.O. 1950, c. 194, s. 38 (2).

(3) Where notice is given by or to an employers' organization that has a collective agreement with a trade union or council of trade unions, it shall be deemed to be a notice given by or to each member of the employers' organization who is bound by the agreement or who has ceased to be a member of the employers' organization but has not notified the trade union or council of trade unions in writing that he has ceased to be a member. R.S.O. 1950, c. 194, s. 38 (3); 1954, c. 42, s. 11 (1); 1960, c. 54, s. 18 (1).

(4) Where notice is given by or to a council of trade unions that has a collective agreement with an employer or employers' organization, it shall be deemed to be a notice given by or to each member or affiliate of the council of trade unions that is bound by the agreement or that has ceased to be a member or affiliate of the council of trade unions but has not notified the employer or employers' organization in writing that it has ceased to be a member or affiliate. 1954, c. 42, s. 11 (2); 1960, c. 54, s. 18 (2).

41. Sections 12 to 31 apply to the bargaining that follows the giving of a notice under section 40. R.S.O. 1950, c. 194, s. 39.
TERMINATION OF BARGAINING RIGHTS

42. If the trade union that applies for certification under subsection 2, 3 or 4 of section 5 is certified as bargaining agent for any of the employees in the bargaining unit defined in the collective agreement, the trade union that was or is a party to the agreement, as the case may be, forthwith ceases to represent the employees in the bargaining unit determined in the certificate and the agreement ceases to operate in so far as it affects such employees. R.S.O. 1950, c. 194, s. 40 (4); 1960, c. 54, s. 19.

43.—(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. R.S.O. 1950, c. 194, s. 41 (1).

(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,

(a) in the case of a collective agreement for a term of not more than two years, only after the commencement of the last two months of its operation;

(b) in the case of a collective agreement for a term of more than two years, only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation and during the two-month period immediately preceding the end of each year that the agreement continues to operate thereafter or after the commencement of the last two months of its operation, as the case may be;

(c) in the case of a collective agreement referred to in clause a or b that provides that it will continue to operate for any further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or to the making of a new agreement, only during the last two months of each year that it so continues to operate or after the commencement of the last two months of its operation, as the case may be. 1958, c. 47, s. 3.

(3) Upon an application under subsection 1 or 2, the Board shall ascertain the number of employees in the bargaining unit.
at the time the application was made and whether not less than 50 per cent of the employees in the bargaining unit have voluntarily signified in writing at such time as is determined under clause j of subsection 2 of section 77 that they no longer wish to be represented by the trade union, and, if not less than 50 per cent have so signified, the Board shall, by a representation vote, satisfy itself that a majority of the employees desire that the right of the trade union to bargain on their behalf be terminated. 1960, c. 54, s. 20 (1).

(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. R.S.O. 1950, c. 194, s. 41 (4); 1960, c. 54, s. 20 (2).

(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. R.S.O. 1950, c. 194, s. 41 (5).

(6) Upon an application under subsection 1 or 2, where the trade union concerned informs the Board that it does not desire to continue to represent the employees in the bargaining unit, the Board may declare that the trade union no longer represents the employees in the bargaining unit. 1960, c. 54, s. 20 (3).

(7) Upon the Board making a declaration under subsection 4 or 6, any collective agreement in operation between the trade union and the employer that is binding upon the employees in the bargaining unit ceases to operate forthwith. R.S.O. 1950, c. 194, s. 41 (6); 1960, c. 54, s. 20 (4).

If a trade union has obtained a certificate by fraud, the Board may at any time declare that the trade union no longer represents the employees in the bargaining unit and, upon the making of such a declaration, the trade union is not entitled to claim any rights or privileges flowing from certification and, if it has made a collective agreement binding upon the employees in the bargaining unit, the collective agreement is void. R.S.O. 1950, c. 194, s. 42.

(1) If a trade union fails to give the employer notice under section 11 within sixty days following certification or if it fails to give notice under section 40 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.

(2) Where a trade union that has given notice under section 11 or section 40 or that has received notice under section 40 fails to commence to bargain within sixty 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 sixty 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. R.S.O. 1950, c. 194, s. 43.

**TIMELINESS OF REPRESENTATION APPLICATIONS**

46.—(1) Where a trade union has not made a collective agreement within one year after its certification and notice has been given under section 11 and the Board has granted a request for conciliation services, no application for a declaration that the trade union no longer represents the employees in the bargaining unit determined in the certificate shall be made,

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

(b) unless thirty days have elapsed after the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board. 1954, c. 42, s. 12, part; 1950, c. 54, s. 22 (1).

(2) Where notice has been given under section 40 and the Board has granted a request for conciliation services, no application for certification of a bargaining agent or of any of the employees in the bargaining unit as defined in the collective agreement and no application for a declaration that the trade union that was a party to the collective agreement no longer represents the employees in the bargaining unit as defined in the agreement shall be made after the date when the agreement ceased to operate or the date when the request for conciliation services was granted, whichever is later,

(a) unless following the granting of the request a collective agreement has been made between the parties and,

(i) in the case of an agreement for a term of not more than two years, the last two months of its operation have commenced, or
(ii) in the case of an agreement for more than two years, the twenty-third month of its operation has commenced; or

(b) where no such agreement has been made, unless

(i) at least twelve months have elapsed from the date of the granting of the request, or

(ii) a conciliation board or a mediator has been appointed and thirty days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties, or

(iii) thirty days have elapsed after the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board,

whichever is later. 1954, c. 42, s. 12, part; 1958, c. 47, s. 4; 1960, c. 54, s. 22 (2).

SUCCESSOR RIGHTS

47.—(1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer and any question arises in respect of its right to act as the successor, the Board, in any proceeding before it or on the application of any person or trade union concerned, may declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Act of its predecessor, or the Board may dismiss the application. 1956, c. 35, s. 3, part; 1957, c. 57, s. 5.

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

(3) Where the Board makes an affirmative declaration under subsection 1, the successor shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise, and the employer, the successor and the employees concerned shall recognize such status in all respects. 1956, c. 35, s. 3, part.

UNFAIR PRACTICES

48. No employer or employers' organization and no person acting on behalf of an employer or an employers' organization shall participate in or interfere with the formation, selection
or administration of a trade union or the representation of employees by a trade union or contribute financial or other support to a trade union, but nothing in this section shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. 1960, c. 54, s. 24.

49. No trade union and no person acting on behalf of a trade union shall participate in or interfere with the formation or administration of an employers' organization or contribute financial or other support to an employers' organization. R.S.O. 1950, c. 194, s. 46.

50. 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 a person, or discriminate against a person in regard to employment or any term or condition of employment because the person was or is a member of a trade union or was or is exercising any other rights under this Act;

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

(c) shall seek by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to exercise any other rights under this Act. R.S.O. 1950, c. 194, s. 47, amended.

51.—(1) No employer, employers' organization or person acting on behalf of an employer or an employers' organization shall, so long as a trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with any person or another trade union or a council of trade unions on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. 1954, c. 42, s. 13, part.

(2) No trade union, council of trade unions or person acting on behalf of a trade union or council of trade unions shall, so long as another trade union continues to be entitled to represent the employees in a bargaining unit, bargain with or enter into a collective agreement with any person or another trade union or a council of trade unions on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. 1954, c. 42, s. 13, part.
into a collective agreement with an employer or an employers' organization on behalf of or purporting, designed or intended to be binding upon the employees in the bargaining unit or any of them. 1954, c. 42, s. 13, part; 1958, c. 47, s. 5.

52. 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. R.S.O. 1950, c. 194, s. 48 (1).

53. Nothing in this Act authorizes any person to attempt at the place at which an employee works to persuade him during his working hours to become or refrain from becoming or continuing to be a member of a trade union. R.S.O. 1950, c. 194, s. 48 (2).

54. (1) Where a collective agreement is in operation, no employee bound by the agreement shall strike and no employer bound by the agreement shall lock out such an employee. R.S.O. 1950, c. 194, s. 49 (1).

(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 11 or has given notice under section 40, on behalf of the employee to his employer, or in the case of a notice under section 40, has received such notice, and conciliation services have been granted and seven days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties or the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board. R.S.O. 1950, c. 194, s. 49 (2); 1954, c. 42, s. 14; 1960, c. 54, s. 25 (1).

(3) A strike vote taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed. 1960, c. 54, s. 25 (2).

55. No trade union or council of trade unions shall call or authorize, and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike. R.S.O. 1950, c. 194, s. 50; 1954, c. 42, s. 15.

56. 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. R.S.O. 1950, c. 194, s. 51.
57.—(1) No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lock-out.

(2) Subsection 1 does not apply to any act done in connection with a lawful strike or lawful lock-out. 1960, c. 54, s. 26.

58. 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. R.S.O. 1950, c. 194, s. 52.

59.—(1) Where notice has been given under section 11 or section 40 and no collective agreement is in operation, no employer shall, except with the consent of the trade union, alter the rates or wages or any other term or condition of employment or any right, privilege or duty, of the employer, the trade union or the employees, and no trade union shall, except with the consent of the employer, alter any term or condition of employment or any right, privilege or duty of the employer, the trade union or the employees,

(a) until conciliation services have been granted and seven days have elapsed after the report of the conciliation board or the mediator has been released by the Minister to the parties or the Minister has informed the parties that he does not deem it advisable to appoint a conciliation board; or

(b) until the right of the trade union to represent the employees has been terminated, whichever occurs first. 1954, c. 42, s. 16; 1960, c. 54, s. 27.

(2) Where notice has been given under section 40 and no collective agreement is in operation, any difference between the parties as to whether or not subsection 1 of this section was complied with may be referred to arbitration by either of the parties as if the collective agreement was still in operation and section 34 applies mutatis mutandis thereto. 1957, c. 57, s. 6.

LOCALS UNDER TRUSTEESHIP

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

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

(3) Notwithstanding anything in this section, where supervision or control over a subordinate trade union has been assumed by a provincial, national or international trade union before the date on which section 28 of The Labour Relations Amendment Act, 1960 came into force, the report required by subsection 1 shall be filed within sixty days after such date and the supervision or control shall not continue for more than twelve months from such date, but the supervision or control may be continued for a further period of twelve months with the consent of the Board. 1960, c. 54, s. 28, revised.

INFORMATION

61. Each party to a collective agreement shall, forthwith after it is made, file one signed copy thereof with the Board. R.S.O. 1950, c. 194, s. 54.

62. The Board may direct a trade union, council of trade unions or employers’ organization to file with the Board within the time prescribed in the direction a copy of its constitution and by-laws and a statutory declaration of its president or secretary setting forth the names and addresses of its officers. R.S.O. 1950, c. 194, s. 55; 1954, c. 42, s. 17.

63. Every trade union shall upon the request of any member furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any member that the trade union has failed to furnish such a statement to him, the Board may direct the trade union to file with the Registrar, within such time as the Board determines, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for
the handling and administration of its funds and to furnish a copy of such statement to such members of the trade union as the Board in its discretion directs, and the trade union shall comply with such direction according to its terms. 1960, c. 54, s. 29.

64. 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. R.S.O. 1950, c. 194, s. 56.

ENFORCEMENT

65.—(1) The Board may authorize a field officer to inquire into a complaint that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act.

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

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

(4) Where the field officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint and, if it is satisfied that the person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act, it shall determine the action, if any, to be taken by the employer and the trade union or either of them with respect to the employment of such person, which, in its discretion, may, notwithstanding the provisions of a collective agreement, include reinstatement in employment with or without compensation by the employer and the trade union or either of them for loss of earnings and other employment benefits, and the employer and the trade union shall do or abstain from doing anything required of them by the determination.

(5) Where the employer or the trade union has failed to comply with any of the terms of the determination, any employer, trade union or employee affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the determination for compliance, whichever is later, notify the Board of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, in the prescribed form, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1960, c. 54, s. 30, part.
66.—(1) Upon complaint to the Board that a trade union or council of trade unions, or an officer, official or agent of a trade union or council of trade unions, was or is requiring an employer or an employers’ organization to assign particular work to employees in a particular trade union or in a particular trade, craft or class rather than to employees in another trade union or in another trade, craft or class, or that an employer was or is assigning particular work to employees in a particular trade union rather than to employees in another trade union, a jurisdictional disputes commission may, after consulting any person, employers’ organization, trade union or council of trade unions that in its opinion may be affected by the complaint, make such interim order with respect to the assignment of the work as it in its discretion deems proper in the circumstances, and the employer, employers’ organization, trade union, council of trade unions and the officers, officials or agents of any of them shall comply with the interim order.

(2) At the request of any person, employers’ organization, trade union or council of trade unions affected by the interim order, the commission shall reconsider the complaint, but it shall not do so at the request of a person, employers’ organization, trade union or council of trade unions that has failed to comply with the interim order so long as the failure continues.

(3) Upon the reconsideration of the complaint, the commission shall give to any person, employers’ organization, trade union or council of trade unions affected by the interim order full opportunity to present evidence and to make submissions and, if it finds that the trade union, council of trade unions, officer, official or agent of a trade union or council of trade unions was or is in its opinion unjustifiably requiring the employer to assign work or that the employer was or is in its opinion unjustifiably assigning work, it shall direct the action to be taken by the employer, employers’ organization, trade union, council of trade unions or any officer, official or agent of any of them with respect to the assignment of the work, and the employer, employers’ organization, trade union, council of trade unions and the officers, officials or agents of any of them shall comply with the direction.

(4) The commission has all the powers of a conciliation board under section 28.

(5) Subject to subsection 6, the direction of the commission is final and conclusive for all purposes, but the commission may at any time, if it considers it advisable to do so, reconsider the direction and vary or revoke it.

(6) Any person, employers’ organization, trade union or council of trade unions affected by an interim order or a direction of a commission may apply to the Board, within seven
days after the release of the interim order or the direction, and, if the Board is satisfied that the interim order or the direction prohibits a lawful strike or lock-out or restrains an employer, employers' organization, trade union, council of trade unions or an officer, official or agent of any of them or an employee from observing the provisions of a collective agreement relating to the assignment of work or prohibits a trade union or council of trade unions or an employer or employers' organization from bargaining collectively in respect of employees in a bargaining unit on whose behalf the trade union or council of trade unions is entitled to bargain, it may quash the interim order or the direction or it may alter the bargaining unit determined in a certificate or defined in a collective agreement as it deems proper to enable the interim order or the direction to be carried into effect in conformity with the other provisions of this Act, and the certificate or collective agreement, as the case may be, shall be deemed to have been altered in accordance with the Board's determination.

(7) Where the employer, the employers' organization, the trade union, the council of trade unions or an officer, official or agent of any of them or an employee has failed to comply with any of the terms of the interim order or the direction, any employer, employers' organization, trade union, council of trade unions or employee affected by the interim order or the direction may,

(a) in the case of an interim order, after the expiration of two days from the release of the interim order or of the date provided in the interim order for compliance, whichever is later; and

(b) in the case of a direction, after the expiration of fourteen days from the release of the direction or the date provided in the direction for compliance, whichever is later,

notify the Board of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the interim order or the direction, exclusive of the reasons therefor, in the prescribed form, whereupon the interim order or direction shall be entered in the same way as a judgment or order of that court and is enforceable as such.

(8) No interim order or direction of a commission 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 a commission or any of its proceedings.
(9) Notwithstanding anything in this section, where a trade union, a council of trade unions or a group of trade unions and an employer, an employers' organization, a group of employers or a group of employers' organizations have made an arrangement to resolve any difference between them arising from the assignment of work, the commission may postpone inquiring into a complaint or the reconsideration of a complaint under this section until the difference has been dealt with in accordance with such arrangement. 1960, c. 54, s. 30, part.

67. Where a trade union or a council of trade unions calls or authorizes a strike or employees engage in a strike that the employer or employers' organization concerned alleges was or is unlawful, the employer or employers' organization may apply to the Board for a declaration that the strike was or is unlawful, and the Board may make such declaration. R.S.O. 1950, c. 194, s. 59; 1954, c. 42, s. 18, amended.

68. Where an employer or employers' organization calls or authorizes a lock-out that any of the employees or the trade union or the council of trade unions concerned alleges was or is unlawful, any of the employees or the trade union or the council of trade unions may apply to the Board for a declaration that the lock-out was or is unlawful, and the Board may make such declaration. R.S.O. 1950, c. 194, s. 60; 1954, c. 42, s. 19, amended.

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

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

(b) if a corporation, trade union, council of trade unions or employers' organization, to a fine of not more than $1,000. 1954, c. 42, s. 20, part; 1957, c. 57, s. 7.

(2) Each day that a person, trade union, council of trade unions or employers' organization contravenes any provision of this Act or of any decision, order, direction, declaration or ruling made under this Act constitutes a separate offence. 1954, c. 42, s. 20, part.

(3) Every fine recovered for an offence under this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 194, s. 61 (3).
70. An information in respect of a contravention of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1950, c. 194, s. 62.

71. If a corporation, trade union, council of trade unions or employers' organization is guilty of an offence under this Act, every officer, official or agent thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence. R.S.O. 1950, c. 194, s. 63; 1954, c. 42, s. 21.

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

(2) Any act or thing done or omitted by an officer, official or agent of a trade union or council of trade unions or employers' organization within the scope of his authority to act on behalf of the union, council or organization shall be deemed to be an act or thing done or omitted by the union, council or organization. 1954, c. 42, s. 22.

73. Proceedings to enforce a determination of the Board under section 65, a decision of an arbitrator or arbitration board or an interim order or a direction of a jurisdictional disputes commission may be instituted in the Supreme Court by or against a trade union, a council of trade unions or an unincorporated employers' organization in the name of the trade union, council of trade unions or unincorporated employers' organization, as the case may be. 1960, c. 54, s. 31.

74.—(1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Board. R.S.O. 1950, c. 194, s. 65; 1960, c. 54, s. 32.

(2) An application for consent to institute a prosecution for an offence under this Act may be made inter alia by a trade union and, if the consent is given by the Board, the information may be laid inter alia by any officer, official or member of the trade union. 1957, c. 57, s. 8 (2).

ADMINISTRATION

75.—(1) The Ontario Labour Relations Board is continued. 1959, c. 50, s. 1, part.

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

(3) The chairman or, in the case of his absence from the office of the Board or his inability to act, the vice-chairman shall from time to time assign the members of the Board to its various divisions and may change any such assignment at any time. 1960, c. 54, s. 33.

(4) Vacancies in the membership of the Board from any cause may be filled by the Lieutenant Governor in Council.

(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, or deputy vice-chairman) of the Ontario Labour Relations Board and I will not, except in the discharge of my duties, disclose to any person any of the evidence or any other matter brought before the Board. So help me God.

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

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

(8) The decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board, and, in the event of a tie vote, the presiding member has a casting vote.

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

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

(12) The Board shall have an official seal.

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

76. The Lieutenant Governor in Council may appoint one or more jurisdictional disputes commissions and each of such commissions shall be composed of one or more persons as he deems expedient. 1959, c. 50, s. 1, part.

77.—(1) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act. R.S.O. 1950, c. 194, s. 67 (1).

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

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board 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 deems 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 deems necessary;
(g) to authorize any person to do anything that the Board may do under clauses a to f and to report to the Board thereon;

(h) to authorize any person to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Board and to report to the Board his findings, conclusions and recommendations thereon;

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

(j) to determine the form in which and the time as of which evidence of membership in a trade union or of objection by employees to certification of a trade union or of signification by employees that they no longer wish to be represented by a trade union shall be presented to the Board on an application for certification or for a declaration terminating bargaining rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined. R.S.O. 1950, c. 194, s. 67 (2); 1957, c. 57, s. 10; 1960, c. 54, s. 35.

78. Where in any proceedings before the Board the Board is satisfied that a bona fide mistake has been made with the result that the proper person or trade union has not been named as a party or has been incorrectly named, the Board may order the proper person or trade union to be substituted or added as a party to the proceedings or to be correctly named upon such terms as appear to the Board to be just. 1957, c. 57, s. 11.

79.—(1) The Board has 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 proceedings,

(a) as to whether a person is an employer or an employee;

(b) as to whether a person exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations;
(c) as to whether an organization is a trade union, council of trade unions or an employers' organization;

(d) 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;

(e) as to whether a group of employees constitute a bargaining unit;

(f) as to whether the parties have bargained in good faith and made every reasonable effort to make a collective agreement;

(g) as to whether a trade union represents the employees in a bargaining unit; or

(h) as to whether a person is a member of a trade union,

the decision of the Board thereon is final and conclusive for all purposes, but nevertheless the Board may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling. R.S.O. 1950, c. 194, s. 68 (1); 1954, c. 42, s. 25 (1); 1957, c. 57, s. 12.

(2) If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee or as to whether a person is a guard, the question may be referred to the Board and the decision of the Board thereon is final and conclusive for all purposes. R.S.O. 1950, c. 194, s. 68 (2); 1954, c. 42, s. 25 (2).

80. No decision, order, direction, declaration or ruling of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus, prohibition, quo warranto, or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings. R.S.O. 1950, c. 194, s. 69.

81. 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. R.S.O. 1950, c. 194, s. 70.

82. The production in a court of a document purporting to be or to contain a copy of a decision, determination, report, interim order, order, direction, declaration or ruling of the
Board, a conciliation board, a mediator, an arbitrator, an arbitration board or a jurisdictional disputes commission and purporting to be signed by a member of the Board or its registrar, the chairman of the conciliation board, the mediator, the arbitrator, the chairman of the arbitration board or a member of the jurisdictional disputes commission, as the case may be, is *prima facie* proof of such document without proof of the appointment, authority or signature of the person who signed the document. 1960, c. 54, s. 36.

### GENERAL

**83.**—(1) The records of a trade union relating to membership or any records that may disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union produced in a proceeding before the Board is for the exclusive use of the Board and its officers and shall not, except with the consent of the Board, be disclosed, and no person shall, except with the consent of the Board, be compelled to disclose whether a person is or is not a member of a trade union or does or does not desire to be represented by a trade union. R.S.O. 1950, c. 194, s. 72 (1).

(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 the Minister, the Deputy Minister of Labour, the chief conciliation officer of the Department of Labour or any conciliation officer appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report. R.S.O. 1950, c. 194, s. 72 (2); 1954, c. 42, s. 26.

(3) No information or material furnished to or received by a field officer under this Act and no report of a field officer shall be disclosed except to the Board, and no member of the Board and no field officer is a competent or compellable witness in proceedings before a court or other tribunal respecting any such information, material or report. 1960, c. 54, s. 37.

**84.** Where an appointment, order or direction is required to be made under this Act by the Minister, he may authorize the Deputy Minister of Labour to make the appointment, order or direction, and a document purporting to be or to contain a copy of such an appointment, order or direction purporting to be signed by the Minister or by the Deputy Minister shall be accepted by any court as evidence of the appointment, order or direction. R.S.O. 1950, c. 194, s. 73.
85.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. R.S.O. 1950, c. 194, s. 74.

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

(3) A decision or determination of the Board, a report of a conciliation board or a mediator, a decision of an arbitrator or arbitration board or an interim order or a direction of a jurisdictional disputes commission, if sent by registered mail to the person, employers' organization, trade union or council of trade unions concerned addressed to him or it at his or its last known address, shall be deemed to have been released on the second day after the date on which it was so mailed. 1960, c. 54, s. 38.

86. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. R.S.O. 1950, c. 194, s. 75.

87. The expenses incurred in the administration of this Act shall be paid out of the moneys that are appropriated by the Legislature for the purpose. R.S.O. 1950, c. 194, s. 76.

88. The Lieutenant Governor in Council may make regulations,

(a) providing for and regulating the engagement of experts, investigators and other assistants by conciliation boards;

(b) providing for and fixing the remuneration and expenses of chairmen and other members of conciliation boards;

(c) respecting the functioning of jurisdictional disputes commissions and prescribing their practice and procedure;

(d) requiring the filing with the Department of Labour of awards of arbitrators and arbitration boards;

(e) requiring the filing with the Department of Insurance of audited financial statements of the affairs of pen-
sion or welfare funds operated for the benefit of employees and prescribing the content and form of such statements;

(f) prescribing forms and providing for their use, including the form in which the documents mentioned in sections 34, 65 and 66 shall be filed in the Supreme Court;

(g) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1960, c. 54, s. 39.

**89.** A municipality as defined in *The Department of Municipal Affairs Act* may declare that this Act does not apply to it in its relations with its employees or any of them. R.S.O. 1950, c. 194, s. 78.