The Trade Union Act

being

Chapter T-17 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979), as amended by the *Statutes of Saskatchewan,* 1980-81, c.43; 1983, c.81; 1983-84, c.54; 1984-85-86, c.16; 1988-89, c.42; 1989-90, c.54; 1992, c.A-24.1; 1994, c.47; 2000, c.69; 2005, c.30; 2008, c.26 and c.27.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER T-17

An Act respecting Trade Unions and the Right of Employees to organize in Trade Unions of their own choosing for the Purpose of Bargaining Collectively with their Employers.

Short title

1 This Act may be cited as *The Trade Union Act*.

Interpretation

2 In this Act:

(a) **"appropriate unit"** means a unit of employees appropriate for the purpose of bargaining collectively;

(b) **"bargaining collectively"** means negotiating in good faith with a view to the conclusion of a collective bargaining agreement, or a renewal or revision of a bargaining agreement, the embodiment in writing or writings of the terms of agreement arrived at in negotiations or required to be inserted in a collective bargaining agreement by this Act, the execution by or on behalf of the parties of such agreement, and the negotiating from time to time for the settlement of disputes and grievances of employees covered by the agreement or represented by a trade union representing the majority of employees in an appropriate unit;

(c) **"board"** means the Labour Relations Board mentioned in section 4;

(d) **"collective bargaining agreement"** means an agreement in writing or writings between an employer and a trade union setting forth the terms and conditions of employment or containing provisions in regard to rates of pay, hours of work or other working conditions of employees;

(e) **"company dominated organization"** means a labour organization, the formation or administration of which an employer or employer's agent has dominated or interfered with or to which an employer or employer's agent has contributed financial or other support, except as permitted by this Act;

(e.1) **"department"** means the department over which the minister presides;

(f) **"employee"** means:

(i) a person in the employ of an employer except:

(A) a person whose primary responsibility is to actually exercise authority and actually perform functions that are of a managerial character; or

(B) a person who is regularly acting in a confidential capacity with respect to the industrial relations of his or her employer;

(i.1) a person engaged by another person to perform services if, in the opinion of the board, the relationship between those persons is such that the terms of the contract between them can be the subject of collective bargaining;

(ii) **Repealed.** 1983, c.81, s.3.

(iii) any person designated by the board as an employee for the purposes of this Act notwithstanding that for the purpose of determining whether or not the person to whom he provides his services is vicariously liable for his acts or omissions he may be held to be an independent contractor; and includes a person on strike or locked out in a current labour-management dispute who has not secured permanent employment elsewhere, and any person dismissed from his employment whose dismissal is the subject of any proceedings before the board;

(g) **"employer"** means:

(i) an employer who employs three or more employees;

(ii) an employer who employs less than three employees if at least one of the employees is a member of a trade union that includes among its membership employees of more than one employer;

(iii) in respect of any employees of a contractor who supplies the services of the employees for or on behalf of a principal pursuant to the terms of any contract entered into by the contractor or principal, the contractor or principal as the board may in its discretion determine for the purposes of this Act;

and includes Her Majesty in the right of the Province of Saskatchewan;

(h) **"employer's agent"** means:

(i) a person or association acting on behalf of an employer;

(ii) any officer, official, foreman or other representative or employee of an employer acting in any way on behalf of an employer with respect to the hiring or discharging or any of the terms or conditions of employment of the employees of the employer;

(i) **"labour-management dispute"** means any dispute or difference between an employer and one or more of his employees or a trade union with respect to:

(i) matters or things affecting or relating to work done or to be done by the employee or employees or trade union; or

(ii) the privileges, rights, duties, terms and conditions, or tenure of, employment or working conditions of the employee or employees or trade union;

(j) **"labour organization"** means an organization of employees, not necessarily employees of one employer, that has bargaining collectively among its purposes;

(j.1) **"labour relations officer"** means a labour relations officer of the department who is designated by the deputy minister to provide information pursuant to section 23.2;

(j.2) **"lock-out"** means one or more of the following actions taken by an employer for the purpose of compelling employees to agree to terms and conditions of employment:

(i) the closing of all or part of a place of employment;

(ii) a suspension of work;

(iii) a refusal to continue to employ employees;

(k) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(k.1) **"strike"** means any of the following actions taken by employees:

(i) a cessation of work or a refusal to work or to continue to work by employees acting in combination or in concert or in accordance with a common understanding; or

(ii) other concerted activity on the part of employees in relation to their work that is designed to restrict or limit output or the effective delivery of services;

(l) **"trade union"** means a labour organization that is not a company dominated organization.

1972, c.137, s.2; 1983, c.81, s.3; 1988-89, c.42, s.105; 1994, c.47, s.3.

Rights of employees

3 Employees have the right to organize in and to form, join or assist trade unions and to bargain collectively through a trade union of their own choosing; and the trade union designated or selected for the purpose of bargaining collectively by the majority of the employees in a unit appropriate for that purpose shall be the exclusive representative of all employees in that unit for the purpose of bargaining collectively.

1972, c.137, s.3.

Labour Relations Board continued

4(1) There shall continue to be a board known as the Labour Relations Board composed of members appointed by the Lieutenant Governor in Council at such salaries or remuneration as he deems fit; the Lieutenant Governor in Council shall name a chairperson and not more than two vice-chairpersons of the board; the members of the board shall be selected so that employers and organized employees are equally represented.

(1.1) The members of the board:

(a) shall be appointed to hold office for terms not exceeding:

(i) five years in the case of the chairperson and vice-chairpersons; and

(ii) three years in the case of other members; and

(b) may be reappointed for additional terms.

(1.2) If the term of a member of the board expires after the member has begun hearing a matter before the board but before the proceeding is completed, the member may continue as if his or her term had not expired for the purpose of completing the proceeding.

(1.3) If a member continues to serve pursuant to subsection (1.2), he or she shall not begin to hear any additional matters before the board.

(2) The board must not proceed with a matter unless a quorum is present.

(2.1) Subject to subsection (2.2), a quorum of the board consists of three members at least one of whom must be the chairperson or a vice-chairperson.

(2.2) The chairperson may designate himself or herself or a vice-chairperson to hear a matter alone for proceedings related to section 25.1 or 36.1.

(3) A decision of the majority of the members of the board present and constituting a quorum shall be the decision of the board, and in the event of a tie the chairperson or acting chairperson shall have a casting vote.

(4) All orders, decisions, rules and regulations made by the board and every consent of the board shall be signed by the chairperson or a vice-chairperson, but in the absence or disability of the chairperson and a vice-chairperson any orders, decisions, rules or regulations or any consent may be signed by any one member and when so signed shall have the like effect as if signed by the chairperson or a vice-chairperson.

(5) Where any order, decision, rule or regulation or any consent purports to be signed by a member other than the chairperson or a vice-chairperson, it shall be conclusively presumed that such member has so acted in the absence or disability of the chairperson and vice-chairpersons.

(6) Any order, decision, rule or regulation or any consent purporting to be signed by the chairperson, a vice-chairperson or a member other than the chairperson or a vice-chairperson shall be deemed to have been duly authorized by the board unless the contrary is shown, and it shall not be necessary in or before any court, board, commission or other tribunal of competent jurisdiction to prove the handwriting or authority of the chairperson, a vice-chairperson or other member.

(7) **Repealed.** 1994, c.47, s.4.

(8) **Repealed.** 1994, c.47, s.4.

(9) **Repealed.** 1994, c.47, s.4.

(10) Every member of the board shall, before entering upon the duties of his office, take before the Clerk of the Executive Council and file in his office an oath in the following form:

I, _____ , do swear that I will faithfully and impartially, to the best of my judgment, skill and ability, execute and perform the office of member of the Labour Relations Board. So help me God.

(11) The Lieutenant Governor in Council may appoint an executive officer who shall be an agent of the board and shall perform such duties as the board may from time to time direct.

(12) The board may delegate to the executive officer any of its powers or functions but any employer, employee or trade union affected by any act done by the executive officer in the exercise or purported exercise of any such delegated power may apply to the board to review, set aside, amend, stay or otherwise deal with the act and the board upon the application or, of its own motion, may exercise its powers or perform its functions with respect to the matter in issue as if the executive officer had not done such act.

(12.1) The chairperson may designate one or more persons as investigating officers for the purposes of this Act.

(13) Notwithstanding subsection (1.1):

(a) persons who are members of the board immediately before the coming into force of this subsection are continued as members of the board on an acting basis until new appointments are made pursuant to subsection (1.1);

(b) persons who are alternate members immediately before the coming into force of this subsection:

(i) are deemed to have been members on and from the dates of their appointments as alternate members; and

(ii) are continued as members of the board on an acting basis until new appointments are made pursuant to subsection (1.1); and

(c) all matters pending before the board as it was constituted immediately before the coming into force of subsection (1.1) are continued before the board as constituted pursuant to clauses (a) and (b).

1972, c.137, s.4; 1983-84, c.54, s.25; 1994, c.47, s.4; 2000, c.69, s.17; 2005, c.30, s.3; 2008, c.27, s.2.

Powers of board

5 The board may make orders:

(a) determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit or a subdivision thereof or some other unit;

(b) determining what trade union, if any, represents a majority of employees in an appropriate unit of employees, but no order under this clause shall be made in respect of an application made within a period of six months from the date of the dismissal of an application for certification by the same trade union in respect of the same or a substantially similar unit of employees, unless the board, on the application of that trade union, considers it advisable to abridge that period;

(c) requiring an employer or a trade union representing the majority of employees in an appropriate unit to bargain collectively;

(d) determining whether an unfair labour practice or a violation of this Act is being or has been engaged in;

(e) requiring any person to do any of the following:

(i) to refrain from violations of this Act or from engaging in any unfair labour practice;

(ii) subject to section 5.1, to do any thing for the purpose of rectifying a violation of this Act, the regulations or a decision of the board;

(f) requiring an employer to reinstate any employee discharged under circumstances determined by the board to constitute an unfair labour practice, or otherwise in violation of this Act;

(g) fixing and determining the monetary loss suffered by an employee, an employer or a trade union as a result of a violation of this Act, the regulations or a decision of the board by one or more persons, and requiring those persons to pay to that employee, employer or trade union the amount of the monetary loss or any portion of the monetary loss that the board considers to be appropriate;

(h) determining whether a labour organization is a company dominated organization;

(i) rescinding or amending an order or decision of the board made under clause (d), (e), (f), (g) or (h), or amending an order or decision of the board made under clause (a), (b) or (c) in the circumstances set out in clause (j) or (k), notwithstanding that a motion, application, appeal or other proceeding in respect of or arising out of the order or decision is pending in any court;

(j) amending an order of the board if:

(i) the employer and the trade union agree to the amendment; or

(ii) in the opinion of the board, the amendment is necessary;

(k) rescinding or amending an order or decision of the board made under clause (a), (b) or (c) where:

(i) there is a collective bargaining agreement in existence and an application is made to the board to rescind or amend the order or decision during a period of not less than 30 days or more than 60 days before the anniversary of the effective date of the agreement; or

(ii) there is no agreement and an application is made to the board to rescind or amend the order or decision during a period of not less than 30 days or more than 60 days before the anniversary date of the order to be rescinded or amended;

notwithstanding that a motion, application, appeal or other proceeding in respect of or arising out of the order or decision is pending in any court;

(l) excluding from an appropriate unit of employees an employee whom the board finds, in its absolute discretion, objects;

(i) to joining or belonging to a trade union; or

(ii) to paying dues and assessments to a trade union;

as a matter of conscience based on religious training or belief during such period that the employee pays:

(iii) to a charity mutually agreed upon by the employee and the trade union that represents a majority of employees in the appropriate unit; or

(iv) where agreement cannot be reached by these parties, to a charity designated by the board;

an amount at least equal to the amount of dues and assessments that a member of that trade union is required to pay to the trade union in respect of such period;

(m) subject to section 5.2, determining for the purposes of this Act whether any person is or may become an employee;

(n) when acting pursuant to section 24, relieving against breaches of time limits set out in this Act or in a collective bargaining agreement on terms that, in the opinion of the board, are just and reasonable.

1972, c.137, s.5; 1983, c.81, s.4; 1994, c.47, s.5.

Rectification plan

5.1 In making an order pursuant to subclause 5(e)(ii), the board may consider a plan, submitted by a person found to have violated the Act, the regulations or a decision of the board, for rectifying the violation.

1994, c.47, s.6.

Provisional determination re employee

5.2(1) On an application pursuant to clause 5(m), the board may make a provisional determination before the person who is the subject of the application is actually performing the duties of the position in question.

(2) A provisional determination made pursuant to subsection (1) becomes a final determination after the expiry of one year from the day on which the provisional determination is made unless, before that period expires, the employer or the trade union applies to the board for a variation of the determination.

1994, c.47, s.6.

Interim orders

5.3 With respect to an application or complaint made pursuant to any provision of this Act or the regulations, the board may, after giving each party to the matter an opportunity to be heard, make an interim order pending the making of a final order or decision.

1994, c.47, s.6.

Representation votes

6(1) Subject to subsections (1.1) and (2), in determining what trade union, if any, represents a majority of employees in an appropriate unit of employees, in addition to the exercise of any powers conferred upon it by section 18, the board must direct a vote to be taken by secret ballot of all employees eligible to vote to determine the question.

(1.1) No vote shall be directed pursuant to subsection (1) unless the board is satisfied, on the basis of the evidence submitted in support of the application and the board's investigation in respect of that evidence, that at the time of the application at least 45% of the employees in the appropriate unit support the application.

(1.2) The board must require as evidence of each employee's support mentioned in subsection (1.1) written support of the application, as prescribed in the regulations made by the Lieutenant Governor in Council, made within 90 days of the filing of the application.

(2) Where a trade union:

(a) applies for an order of the board determining it to represent the majority of employees in an appropriate unit for which there is an existing order of the board determining another trade union to represent the majority of employees in the unit; and

(b) shows that 45% or more of the employees in the appropriate unit have within 90 days preceding the date of the application indicated that the applicant trade union is their choice as representative for the purpose of collective bargaining;

the board shall, subject to clause 5(k), direct a vote to be taken by secret ballot of all employees eligible to vote, but the board may, in its discretion, refuse to direct the vote where the board:

(c) **Repealed.** 2008, c.26, s.3.

(d) has, within six months preceding the date of the application, upon application of the same trade union, directed a vote of employees in the same appropriate unit.

(3) **Repealed.** 1983, c.81, s.5.

1972, c.137, s.6; 1983, c.81, s.5; 2008, c.26, s.3.

Procedure of voting

7(1) All votes directed by the board to be taken shall be by secret ballot and the board or a person appointed by the board shall conduct the taking and counting of the ballots cast.

(2) An employee who has voted at a vote taken under this Act shall not be competent or compellable to give evidence in any court proceedings whatsoever as to how he voted.

1972, c.137, s.7.

Quorum for vote

8 In any such vote a majority of the employees eligible to vote shall constitute a quorum and if a majority of those eligible to vote actually vote, the majority of those voting shall determine the trade union that represents the majority of employees for the purpose of bargaining collectively.

1972, c.137, s.8.

Dismissal of certain applications

9 The board may reject or dismiss any application made to it by an employee or employees where it is satisfied that the application is made in whole or in part on the advice of, or as a result of influence of or interference or intimidation by, the employer or employer's agent.

1972, c.137, s.9.

Rejection of certain evidence, etc.

10 Where an application is made to the board for an order under clause 5(a) or (b), the board may, in its absolute discretion, reject any evidence or information tendered or submitted to it concerning any fact, event, matter or thing transpiring, or occurring after the date on which such application is filed with the board in accordance with the regulations of the board.

1972, c.137, s.10; 1989-90, c.54, s.6.

Certification after unfair labour practice

10.1 On an application pursuant to clause 5(a), (b) or (c), the board shall make an order directing a vote to be taken by secret ballot of all employees eligible to vote, and may make an order pursuant to clause 5(g), where:

(a) the board finds that the employer or the employer's agent has committed an unfair labour practice or has otherwise violated this Act;

(b) there is insufficient evidence before the board that shows that 45% or more of the employees in the appropriate unit support the application; and

(c) the board finds that sufficient evidence of support mentioned in clause (b) would have been obtained but for the unfair labour practice or violation of this Act.

1994, c.47, s.7; 2008, c.26, s.4.

Decertification after unfair labour practice

10.2 On an application pursuant to clause 5(k) for an order rescinding an order made pursuant to clause 5(a), (b) or (c), the board shall make an order directing a vote to be taken by secret ballot of all employees eligible to vote, and may make an order pursuant to clause 5(g), where:

(a) the board finds that the trade union or an employee has committed an unfair labour practice or has otherwise violated this Act;

(b) there is insufficient evidence before the board that shows that 45% or more of the employees in the appropriate unit support the application; and

(c) the board finds that sufficient evidence of support mentioned in clause (b) would have been obtained but for the unfair labour practice or violation of this Act.

1994, c.47, s.7; 2008, c.26, s.5.

Unfair labour practices

11(1) It shall be an unfair labour practice for an employer, employer's agent or any other person acting on behalf of the employer:

(a) to interfere with, restrain, intimidate, threaten, or coerce an employee in the exercise of any right conferred by this Act, but nothing in this Act precludes an employer from communicating facts and its opinions to its employees;

(b) to discriminate or interfere with the formation or administration of any labour organizaton or contribute financial or other support to it; but an employer shall not be prohibited from permitting the bargaining committee or officers of a trade union representing his employees in any unit to confer with him for the purpose of bargaining collectively or attending to the business of a trade union without deductions from wages or loss of time so occupied or from agreeing with any trade union for the use of notice boards and of the employer's premises for the purposes of such trade union;

(c) to fail or refuse to bargain collectively with representatives elected or appointed, not necessarily being the employees of the employer, by a trade union representing the majority of the employees in an appropriate unit;

(d) to refuse to permit a duly authorized representative of a trade union with which he has entered into a collective bargaining agreement or that represents the majority of employees in an appropriate unit of employees of the employer to negotiate with him during working hours for the settlement of disputes and grievances of employees covered by the agreement, or of employees in the appropriate unit, as the case may be, or to make any deductions from the wages of any such duly authorized representative of a trade union in respect of the time actually spent in negotiating for the settlement of such disputes and grievances;

(e) to discriminate in regard to hiring or tenure of employment or any term or condition of employment or to use coercion or intimidation of any kind, including discharge or suspension or threat of discharge or suspension of an employee, with a view to encouraging or discouraging membership in or activity in or for or selection of a labour organization or participation of any kind in a proceeding under this Act, and if an employer or an employer's agent discharges or suspends an employee from his employment and it is shown to the satisfaction of the board that employees of the employer or any of them had exercised or were exercising or attempting to exercise a right under this Act, there shall be a presumption in favour of the employee that he was discharged or suspended contrary to this Act, and the burden of proof that the employee was discharged or suspended for good and sufficient reason shall be upon the employer; but nothing in this Act precludes an employer from making an agreement with a trade union to require as a condition of employment membership in or maintenance of membership in the trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if the trade union has been designated or selected by a majority of employees in any such unit as their representative for the purpose of bargaining collectively;

(f) to require as a condition of employment that any person shall abstain from joining or assisting or being active in any trade union or from exercising any right provided by this Act, except as permitted by this Act;

(g) to interfere in the selection of a trade union as a representative of employees for the purpose of bargaining collectively;

(h) to maintain a system of industrial espionage or to employ or direct any person to spy upon a member or proceedings of a labour organization or the offices thereof or the exercise by any employee of any right provided by this Act;

(i) to threaten to shut down or to threaten to move a plant, business or enterprise or any part of a plant, business or enterprise in the course of a labour-management dispute;

(j) to declare or cause a lock-out or to make or threaten any change in wages, hours, conditions or tenure of employment, benefits or privileges while any application is pending before the board or any matter is pending before a board of conciliation or special mediator appointed under this Act;

(k) to bargain collectively with a company dominated organization;

(l) to deny or threaten to deny to any employee:

(i) by reason of the employee ceasing to work as the result of a lock-out or while taking part in a stoppage of work due to a labour-management dispute where such lock-out or stoppage of work has been enforced by the employer or called in accordance with this Act by the trade union representing the employee, as the case may be; or

(ii) by reason of the employee exercising any right conferred by this Act;

any pension rights or benefits, health rights or benefits or medical rights or benefits that the employee enjoyed prior to such cessation of work or to his exercising any such right;

(m) where no collective bargaining agreement is in force, to unilaterally change rates of pay, hours of work or other conditions of employment of employees in an appropriate unit without bargaining collectively respecting the change with the trade union representing the majority of employees in the appropriate unit;

(n) where one or more employees are permitted or required to live in premises supplied by, or by arrangement with, the employer, to refuse, deny, restrict or limit the right of the employee or employees to allow access to the premises by members of any trade union representing or seeking to represent such employee or employees or any of them for the purpose of bargaining collectively;

(o) to interrogate employees as to whether or not they or any of them have exercised, or are exercising or attempting to exercise any right conferred by this Act;

(p) to discharge an employee for failure to acquire or maintain membership in a trade union, where such membership is a condition of employment, if the employee complies with subsection 36(3).

(2) It shall be an unfair labour practice for any employee, trade union or any other person:

(a) to interfere with, restrain, intimidate, threaten or coerce an employee with a view to encouraging or discouraging membership in or activity in or for a labour organization, but nothing in this Act precludes a person acting on behalf of a trade union from attempting to persuade an employer to make an agreement with that trade union to require as a condition of employment membership or maintenance of membership in the trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if such trade union has been designated or selected by a majority of employees in an appropriate unit as their representative for the purpose of bargaining collectively;

(b) to commence to take part in or persuade an employee to take part in a strike while an application is pending before the board or any matter is pending before a board of conciliation or special mediator appointed under this Act;

(c) to fail or refuse to bargain collectively with the employer in respect of employees in an appropriate unit where a majority of the employees have selected or designated the trade union as their representative for the purpose of bargaining collectively;

(d) to declare, authorize or take part in a strike unless a strike vote is taken by secret ballot among the employees who are:

(i) in the appropriate unit concerned; and

(ii) affected by the collective bargaining;

and unless a majority of the employees voting vote in favour of a strike, but no strike vote by secret ballot need be taken among employees in an appropriate unit consisting of two employees or fewer;

(e) to seek or take steps to have an employee discharged for failure to acquire or maintain membership in a trade union, where such membership is a condition of employment, if the employee complies with subsection 36(3);

(f) to use coercion or intimidation of any kind against an employee with a view to discouraging activity which might lead to the rescission of an order or decision of the board under clause 5(a), (b) or (c).

(3) For the purposes of this Act:

(a) an application is deemed to be pending before the board on and after the day on which it is first considered by the board at a formally constituted meeting until the day on which the decision of the board is made;

(b) a matter is deemed to be pending before a board of conciliation on and after the day on which the board of conciliation is established by the minister until the day on which its report is received by the minister; and

(c) a matter is deemed to be pending before a special mediator on and after the day on which the special mediator is appointed by the minister until the day on which the special mediator's report is received by the minister.

(4) No employer shall be found guilty of an unfair labour practice under clause (1)(c), (d) or (m):

(a) unless the board has made an order determining that the trade union making the complaint represents the majority of the employees in the appropriate unit; or

(b) where the employer shows to the satisfaction of the board that he did not know nor had any reasonable grounds for believing that the trade union represented the majority of the employees, or that the employees were actively endeavouring to have a trade union represent them, in the appropriate unit when he committed the acts complained of.

(5) In any matter or proceeding arising under this Act, an order made by the board shall be binding and conclusive of the matters stated therein.

(6) Where the majority of the employees voting on a strike vote under clause 11(2)(d) vote in favour of a strike, no strike may commence unless the trade union representing a majority of the employees:

(a) gives the employer or employer's agent at least 48 hours written strike notice of the date and time that the strike will commence; and

(b) promptly, after service of the notice, notifies the minister or his designate of the date and time that the strike will commence.

(7) No employer may cause a lock-out unless:

(a) he gives the union or union's agent at least 48 hours written notice of the date and time that the lock-out will commence; and

(b) promptly, after the service of the notice, notifies the minister or his designate of the date and time that the lock-out will commence.

(8) The board may, in its discretion, on the application of the trade union or affected employees, require that any strike vote under clause 11(2)(d) or any vote of employees to ratify the terms of a proposed collective bargaining agreement be supervised, conducted or scrutinized by the board or a person appointed by the board, and the board may:

(a) determine where, when and how the vote may be taken;

(b) require that the employer and trade union give all employees who are eligible to vote an opportunity to vote.

1972, c.137, s.11; 1980-81, c.43, s.2; 1983, c.81, s.6; 1994, c.47, s.8; 2008, c.26, s.6.

Certain prohibitions respecting unfair labour practices

12 No person shall take part in, aid, abet, counsel or procure any unfair labour practice or any violation of this Act.

1972, c.137, s.12.

Deadline to report unfair labour practice

12.1(1) Subject to subsection (2), the board may refuse to hear any allegation of an unfair labour practice that is made more than 90 days after the complainant knew, or in the opinion of the board ought to have known, of the action or circumstances giving rise to the allegation, unless the respondent has consented in writing to waive or extend the deadline.

(2) The board must hear any allegation of an unfair labour practice that is made after the deadline mentioned in subsection (1) if the respondent has consented in writing to waive or extend the deadline.

2008, c.26, s.7.

Enforcement of orders and decisions of board

13 A certified copy of any order or decision of the board shall be filed in the office of a local registrar of the Court of Queen's Bench and shall thereupon be enforceable as a judgment or order of the court, and in the same manner as any other judgment or order of the court, but the board may nevertheless rescind or vary any such order.

1972, c.137, s.13; 1994, c.47, s.9.

Court may refer any question to board

14(1) In an application to the court arising out of the failure of any person to comply with the terms of an order filed pursuant to section 13, the court may refer to the board any question as to the compliance or non-compliance of such person or persons with the order of the board.

(2) The application to enforce an order of the board may be made to the court by and in the name of the board, any trade union affected or any interested person, and upon such application being heard the court shall be bound absolutely by the findings of the board and shall make such order or orders as may be necessary to cause every party with respect to whom the application is made to comply with the order of the board.

(3) The board may in its own name appeal from any judgment, decision or order of any court affecting any of its orders or decision.

1972, c.137, s.14.

Offence and penalty

15(1) Any person who takes part in, aids, abets, counsels or procures any unfair labour practice or contravenes any provision of this Act is, in addition to any other penalty imposed on him pursuant to this Act, guilty of an offence and liable on summary conviction:

(a) for a first offence:

(i) in the case of an individual, to a fine of not less than $50 and not more than $1,000;

(ii) in the case of a corporation or trade union, to a fine of not less than $1,000 and not more than $10,000;

(b) for a second or subsequent offence, to a fine in the amount set out in clause (a) and to imprisonment for a term of not longer than one year.

(2) Any person who fails to comply with any order of the board, whether made prior to or after the coming into force of this section, is, in addition to any other penalty imposed on him under this Act, guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine of $50;

(b) in the case of a corporation or trade union, to a fine of $250;

for each day or part of a day during which the non-compliance continues.

1983, c.81, s.7.

Board may rescind order obtained by fraud

16(1) Where the board has by order determined that a trade union represents a majority of employees in an appropriate unit for the purposes of bargaining collectively:

(a) any employee in the appropriate unit;

(b) the employer; or

(c) any trade union claiming to represent any employees in the appropriate unit;

who alleges that the order was obtained by fraud may apply to the board at any time to rescind the order.

(2) Upon an application under subsection (1) the board shall, upon being satisfied that the order was obtained by fraud, rescind the order.

(3) Any person who takes part in, aids, abets, counsels or procures the obtaining by fraud of an order mentioned in subsection (1) is guilty of an offence and liable on summary conviction to the penalties set out in section 15.

1972, c.137, s. 16.

Board may make rules and regulations

17(1) The board may, subject to the approval of the Lieutenant Governor in Council, make such regulations, not inconsistent with this Act, as are necessary to carry out the provisions of this Act according to their true intent.

(1.1) The chairperson of the board may make regulations prescribing rules of procedure for matters before the board, including preliminary procedures, and prescribing forms that are consistent with this Act and any other regulations made pursuant to this Act.

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations:

(a) providing for the disposition of applications to the board *ex parte*;

(b) prescribing terms and conditions to which dispositions of applications to the board *ex parte* shall be subject;

(c) for the purposes of subsection 6(1.2).

(3) An employer, employee or trade union affected by any act done on an *ex parte* application may apply to the board to review, set aside, amend, stay or otherwise deal with such act and the board, upon such application or upon its own motion, may exercise its powers with regard to the matter in issue as if the act had not been done.

(4) The minister shall provide such technical, clerical and secretarial assistance as the board may require for the purpose of this Act.

1972, c.137, s. 17; 1989-90, c.54, s.6; 2005, c.30, s.4; 2008, c.26, s.8.

Additional powers of board

18 The board has, for any matter before it, the power:

(a) to require any party to provide particulars before or during a hearing;

(b) to require any party to produce documents or things that may be relevant to a matter before it and to do so before or during a hearing;

(c) that is vested in the Court of Queen's Bench for the trial of civil actions to:

(i) summon and enforce the attendance of witnesses;

(ii) compel witnesses to give evidence on oath or otherwise; and

(iii) compel witnesses to produce documents or things;

(d) to administer oaths and solemn affirmations;

(e) to receive and accept any evidence and information on oath, affidavit or otherwise that the board in its discretion sees fit, whether admissible in a court of law or not;

(f) subject to the regulations made by the Lieutenant Governor in Council, to determine the form in which evidence of membership in a trade union or communication from employees that they no longer wish to be represented by a trade union is to be filed with the board on an application for certification or for rescission, and to refuse to accept any evidence that is not filed in that form;

(g) subject to the regulations made by the Lieutenant Governor in Council, to determine the form in which and the time within which any party to a proceeding before the board must file or present any thing, document or information and to refuse to accept any thing, document or information that is not filed or presented in that form or by that time;

(h) to order preliminary procedures, including pre-hearing settlement conferences;

(i) to determine who may attend and the time, date and place of any preliminary procedure or conference mentioned in clause (h);

(j) to conduct any hearing using a means of telecommunications that permits the parties and the board to communicate with each other simultaneously;

(k) to adjourn or postpone the proceeding;

(l) to defer deciding any matter if the board considers that the matter could be resolved by arbitration or an alternative method of resolution;

(m) to bar from making a similar application for any period not exceeding one year from the date an unsuccessful application is dismissed:

(i) an unsuccessful applicant;

(ii) any of the employees affected by an unsuccessful application;

(iii) any person or trade union representing the employees affected by an unsuccessful application; or

(iv) any person or organization representing the employer affected by an unsuccessful application;

(n) to refuse to entertain a similar application for any period not exceeding one year from the date an unsuccessful application is dismissed from anyone mentioned in subclauses (m)(i) to (iv);

(o) to summarily refuse to hear a matter that is not within the jurisdiction of the board;

(p) to summarily dismiss a matter if there is a lack of evidence or no arguable case;

(q) to decide any matter before it without holding an oral hearing;

(r) to decide any question that may arise in the proceeding, including, without restricting the generality of the foregoing, any question as to whether:

(i) a person is a member of a trade union;

(ii) a collective agreement has been entered into or is in operation; or

(iii) any person or organization is a party to or bound by a collective agreement;

(s) to require any person, trade union or employer to post and keep posted in a place determined by the board, or to send by any means that the board determines, any notice that the board considers necessary to bring to the attention of any employee;

(t) to enter any premises of an employer where work is being or has been done by employees, or in which the employer carries on business, whether or not the premises are those of the employer, and to inspect and view any work, material, machinery, appliances, articles, records or documents and question any person;

(u) to enter any premises of a trade union and to inspect and view any work, material, articles, records or documents and question any person;

(v) to order, at any time before the proceeding has been finally disposed of by the board, that:

(i) a vote or an additional vote be taken among employees affected by the proceeding if the board considers that the taking of such a vote would assist the board to decide any question that has arisen or is likely to arise in the proceeding, whether or not such a vote is provided for elsewhere; and

(ii) the ballots cast in any vote ordered by the board pursuant to subclause (i) be sealed in ballot boxes and not counted except as directed by the board;

(w) to enter on the premises of an employer for the purpose of conducting a vote during working hours, and to give any directions in connection with the vote that it considers necessary;

(x) to authorize any person to do anything that the board may do pursuant to clauses (a), (b), (d), (e), (i), (j), (s), (t), (u) and (w), on any terms and conditions the board considers appropriate, and to require that person to report to the board on anything done.

2005, c.30, s.5; 2008, c.26, s.9.

Privileges and immunities

18.1 The members of the board shall have the same privileges and immunities as a judge of the Court of Queen's Bench.

2005, c.30, s.6.

Proceedings not invalidated by irregularities, etc.

19(1) No proceedings before or by the board shall be invalidated by reason of any irregularity or technical objection, but the board may, at any stage of proceedings before it, allow a party to alter or amend his application, reply, intervention or other process in such manner and upon such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy in proceedings.

(2) The board may at any time and on such terms as the board may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

(3) For greater certainty but without limiting the generality of subsections (1) and (2), in any proceedings before it, the board may, upon such terms as it deems just, order that the proceedings be amended:

(a) by adding as a party to the proceedings any person or trade union that is not, but in the opinion of the board ought to be, a party to the proceedings;

(b) by striking out the name of a person or trade union improperly made a party to the proceedings;

(c) by substituting the name of a person or trade union that in the opinion of the board ought to be a party to the proceedings for the name of a person or trade union improperly made a party to the proceedings;

(d) correcting the name of a person or trade union that is incorrectly set forth in the proceedings.

(4) The board may at any time correct any clerical error in any order or decision made by the board or any officer or agent of the board.

1972, c.137, s.19.

Notices, how given

20 A notice given for any of the purposes of this Act may be given by prepaid registered mail addressed to the last known address of the addressee's residence or place of business.

1972, c.137, s.20.

No appeal from order or decision of board

21 There is no appeal from an order or decision of the board under this Act, the board may determine any question of fact necessary to its jurisdiction, and its proceedings, orders and decisions shall not be reviewable by any court of law or by any *certiorari,* mandamus, prohibition, injunction or other proceeding whatever.

1972, c.137, s.21.

Deadline for board decision

21.1(1) Any decision of the board shall be provided to the parties within six months of the last day of the hearing unless the board is reasonably justified in requiring more time.

(2) Notwithstanding section 21 and subsection 40(1), any party to a proceeding before the board may apply to the Court of Queen's Bench for an order directing the board to provide its decision if the deadline in subsection (1) has not been met.

(3) Any failure to comply with subsection (1) does not affect the validity of a decision.

2008, c.26, s.10.

Annual report

21.2(1) In each fiscal year, the board shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister an annual report on the activities of the board for the preceding fiscal year.

(2) The minister shall, in accordance with *The Tabling of Documents Act, 1991*, lay before the Legislative Assembly each report received by the minister pursuant to this section.

(3) Notwithstanding subsection 40(1), the annual report shall include the following information:

(a) a list of all matters filed with the board;

(b) a list of all decisions rendered by the board;

(c) with respect to each decision listed:

(i) the date the matter was initially filed;

(ii) the date the matter was heard by the board;

(iii) the members of the board that heard the matter; and

(iv) the length of time between the last day of the hearing and the rendering of the decision; and

(d) a summary, by member, of:

(i) the number of decisions rendered;

(ii) the type of decision whether interim or final disposition; and

(iii) the average period between the last day of a hearing and the rendering of the decision for each type of decision.

2008, c.26, s.10.

Boards of conciliation

22(1) The minister may establish a board of conciliation to investigate, conciliate and report upon any dispute between an employer or employers and a trade union or trade unions, or, if no trade union has been determined under this Act as representing a majority of the employees concerned, between an employer and any of his employees affecting any terms or conditions of employment of any employees of the employer or affecting or relating to the relations between the employer and all or any of his employees or relating to the interpretation of any agreement or clause thereof between an employer and a trade union.

(2) The chairperson of the board of conciliation or in his absence the acting chairperson, has the powers of a commissioner under *The Public Inquiries Act* and a board may receive and accept such evidence on oath, affidavit or otherwise as in its discretion it may deem fit and proper.

1972, c.137, s.22; 1994, c.47, s.10.

Regulations by minister respecting boards of conciliation

23 The minister may make such regulations as he thinks fit in regard to the establishment of boards of conciliation and the appointment of the members including the chairperson thereof by the nomination of the parties to the dispute or by himself and for the sittings, procedure and remuneration of such boards and publication of the reports of such boards with a view to the rapid disposition of any dispute.

1972, c.137, s.23; 1994, c.47, s.11.

Special mediator

23.1(1) On the request of either party to a labour-management dispute or on the minister's own initiative, the minister may:

(a) appoint a special mediator to investigate, mediate and report to the minister on any labour-management dispute; and

(b) establish any terms of reference that the minister considers necessary with respect to any of the following:

(i) the appointment of the special mediator;

(ii) the remuneration to be paid to the special mediator;

(iii) the procedures to be followed by the special mediator;

(iv) the publication of any reports submitted by the special mediator.

(2) A special mediator appointed by the minister:

(a) has the powers of a commissioner pursuant to *The Public Inquiries Act*; and

(b) is not bound by the rules of evidence, but may receive and accept any evidence that the special mediator considers appropriate.

1994, c.47, s.12.

Provision of information

23.2 On the request of an employee, employer or trade union, a labour relations officer may provide information regarding the rights and responsibilities of employees, employers and trade unions pursuant to this Act.

1994, c.47, s.12.

Board to determine any dispute on request of parties

24 A trade union representing the majority of employees in a unit of employees may enter into an agreement with an employer to refer a dispute or disputes or a class of disputes to the board and the board shall hear and determine any dispute referred to it by either party pursuant to such agreement and the finding of the board shall be final and conclusive and shall in regard to all matters within the legislative jurisdiction of the Legislature of Saskatchewan be binding upon the parties and enforceable as an order the board made in accordance with this Act.

1972, c.137, s.24.

Powers of arbitration board, binding effect of findings of, etc.

25(1) All differences between the parties to a collective bargaining agreement or persons bound by the collective bargaining agreement or on whose behalf the collective bargaining agreement was entered into respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, are to be settled by arbitration after exhausting any grievance procedure established by the collective bargaining agreement.

(1.1) Subsections (1.2) to (4) apply to all arbitrations pursuant to this Act or any collective bargaining agreement.

(1.2) The finding of an arbitrator or an arbitration board is:

(a) final and conclusive;

(b) binding on the parties with respect to all matters within the legislative jurisdiction of the Government of Saskatchewan; and

(c) enforceable in the same manner as an order of the board made pursuant to this Act.

(2) An arbitrator or the chairperson of an arbitration board, as the case may be, may:

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

(b) administer oaths;

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

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

(f) relieve, on terms that, in the arbitrator's opinion, are just and reasonable, against breaches of time limits set out in the collective bargaining agreement with respect to a grievance procedure or an arbitration procedure;

(g) dismiss or reject an application or grievance or refuse to settle a difference if, in the opinion of the arbitrator or the arbitration board, there has been unreasonable delay by the person bringing the application or grievance or requesting the settlement and the delay has operated to the prejudice or detriment of the other party; and

(h) encourage settlement of the dispute and, with the agreement of the parties, may use mediation, conciliation or other procedures to encourage settlement at any time during the arbitration.

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

(3.1) An arbitrator shall give a decision within 30 days after the conclusion of the hearing of the matter submitted to arbitration.

(3.2) An arbitration board shall give a decision within 60 days after the conclusion of the hearing of the matter submitted to arbitration.

(3.3) The time for giving a decision pursuant to subsection (3.1) or (3.2) may be extended with the consent of the parties to the arbitration.

(3.4) If an arbitrator or arbitration board gives an oral decision:

(a) subsections (3.1) and (3.2) do not apply; and

(b) on the request of either party, the arbitrator or arbitration board shall give written reasons for the decision within a reasonable time.

(3.5) Subject to subsections (3.6), 26.1(11) and 26.1(12), each of the parties to an arbitration shall pay an equal share of the remuneration and expenses of an arbitrator appointed pursuant to this Act.

(3.6) If an arbitrator or arbitration board does not give a decision within the time required pursuant to subsection (3.1) or (3.2) or an extension of time consented to pursuant to subsection (3.3), the parties to the arbitration are no longer responsible for payment of the remuneration and expenses of the arbitrator or arbitration board.

(4) *The Arbitration Act, 1992* does not apply to any arbitration under this Act.

1972, c.137, s.25; 1992, c.A-24.1, s.61; 1994, c.47, s.13.

Fair representation

25.1 Every employee has the right to be fairly represented in grievance or rights arbitration proceedings under a collective bargaining agreement by the trade union certified to represent his bargaining unit in a manner that is not arbitrary, discriminatory or in bad faith.

1983, c.81, s.8.

Application of arbitration procedure of Act in certain cases

26(1) Subject to section 26.1, the procedure set out in this section applies where a collective bargaining agreement:

(a) does not provide for final settlement of differences respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, by arbitration; or

(b) provides for final settlement of differences respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, by arbitration but does not provide for an arbitration procedure.

(2) Where a difference arises between the parties to a collective bargaining agreement mentioned in subsection (1) respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, a party to the collective bargaining agreement, after exhausting any grievance procedure established by the collective bargaining agreement, may notify the other party in writing that it intends to submit the difference to arbitration.

(3) The notice mentioned in subsection (2) must contain the name of the person, or a list of names of persons, that the party who gives the notice is willing to accept as a single arbitrator.

(4) Within seven days of receiving a notice mentioned in subsection (2), the party who receives the notice shall:

(a) notify the party who gives the notice that it accepts the name of an arbitrator set out in the notice, and the difference shall proceed to arbitration; or

(b) if it does not accept the name of an arbitrator set out in the notice, notify the party who gives the notice of that fact and send that party a list of persons that it is willing to accept as the arbitrator.

(4.1) If the parties cannot agree on an arbitrator within a further period of seven days, either party may ask the minister to appoint an arbitrator.

(5) A person who:

(a) has a pecuniary interest in a matter before the arbitrator; or

(b) is acting or has, within a period of one year prior to the date on which notice of intention to submit the matter to arbitration is given, acted as solicitor, counsel or agent of any of the parties to the arbitration;

is not eligible for appointment as an arbitrator and shall not act as an arbitrator.

(6) **Repealed.** 1994, c.47, s.14.

(7) **Repealed.** 1994, c.47, s.14.

(8) The arbitrator shall:

(a) hear:

(i) evidence adduced relating to the difference; and

(ii) argument by the parties or their counsel; and

(b) make a decision on the matter or matters in dispute.

(9) The decision of the arbitrator is binding on the parties and on any person on whose behalf the collective bargaining agreement was made.

(10) **Repealed.** 1994, c.47, s.14.

(11) **Repealed.** 1994, c.47, s.14.

1972, c.137, s.26; 1983, c.66, s.22; 1994, c.47, s.14.

Arbitration by arbitration board

26.1(1) Either party to a collective bargaining agreement mentioned in subsection 26(1) may elect to have a difference between the parties respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, determined by an arbitration board in accordance with this section instead of by a single arbitrator by giving notice to the other party of that election.

(2) Where a difference arises between the parties to a collective bargaining agreement mentioned in subsection 26(1) respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, a party to the agreement, after exhausting any grievance procedure established by the agreement, may notify the other party in writing that it intends to submit the difference to arbitration.

(3) The notice mentioned in subsection (2) shall contain the name of the person appointed to the arbitration board by the party giving the notice.

(4) Within five days after receiving the notice, the party to whom notice is given shall:

(a) name the person whom it appoints to the arbitration board; and

(b) furnish the name of its appointee to the party who gave the notice.

(5) A person is not eligible for appointment as a member of the arbitration board, and shall not act as a member of the arbitration board, if the person:

(a) has a pecuniary interest in a matter before the arbitration board; or

(b) is acting or, within a period of one year prior to the day on which notice of intention to submit the matter to arbitration is given, has acted as solicitor, counsel or agent of any of the parties to the arbitration.

(6) The two appointees named by the parties to the agreement shall, within 10 days after the appointment of the second of them, appoint a third member of the arbitration board who shall be the chairperson of the arbitration board.

(7) Where the party receiving the notice fails to appoint a member of the arbitration board, the chairperson of the Labour Relations Board, on the request of a party to the agreement, shall appoint a member on behalf of the party failing to make an appointment.

(8) Where the two appointees of the parties, including members appointed pursuant to subsection (7), fail to agree on the appointment of a third member of the arbitration board within the time specified in subsection (6), the chairperson of the Labour Relations Board, on the request of a party to the agreement, shall appoint the third member, and the member so appointed shall be the chairperson of the arbitration board.

(9) The arbitration board shall:

(a) hear:

(i) evidence adduced relating to the difference; and

(ii) argument by the parties or their counsel; and

(b) make a decision on the matter or matters in dispute.

(10) The decision of the majority of the members of an arbitration board or, where there is no majority decision, the decision of the chairperson of the arbitration board shall be the decision of the arbitration board.

(11) Where the chairperson of the Labour Relations Board appoints a member of an arbitration board pursuant to subsection (7), the party who failed to make the appointment shall pay the remuneration and expenses of the person so appointed.

(12) Each of the parties shall pay an equal share of the remuneration and expenses of a person appointed pursuant to subsection (6) or (8) as the third member of an arbitration board.

1994, c.47, s.15.

Arbitration re termination or suspension

26.2(1) Whether there is just cause for the termination or suspension of an employee may be determined by arbitration where:

(a) no collective bargaining agreement is in force;

(b) the board has determined that a trade union represents a majority of employees in the appropriate unit;

(c) the employee is terminated or suspended for a cause other than shortage of work; and

(d) the termination or suspension is not, and has not been, the subject of an application to the board pursuant to clause 11(1)(e).

(2) Where an arbitration is conducted pursuant to subsection (1), it is to be conducted in accordance with section 26 or 26.3.

(3) The arbitrator shall determine any dispute respecting the application of this section.

1994, c.47, s.15.

Expedited arbitration

26.3(1) The parties to a collective bargaining agreement may, at any time after exhausting any grievance procedure established by the collective bargaining agreement, agree to refer a difference between the parties respecting its meaning, application or alleged violation, including a question as to whether a matter is arbitrable, to the minister for resolution by expedited arbitration.

(2) No difference may be referred to the minister pursuant to this section if:

(a) the difference has been referred to arbitration pursuant to the collective bargaining agreement by either party; or

(b) the time, if any, stipulated in or permitted by the collective bargaining agreement for referring the difference to arbitration has expired.

(3) If a difference is referred to the minister pursuant to this section, the minister:

(a) shall appoint an arbitrator to hear and determine the matter arising out of the difference;

(b) shall fix the day, not later than 28 days after the day on which the difference is referred to the minister, on which the hearing by the arbitrator will commence; and

(c) if one party so requests and the other party agrees, may appoint a grievance mediator to assist the parties in settling the grievance before the hearing.

(4) If a grievance mediator is appointed pursuant to subsection (3), the grievance mediator shall, within 10 days after the appointment or within any further time that the minister may allow:

(a) inquire into the difference;

(b) endeavour to assist the parties in settling the difference; and

(c) report to the minister on the results of the inquiry and the success of the settlement effort.

(5) If a grievance mediator is not appointed pursuant to subsection (3), or if the parties are unable to settle the difference with the assistance of a grievance mediator appointed pursuant to subsection (3), the arbitrator appointed pursuant to subsection (3) shall:

(a) proceed to hear and determine the matter arising out of the difference; and

(b) subject to subsection (6), issue a decision within 21 days after the conclusion of the hearing.

(6) If jointly requested to do so by the parties to the difference, the arbitrator shall, if possible, issue an oral decision within one day after the conclusion of the hearing and shall issue written reasons within 21 days after the conclusion of the hearing.

(7) In addition to the powers conferred on arbitrators by this Act, an arbitrator appointed pursuant to subsection (3) has all the powers and jurisdiction conferred by the collective bargaining agreement between the parties to the difference.

1994, c.47, s.15.

Grievance mediation

26.4(1) Notwithstanding sections 25 and 26 and any provision in a collective bargaining agreement, the parties to the collective bargaining agreement may, at any time after exhausting any grievance procedure established by the collective bargaining agreement, agree to refer one or more grievances pursuant to the collective bargaining agreement to a grievance mediator for the purpose of resolving the grievances in an expeditious and informal manner.

(2) The parties shall not refer a grievance to a grievance mediator unless they have agreed on the nature of any issues in dispute.

(3) On a joint request by the parties, the minister shall appoint a grievance mediator.

(4) A grievance mediator appointed by the minister shall begin proceedings within 10 days after being appointed or on any day that the parties jointly request.

(5) Where the parties jointly request the appointment of a grievance mediator pursuant to this section, any provisions of the collective bargaining agreement that impose a limitation of time with respect to the reference of a grievance to arbitration are deemed to be inoperative.

(6) The grievance mediator shall endeavour to assist the parties to settle the grievance by mediation.

(7) If the parties are unable to settle the grievance by mediation, the grievance mediator shall endeavour to assist the parties to agree on the material facts in dispute, and then the parties may determine the grievance in accordance with the arbitration provisions in the collective bargaining agreement, in accordance with sections 25, 26 or 26.1 or by expedited arbitration.

1994, c.47, s.15.

First collective bargaining agreements

26.5(1) If the board has made an order pursuant to clause 5(b), the trade union and the employer, or their authorized representatives, must meet and commence bargaining collectively within 20 days after the order is made, unless the parties agree otherwise.

(1.1) Either party may apply to the board for assistance in the conclusion of a first collective bargaining agreement, and the board may provide assistance pursuant to subsection (6), if:

(a) the board has made an order pursuant to clause 5(a), (b) or (c);

(b) the trade union and the employer have bargained collectively and have failed to conclude a first collective bargaining agreement; and

(c) one or more of the following circumstances exists:

(i) the trade union has taken a strike vote and the majority of those employees who voted have voted for a strike;

(ii) the employer has commenced a lock-out;

(iii) the board has made a determination pursuant to clause 11(1)(c) or (2)(c) and, in the opinion of the board, it is appropriate to assist the parties in the conclusion of a first collective bargaining agreement pursuant to subsection (6);

(iv) 90 days or more have passed since the board made an order pursuant to clause 5(b).

(2) If an application is made pursuant to subsection (1.1), an employee shall not strike or continue to strike, and the employer shall not lock out or continue to lock out the employees.

(3) An application pursuant to subsection (1.1) must include a list of the disputed issues and a statement of the position of the applicant on those issues, including the applicant's last offer on those issues.

(4) All materials filed with the board in support of an application pursuant to subsection (1.1) must be served on the other party within 24 hours after filing the application with the board.

(5) Within 14 days after receiving the information mentioned in subsection (4), the other party must:

(a) file with the board a list of the issues in dispute and a statement of the position of that party on those issues, including that party's last offer on those issues; and

(b) serve on the applicant a copy of the list and statement.

(6) On receipt of an application pursuant to subsection (1.1):

(a) the board may require the parties to submit the matter to conciliation if they have not already done so; and

(b) if the parties have submitted the matter to conciliation or 120 days have elapsed since the appointment of a conciliator, the board may do any of the following:

(i) conclude, within 45 days after undertaking to do so, any term or terms of a first collective bargaining agreement between the parties;

(ii) order arbitration by a single arbitrator to conclude, within 45 days after the date of the order, any term or terms of the first collective bargaining agreement.

(7) Before concluding any term or terms of a first collective bargaining agreement, the board or a single arbitrator may hear:

(a) evidence adduced relating to the parties' positions on disputed issues; and

(b) argument by the parties or their counsel.

(8) Notwithstanding section 33 but subject to subsections (9) and (10), the expiry date of a collective bargaining agreement concluded pursuant to this section is deemed to be two years from its effective date or any other date that the parties agree on.

(9) Notwithstanding section 33 not less than 30 days or more than 60 days before the expiry date of a collective bargaining agreement concluded pursuant to this section, either party may give notice in writing to terminate the agreement or to negotiate a revision of the agreement.

(10) Where a notice is given pursuant to subsection (9), the parties shall immediately bargain collectively with a view to the renewal or revision of the agreement or the conclusion of a new agreement.

1994, c.47, s.15; 2005, c.30, s.7.

List of arbitrators

26.6(1) The Lieutenant Governor in Council, on the recommendation of the minister after consultation with labour organizations and employer associations, shall establish a list of arbitrators who are designated to conduct arbitrations pursuant to this Act or a collective bargaining agreement.

(2) n.y.p.

1994, c.47, s.15.

(2) Where the minister or the board is required to appoint an arbitrator pursuant to this Act or a collective bargaining agreement, that appointment must be made from the list established pursuant to subsection (1).

1994, c.47, s.15, n.y.p.

Trade union not deemed unlawful

27 A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of trade.

1972, c.137, s.27.

Acts done by two or more members

28 An act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless the act would be actionable if done without any agreement or combination.

1972. c.137, s.28.

Capacity of union to sue, etc.

29 For the purposes of this Act, every trade union is deemed to be a person, and may sue or be sued and prosecute or be prosecuted under its own name.

1983, c.81, s.9.

30 Repealed. 1983, c.81, s.10.

Copies of collective bargaining agreements, amendments, to be filed with minister

31 Each of the parties to a collective bargaining agreement or any document altering, modifying or amending a collective bargaining agreement or any provision thereof or contained therein shall forthwith upon execution of the agreement or document file one copy thereof with the minister and the copies so filed shall be made available by the minister for inspection by any person.

1972, c.137, s.31.

Employer to deduct trade union dues from wages

32(1) Upon the request in writing of an employee, and upon request of a trade union representing the majority of employees in any bargaining unit of his employees, the employer shall deduct and pay in periodic payments out of the wages due to the employee, to the person designated by the trade union to receive the same, the union dues, assessments and initiation fees of the employee, and the employer shall furnish to that trade union the names of the employees who have given such authority.

(2) Failure to make payments and furnish information required by subsection (1) is an unfair labour practice.

1972, c.137, s.32.

Period for which collective bargaining agreements are to remain in force

33(1) Except as hereinafter provided, every collective bargaining agreement, whether heretofore or hereafter entered into, shall remain in force for the term of operation provided therein and thereafter from year to year.

(2) Where a collective bargaining agreement:

(a) does not provide for its term of operation;

(b) provides for an unspecified term; or

(c) provides for a term of less than one year;

the agreement shall be deemed to provide for its operation for a term of one year from its effective date.

(3) **Repealed.** 2008, c.26, s.11.

(4) Either party to a collective bargaining agreement may, not less than 30 days or more than 60 days before the expiry date of the agreement, give notice in writing to the other party to negotiate a revision of the agreement and where a notice is given the parties shall forthwith bargain collectively with a view to the renewal or revision of the agreement or the conclusion of a new agreement.

(5) A trade union claiming to represent a majority of employees in the appropriate unit of employees or any part thereof to which a collective bargaining agreement applies may, not less than 30 days or more than 60 days before the anniversary date of the agreement, apply to the board for an order determining it to be the trade union representing a majority of employees in the appropriate unit of employees to which the agreement applies, or in any part thereof, and if the board makes such order the employer shall forthwith bargain collectively with that trade union and the former agreement shall be of no force or effect insofar as it applies to any unit of employees in which that trade union has been determined as representing a majority of the employees.

1972, c.137, s.33; 1983, c.81, s.11; 1994, c.47, s.16; 2008, c.26, s.11.

Rights of parties after expiry of collective bargaining agreement

34(1) Notwithstanding anything contained in any collective bargaining agreement heretofore entered into or, except as otherwise specifically provided therein, hereafter entered into, where either party to such agreement gives or has given notice in writing pursuant to subsection 33(4) to negotiate a revision of the agreement, the employees in respect of whom the agreement applies and the employer of such employees may, after this section comes into force and after the expiry of the term of operation provided in the agreement, commence to strike or commence a lock-out, as the case may require.

(2) **Repealed.** 1994, c.47, s.17.

1976-77, c.89, s.1; 1994, c.47, s.17.

Power to vary expiry dates of collective bargaining agreements in certain cases

35 Notwithstanding section 33, where a trade union is, by its locals, councils or otherwise a party to two or more collective bargaining agreements affecting employees employed by the same employer in two or more plants or establishments and the expiry dates of the agreements are not the same, the board may, upon application of the trade union or the employer, and having due regard for the interests of all parties that might be affected, by order fix a date as the expiry date of all the agreements, and the date so fixed shall, notwithstanding anything in any of the agreements, be the expiry date of each of the agreements.

1972, c.137, s.34.

Union security

36(1) Upon the request of a trade union representing a majority of employees in any appropriate unit, the following clause shall be included in any collective bargaining agreement entered into between that trade union and the employer concerned, and, whether or not any collective bargaining agreement is for the time being in force, the said clause shall be effective and its terms shall be carried out by that employer with respect to such employees on and after the date of the trade union's request until such time as the employer is no longer required by or pursuant to this Act to bargain collectively with that trade union:

> Every employee who is now or hereafter becomes a member of the union shall maintain his membership in the union as a condition of his employment, and every new employee whose employment commences hereafter shall, within 30 days after the commencement in his employment, apply for and maintain membership in the union, and maintain membership in the union as a condition of his employment, provided that any employee in the appropriate bargaining unit who is not required to maintain his membership or apply for and maintain his membership in the union shall, as a condition of his employment, tender to the union the periodic dues uniformly required to be paid by the members of the union;

and the expression **"the union"** in the clause shall mean the trade union making such request.

(2) Failure on the part of any employer to carry out the provisions of subsection (1) shall be an unfair labour practice.

(3) Where membership in a trade union or labour organization is a condition of employment and:

> (a) membership in the trade union is not available to an employee on the same terms and conditions generally applicable to other members; or
>
> (b) an employee is denied membership in the trade union or his membership is terminated for reasons other than the failure of the employee to tender the periodic dues, assessment and initiation fees uniformly required to be paid by all other members of the trade union as a condition of acquiring or maintaining membership;

the employee, if he tenders payment of the periodic dues, assessments and initiation fees uniformly required as a condition of acquiring and maintaining membership:

> (c) shall be deemed to maintain his membership in the trade union for purposes of this section; and
>
> (d) shall not lose his membership in the trade union for purposes of this section for failure to pay any dues, assessments and initiation fees that are not uniformly required of all members or that in their application discriminate against any member or members.

(4) Notwithstanding subsection (3), a trade union may assess or fine any of its members who has worked for the struck employer during a strike held in compliance with this Act a sum of not more than the net earnings that employee earned during that strike.

(5) No trade union shall require any member to pay an assessment or fine pursuant to subsection (4) unless the constitution of the trade union provides for the assessment or fine prior to the commencement of the strike.

(6) A fine imposed on a member pursuant to subsection (4) with respect to an action that takes place after the coming into force of this subsection is deemed to be a debt due and owing to the trade union and may be recovered in the same manner as a debt owed pursuant to a contract in a court of competent jurisdiction.

1972, c.137, s.35; 1983, c.81, s.12; 1994, c.47, s.18.

Employee-trade union disputes

36.1(1) Every employee has a right to the application of the principles of natural justice in respect of all disputes between the employee and the trade union certified to represent his bargaining unit relating to matters in the constitution of the trade union and the employee's membership therein or discipline thereunder.

(2) Every employee shall be given reasonable notice of union meetings at which he is entitled to attend.

(3) No employee shall unreasonably be denied membership in a trade union.

1983, c.81, s.13.

Transfer of obligations

37(1) Where a business or part thereof is sold, leased, transferred or otherwise disposed of, the person acquiring the business or part thereof shall be bound by all orders of the board and all proceedings had and taken before the board before the acquisition, and the orders and proceedings shall continue as if the business or part thereof had not been disposed of, and, without limiting the generality of the foregoing, if before the disposal a trade union was determined by an order of the board as representing, for the purpose of bargaining collectively, any of the employees affected by the disposal or any collective bargaining agreement affecting any of such employees was in force the terms of that order or agreement, as the case may be, shall, unless the board otherwise orders, be deemed to apply to the person acquiring the business or part thereof to the same extent as if the order had originally applied to him or the agreement had been signed by him.

(2) On the application of any trade union, employer or employee directly affected by a disposition described in this section, the board may make orders doing any of the following:

(a) determining whether the disposition or proposed disposition relates to a business or part of it;

(b) determining whether, on the completion of the disposition of a business or of part of the business, the employees constitute one or more units appropriate for collective bargaining and whether the appropriate unit or units will be:

(i) an employee unit;

(ii) a craft unit;

(iii) a plant unit;

(iv) a subdivision of an employee unit, craft unit or plant unit; or

(v) some other unit;

(c) determining what trade union, if any, represents a majority of employees in the unit determined to be an appropriate unit pursuant to clause (b);

(d) directing a vote to be taken among all employees eligible to vote in a unit determined to be an appropriate unit pursuant to clause (b);

(e) amending, to the extent that the board considers necessary or advisable, an order made pursuant to clause 5(a), (b) or (c) or the description of a unit contained in a collective bargaining agreement;

(f) giving any directions that the board considers necessary or advisable as to the application of a collective bargaining agreement affecting the employees in a unit determined to be an appropriate unit pursuant to clause (b).

1972, c.137, s.36; 1994, c.47, s.19.

Deemed sale of business

37.1(1) In this section, **"services"** means cafeteria or food services, janitorial or cleaning services or security services that are provided to:

(a) the owner or manager of a building owned by the Government of Saskatchewan or a municipal government; or

(b) a hospital, university or other public institution.

(2) For the purposes of section 37, a sale of a business is deemed to have occurred if:

(a) employees perform services at a building or site and the building or site is their principal place of work;

(b) the employer of employees mentioned in clause (a) ceases, in whole or in part, to provide the services at the building or site; and

(c) substantially similar services are subsequently provided at the building or site under the direction of another employer.

(3) For the purposes of section 37, the employer mentioned in clause (2)(c) is deemed to be the person acquiring the business or part of the business.

1994, c.47, s.20.

Application of section 37 to certain businesses

37.2 Unless the board orders otherwise, if collective bargaining relating to a business is governed by the laws of Canada, and the business or part of it becomes subject to the laws of Saskatchewan, section 37 applies, with any necessary modification, and the person owning or acquiring the business or part of it is bound by any collective bargaining agreement in force when the business becomes subject to the laws of Saskatchewan.

1994, c.47, s.20.

Related businesses

37.3(1) On the application of an employer affected or a trade union affected, the board may declare more than one corporation, partnership, individual or association to be one employer for the purposes of this Act if, in the opinion of the board, associated or related businesses, undertakings or other activities are carried on under common control or direction by or through those corporations, partnerships, individuals or associations.

(2) Subsection (1) applies only to corporations, partnerships, individuals or associations that have common control or direction on or after October 28, 1994.

2005, c.30, s.8.

Continuation of obligations

38 Where an employer has by an order of the board been required to bargain collectively, he shall, while the order remains in force continue to be subject to the order and to any collective bargaining agreement entered into pursuant thereto notwithstanding that after the making of the order and while a collective bargaining agreement remains in force he at any time or from time to time ceases to be an employer within the meaning of this Act and the collective bargaining agreement shall while it remains in force continue to apply at all times during which he is an employer within the meaning of this Act.

1972, c.137, s.37.

Change of name of trade union consequent upon amalgamation, etc.

39 Except where otherwise ordered by the board:

(a) no order of the board, collective bargaining agreement or proceeding had or taken under this Act shall be rendered void, terminated, abrogated or curtailed in any way by reason only of:

(i) a change in the name of a trade union;

(ii) the amalgamation, merger or affiliation of a trade union or any part thereof with another trade union; or

(iii) the transfer or assignment by a trade union of its rights or any of its rights under or with respect to any such order, agreement or proceeding to another trade union; and

(b) where a trade union has, as a result of an amalgamation, merger or affiliation with another trade union changed its name, all such orders, agreements and proceedings and all records pertaining to the trade union shall, on and from the effective date of the amalgamation, merger or affiliation and without any order of the board, be deemed to be amended by the substitution of the new name of the trade union for the former name wherever it occurs, and, notwithstanding the change of name, amalgamation, merger, affiliation, transfer or assignment, all such orders, agreements and proceedings shall inure to the benefit of the successor, transferee or assignee, as the case may be, and shall apply to all persons affected thereby.

1972, c.137, s.38; 1984-85-86, c.16, s.39.

Certain information, etc., privileged

40(1) Information obtained for the purpose of this Act in the course of his duties by:

(a) a member of the board;

(b) a member of a board of conciliation;

(c) the executive officer of the board;

(d) a conciliation officer of the department over which the minister presides;

(e) a special mediator appointed pursuant to section 23.1;

(f) a grievance mediator appointed pursuant to subsection 26.3(3) or to whom a grievance is referred pursuant to section 26.4;

(g) an arbitrator or a member of an arbitration board, with respect to an arbitration of a matter governed by this Act

shall not be open to inspection by any person or by any court.

(2) None of the persons mentioned in subsection (1) shall be required by any court or the board to give evidence about information obtained for the purposes of this Act in the course of his or her duties.

1972, c.137, s.39; 1988-89, c.42, s.105; 1994, c.47, s.21.

Application of Acts of Canada, etc., to certain employees and employers

41(1) The Lieutenant Governor in Council may by order declare that any Act of the Parliament of Canada and any order of the Governor General in Council, whether heretofore or hereafter enacted or made, relating to matters dealt with by this Act shall apply in place of this Act in respect of the employees employed upon or in connection with any work, undertaking or business in the province or in any part thereof, and in respect of the employer or employers of such employees, and any such order, upon its publication in *The Saskatchewan Gazette* or upon such later date as may be named therein, shall have same effect as if enacted in this Act.

(2) The minister, on behalf of the province with the approval of the Lieutenant Governor in Council, may enter into an agreement with the Minister of Labour of Canada or any other person or persons duly authorized in that behalf by the Parliament of Canada, to provide for the administration of any Act of the Parliament of Canada and of any order of the Governor General in Council described in subsection (1) in regard to the employees and employer in respect of whom such Act or order in council may be declared to apply pursuant to subsection (1).

1972, c.137, s. 40.

Powers and duties of board

42 The board shall exercise such powers and perform such duties as are conferred or imposed on it by this Act, or as may be incidental to the attainment of the objects of this Act including, without limiting the generality of the foregoing, the making of orders requiring compliance with the provisions of this Act, with any regulations made under this Act or with any decision in respect of any matter before the board.

1972, c.137, s. 41; 1989-90, c.54, s.6.

Technological change in employers' businesses, etc.

43(1) In this section, **"technological change"** means:

(a) the introduction by an employer into the employer's work, undertaking or business of equipment or material of a different nature or kind than previously utilized by the employer in the operation of the work, undertaking or business;

(b) a change in the manner in which the employer carries on the work, undertaking or business that is directly related to the introduction of that equipment or material; or

(c) the removal or relocation outside of the appropriate unit by an employer of any part of the employer's work, undertaking or business.

(1.1) Nothing in this section limits the application of clause 2(f) and sections 37, 37.1, 37.2 and 37.3 or the scope of the obligations imposed by those provisions.

(2) An employer whose employees are represented by a trade union and who proposes to effect a technological change that is likely to affect the terms, conditions or tenure of employment of a significant number of such employees shall give notice of the technological change to the trade union and to the minister at least ninety days prior to the date on which the technological change is to be effected.

(3) The notice mentioned in subsection (2) shall be in writing and shall state:

(a) the nature of the technological change;

(b) the date upon which the employer proposes to effect the technological change;

(c) the number and type of employees likely to be affected by the technological change;

(d) the effect that the technological change is likely to have on the terms and conditions or tenure of employment of the employees affected; and

(e) such other information as the minister may by regulation require.

(4) The minister may by regulation specify the number of employees or the method of determining the number of employees that shall be deemed to be "significant" for the purpose of subsection (2).

(5) Where a trade union alleges that an employer has failed to comply with subsection (2), and the allegation is made not later than thirty days after the trade union knew, or in the opinion of the board ought to have known, of the failure of the employer to comply with that subsection, the board may, after affording an opportunity to the parties to be heard, by order;

(a) direct the employer not to proceed with the technological change for such period not exceeding ninety days as the board considers appropriate;

(b) require the reinstatement of any employee displaced by the employer as a result of the technological change; and

(c) where an employee is reinstated pursuant to clause (b), require the employer to reimburse the employee for any loss of pay suffered by the employee as a result of his displacement.

(6) Where a trade union makes an allegation pursuant to subsection (5), the board may, after consultation with the employer and the trade union, make such interim orders under subsection (5) as the board considers appropriate.

(7) An order of the board made under clause (a) of subsection (5) is deemed to be a notice of technological change given pursuant to subsection (2).

(8) Where a trade union receives notice of a technological change given, or deemed to have been given, by an employer pursuant to subsection (2), the trade union may, within thirty days from the date on which the trade union received the notice, serve notice on the employer in writing to commence collective bargaining for the purpose of developing a workplace adjustment plan.

(8.1) On receipt of a notice pursuant to subsection (8), the employer and the trade union shall meet for the purpose of bargaining collectively with respect to a workplace adjustment plan.

(8.2) A workplace adjustment plan may include provisions with respect to any of the following:

(a) consideration of alternatives to the proposed technological change, including amendment of provisions in the collective bargaining agreement;

(b) human resource planning and employee counselling and retraining;

(c) notice of termination;

(d) severance pay;

(e) entitlement to pension and other benefits, including early retirement benefits;

(f) a bipartite process for overseeing the implementation of the workplace adjustment plan.

(8.3) Not later than 45 days after receipt by the trade union of a notice pursuant to subsection (2), the employer or the trade union may request the minister to appoint a conciliator to assist the parties in bargaining collectively with respect to a workplace adjustment plan.

(9) **Repealed.** 1994, c.47, s.22.

(10) Where a trade union has served notice to commence collective bargaining under subsection (8), the employer shall not effect the technological change in respect of which the notice has been served unless:

(a) a workplace adjustment plan has been developed as a result of bargaining collectively; or

(b) the minister has been served with a notice in writing informing the minister that the parties have bargained collectively and have failed to develop a workplace adjustment plan.

(c) **Repealed.** 1994, c.47, s.22.

(11) This section does not apply where a collective bargaining agreement contains provisions that specify procedures by which any matter with respect to the terms and conditions or tenure of employment that are likely to be affected by a technological change may be negotiated and settled during the term of the agreement.

(12) On application by an employer, the board may make an order relieving the employer from complying with this section if the board is satisfied that the technological change must be implemented promptly to prevent permanent damage to the employer's operations.

1972, c.133, s.2; 1994, c.47, s.22.

Prohibition re lock-out during term of agreement

44(1) No employer shall cause a lock-out during the term of a collective bargaining agreement.

(2) No employee bound by a collective bargaining agreement shall strike during the term of the collective bargaining agreement and no person, employee or trade union shall declare, authorize or participate in a strike during that term or counsel a strike to be effective during that term.

1983, c.81, s.14.

Vote on employer's final offer

45(1) Where a strike has continued for 30 days:

(a) the trade union;

(b) the employer; or

(c) any employees of the employer involved in the strike where those employees represent at least 25% of the bargaining unit or 100 employees, whichever is less;

may apply to the minister for the appointment of a special mediator pursuant to section 23.1.

(1.1) A special mediator appointed for the purposes of subsection (1), in addition to the powers conferred by section 23.1, may:

(a) investigate and meet with any or all of the parties to a labour-management dispute; and

(b) if the special mediator considers it advisable, recommend that the board conduct a vote among the striking employees to determine whether a majority of the employees voting, whose ballots are not spoiled, are in favour of accepting the employer's final offer and returning to work.

(2) On the recommendation of a special mediator pursuant to clause (1.1)(b), the board shall conduct the vote recommended, and subsection 11(8) applies, with any necessary modification, to the vote.

(3) Every employee who is involved in the strike and who has not secured permanent employment elsewhere is entitled to vote for the purposes of this section.

(4) No more than one vote in respect of the same strike shall be held or conducted under this section.

(5) Where, pursuant to this section, employees have voted to accept an employer's final offer and to return to work, the employer shall not withdraw that offer.

1983, c.81, s.14; 1994, c.47, s.23.

Reinstatement of employees after strike or lock-out

46(1) Following the conclusion of a strike or lock-out, where an employer and a trade union have not reached an agreement for reinstating striking or locked-out employees, the employer shall reinstate striking or locked-out employees in accordance with this section.

(2) Subject to subsection (3), an employer shall reinstate each striking or locked-out employee to the position that the employee held when the strike or lock-out began.

(3) If there is not sufficient work for all striking or locked-out employees after the conclusion of a strike or lock-out, the employer shall:

(a) reinstate striking or locked-out employees:

(i) in accordance with any provisions in the collective bargaining agreement respecting recall based on seniority as defined in the collective bargaining agreement in force in that bargaining unit; or

(ii) where there are no provisions in the collective bargaining agreement respecting recall based on seniority, in accordance with each employee's length of service, as determined when the strike or lock-out began, in relation to the length of service of other employees in the bargaining unit who were employed when the strike or lock-out began; and

(b) provide to striking or locked-out employees who are not reinstated notice of layoff or pay in lieu of notice:

(i) in accordance with the collective bargaining agreement;

(ii) in accordance with a back-to-work protocol agreed to by the employer and the trade union, notwithstanding *The Labour Standards Act*; or

(ii) where there is no collective bargaining agreement in force, in accordance with *The Labour Standards Act*.

(4) Striking or locked-out employees are entitled to displace any persons who were hired to perform the work of striking or locked-out employees during the strike or lock-out.

(5) An employer is not in violation of subsection (2) or (3) if an arbitrator or arbitration board decides that a failure to reinstate an employee is for a cause for which the employee might have been discharged.

(6) Notwithstanding any provision in a collective bargaining agreement, the time worked by an employee during a strike or lock-out shall not constitute accrued service for the purposes of computing seniority unless the employee was working with the consent of the trade union.

1994, c.47, s.24.

Benefits during strike or lock-out

47(1) In this section, **"benefit plan"** means a medical, dental, disability or life insurance plan or other similar plan.

(2) During a strike or lock-out, the trade union representing striking or locked-out employees in a bargaining unit may tender payments to the employer or to a person who was, before the strike or lock-out, obliged to receive the payment:

(a) in amounts sufficient to continue the employees' membership in a benefit plan; and

(b) on or before the regular due dates of those payments.

(3) The employer or other person mentioned in subsection (2) shall accept any payment tendered by the trade union in accordance with subsection (2).

(4) No person shall cancel or threaten to cancel an employee's membership in benefit plans, including coverage under insurance plans, if the trade union tenders payment in accordance with subsection (2).

(5) On the request of the trade union, the employer shall provide the trade union with any information required to enable the trade union to make the payments mentioned in subsection (2).

1994, c.47, s.24.

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