

(i) has pursuant to this Section acquired bargaining rights on behalf of any of the employees to whom the agreement extends, or

(ii) is certified as or has applied to the Board for certification as bargaining agent for any of the employees to whom the agreement extends; or

(c) the trade union does not represent a majority of the employees in the unit defined by the agreement, but the trade union is deemed to have represented a majority of those employees at all relevant times when the employer has posted a copy of the agreement made pursuant to subsection (1) in a conspicuous place or places upon the premises of the employer at which the agreement is most likely to come to the attention of the employees and thirty days have elapsed from the date of posting.

(4) If any question arises whether a trade union represents or represented a majority of the employees in the unit defined by an agreement made pursuant to this Section, the Board or the Panel, as the case may be, upon application by a trade union shall decide the question and any related question as though the question had arisen in a certification proceeding before the Board.

(5) The provisions of this Act relating to revocation of certification of a trade union as bargaining agent apply to a trade union that is a party to an agreement filed with the Minister and that has the status of a certified bargaining agent by virtue of subsection (2). *R.S., c. 475, s. 30.*

TRANSFER OF BUSINESS AND SUCCESSOR RIGHTS

Effect of transfer of business

31 (1) Where an employer sells, leases or transfers or agrees to sell, lease or transfer his business or the operations thereof or any part of either of them and either

(a) the employer or the purchaser, lessee or transferee or any of them is a party to or is bound by a collective agreement with a bargaining agent on behalf of any employees affected by the sale, lease or transfer or contract;

(b) one or more bargaining agents have been certified as bargaining agent for any such employees;

(c) one or more trade unions have applied to be certified as bargaining agent for any such employees; or

(d) one or more bargaining agents have given or are entitled to give notice under either Section 33 or 34 with respect to any such employees,

unless the Board otherwise directs, the collective agreement, certification, application, notice or entitlement to give notice continues in force and is binding upon the purchaser, lessee or transferee.

(2) Where the Board is satisfied that an employer contracted out or agreed to contract out work regularly done by his employees to avoid obligations under this Act, the Board may direct that this Section applies as if the employer had transferred or agreed to transfer part of his business or the operations thereof.

(3) For the purpose of subsection (2), the onus of proving that there has been no contracting out or agreement to contract out work regularly done by employers to avoid obligations under this Act shall be upon the employer.