IN THE MATTER OF: **Bill No. 102 "An Act to Prevent Unnecessary Labour Disruptions and Protect the Economy" by amending the *Trade Union Act***

SUBMISSIONS TO THE LAW AMENDMENTS COMMITTEE ON BEHALF OF:

Atlantic Building Supply Dealers Association
Canadian Federation of Independent Business
Canadian Manufacturers and Exporters
Canadian Restaurant and Food Services Association
Canadian Taxpayers Federation
Construction Association of Nova Scotia
Contact Centre Nova Scotia
Halifax Chamber of Commerce
The Hotel Association of Nova Scotia
Merit Contractors Association of Nova Scotia
Mining Association of Nova Scotia
The Municipal Group of Companies
Nova Scotia Automobile Dealers Association
Nova Scotia Chambers of Commerce
Nova Scotia Home Builders' Association
Nova Scotia Road Builders Association
Restaurant Association of Nova Scotia
Retail Council of Canada – Atlantic Office
Sackville Business Association
Scotia Group of Companies
Tourism Industry Association of Nova Scotia
Truro and District Chamber of Commerce

November 29, 2011

Eric Durnford, Q.C.

I. Introduction

As is evident from the list of bodies these submissions are made on behalf of, this group of employers, both non-union and unionized, represents a very broad spectrum of Nova Scotia businesses, employers, and employees as follows:

- **Foodservice Industry -** 1600 businesses, 30,000 jobs
- **Tourism -** 4000 businesses (at least a third of these would be foodservice), 40,000 jobs
- **Construction Association -** 800 members, industry has 27,000 jobs
- **Building Supply Dealers** - 210 businesses, 4500 jobs
- **Merit Contractors** - 130 members
- **CFIB –** 5000 businesses
- **Call Centers -** 45 businesses, 13,000 employees
- **NS Chambers -** 7000 businesses
- **Halifax Chamber -** 1600 businesses, 90,000 employees
- **Retail Council** - 5000 businesses, 30,000 employees
- **Road Builders -** 155 businesses, 7500 employees
- **Homebuilders -** 350 businesses, 14,000 jobs
- **Municipal Group of Companies –** 2500 jobs

(there is some overlap in the above)

It will serve no useful purpose at this point to go into detail on the position of the overwhelming majority of employers:

- that the Bill is not responding to an **actual necessity**;
- that the Bill will **actually undermine** free collective bargaining;
- that experience in other Provinces has shown that imposed first collective agreements have led to as much as a **17%** failure rate in concluding subsequent Collective Agreements; or
- that the Bill is **anti-Employer**.

I believe I am the most senior, *mainly* Management-side lawyer in Nova Scotia (I have, however, represented unions and individual employees, including in the negotiation of first collective agreements). I have spent over 40 years in all aspects of labour relations, in all sectors, and have negotiated numerous first collective agreements. From these personal experiences, I make the following observations about first collective agreements.

II. Important Principles and Real-Life Realities of First Collective Agreements

1. The first collective agreement is much like a constitution – it is the foundation for a relationship intended to be indefinite and enduring. As such, like any constitution, its success is very much dependent upon the willing agreement of the parties covered by it.

2. While, in some cases, inexperience in the bargaining arts can make reaching the first collective agreement difficult or time-consuming, like everything else, working hard, and sometimes long, to achieve something will make it more valuable in the long run. Scrutiny of available data will actually show that more often than not, renewal of collective agreements takes longer than negotiating first collective agreements.

3. Strikes and lock-outs are not, per se, evil – they have a valuable place in our collective bargaining system and, has been said by all labour boards in Canada, are the normal method to resolve bargaining deadlocks.

> ***CJMS Radio Montreal Limitée*** (1979), 27 di 796
>
> *Let us repeat that the normal and ultimate method for resolving a deadlock at the bargaining table remains the strike or lockout.*

   And it is wrong to see a strike or a lockout solely as an "unnecessary labour disruption". Often, strikes are not even about settling the terms of employment but resolving other workplace issues that ultimately do not appear in the concluded agreement, e.g. employees, through their union, asserting their power position to demonstrate the need for an arbitrary manager to change his/her ways. (I have seen a number of first contract strikes where this made the strike very <u>necessary</u> for the employees)

4. As important as the first collective agreement is, equally important is the ability to conclude subsequent agreements – there is clear evidence that an

agreement imposed by arbitration, not having the full and willing "ownership" of the parties, often leads to serious difficulties in concluding subsequent agreements.

5. In applying First Contract Arbitration legislation, the consistent theme of labour boards is reflected in the following:

> The Board has indicated quite clearly that it is not a sufficient condition for the use of section 70 that negotiations have broken down and a long strike has ensued, and that **the remedy is intended only for the very exceptional case, the one in which the real stumbling block to agreement is employer distaste for the process of collective bargaining as such**.
>
> ...
>
> The objective of section 70 is to foster an enduring collective bargaining relationship. In the Board's view, **a solution agreed to by both parties is a much better foundation for such a relationship than an order imposed by the Board.**
>
> ...
>
> The Board firmly believes that **the worst settlement that might be agreed to by a party is worth a hundred times as much as an imposed settlement**.
>
> ***-CJMS Radio Montreal Limitée*** (1979), 27 di 796
> Canada Labour Relations Board

III. What Should the Legislation Look Like?

To address the points raised above, the legislation should be designed:

1. to require the bargaining parties to exhaust all possible voluntary measures to achieve their own agreement, and to exhaust all of the mandatory statutory tools provided by the *Trade Union Act* to assist them in that effort;

2. to be balanced, as far as possible, for both the employer and the union, given its possible outcome of a forced agreement;

3. to be used only in rare and truly exceptional circumstances;

... designed...

4. with the overarching regulatory body, the Labour Board, being the key decision maker as to whether First Contract Arbitration should be granted – it should not be an "at-will entitlement" of either party. Consistent with legislation in other provinces, there should be requirements to be met before the Board grants the extraordinary First Contract Arbitration remedy;

5. if arbitration is called for, with the fairer, balanced method of a three-person board, so that both parties can receive, and perceive that they have received, fair consideration;

6. so that the end product of an imposed agreement is guided by specific, mandatory decision-making criteria. This will encourage the parties to reach their own agreement, but failing that, will result in an agreement that has a better chance of having "ownership" by the parties upon whom it is imposed;

7. because of the special circumstances in the construction industry, as the legislation now intends, to exclude from First Contract Arbitration parties who are functioning in the construction industry.

IV. Suggested Amendments to the Bill

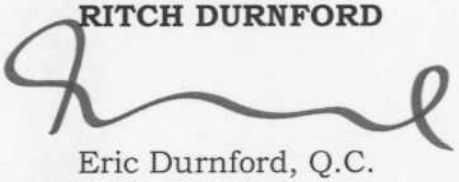
While I am, and will be perceived to be, a partisan advocate, the suggested amendments to Bill 102 I attach to these submissions (proposed changes in **bold black** type, explanations in **blue**) are intended to make the Bill one that will genuinely:

(i) interfere least with the cardinal underpinning process of the *Trade Union Act* – **free collective bargaining**; and

(ii) provide a revised Bill which will have broader support of both employers and unions by achieving a better balance than the current Bill.

All of which is respectfully submitted,

Yours truly,
RITCH DURNFORD



Eric Durnford, Q.C.

BILL NO. 102

(as introduced)

3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011

Government Bill

Trade Union Act
(amended)

The Honourable Marilyn More
Minister of Labour and Advanced Education

First Reading: November 17, 2011

(Explanatory Note)

Second Reading:

Third Reading:

Explanatory Note

This Bill amends the Trade Union Act to provide for settlement of first contracts where, after certification of a trade union, the employer and the trade union are unable to conclude an agreement and conciliation has been unsuccessful. The amendments do not apply to the construction industry.

An Act to Prevent Unnecessary Labour Disruptions and Protect the Economy by Amending Chapter 475 of the Revised Statutes, 1989, the Trade Union Act

Be it enacted by the Governor and Assembly as follows:

1 Chapter 475 of the Revised Statutes, 1989, the Trade Union Act, is amended by adding immediately after Section 25 the following Section:

> 25A Where the Board has certified a bargaining agent, a conciliation officer shall contact both parties within fourteen days of the certification to provide information and education on the collective bargaining process to assist in the settlement of a first **collective** agreement.

The word "collective" appears to be inadvertently left out of this Section – it appears in all other references in the Bill when "first collective agreement" is being referred to.

2 Section 38 of Chapter 475 is amended by adding immediately after subsection (2) the following subsection:

> (3) Where the appointment of a conciliation officer under Section 37 is in respect of a first collective agreement and, after conferring with the parties, the conciliation officer
>
> (a) is satisfied that the parties have made reasonable efforts to conclude a collective agreement; and
>
> (b) is of the opinion that the parties are not likely to conclude a collective agreement,
>
> the conciliation officer, for the purpose of subsection (1) of Section 40A, may, after the expiry of ninety days and before the expiry of one hundred and twenty days from the day of the appointment, notify the Board and the parties in writing that the parties, after making reasonable efforts, have not been able to conclude a first collective agreement.

3 Chapter 475 is further amended by adding immediately after Section 40 the following Section:
40A

(1) Where

> (a) an employer or bargaining agent for a unit is required, by notice given under Section 33 after the coming into force of this Section, to commence collective bargaining with a view to the conclusion of a first collective agreement between the employer and the bargaining agent in respect of the unit;

(b) a conciliation officer appointed under Section 37 has notified the Board and the parties under subsection (3) of Section 38, or one hundred and twenty days have expired since the appointment;

(c) a period of ninety days after the certification of the bargaining agent has expired; and

(d) the bargaining agent and the employer have not concluded a first collective agreement,

the bargaining agent or the employer may apply in writing to the Board to settle the provisions of a first collective agreement between the parties and, where a party so applies, the Board shall as soon as practicable serve notice on the parties of receipt of the application.

(2)

(a) An application pursuant to subsection (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.

(b) All materials filed with the Board in support of an application pursuant to subsection (1) must be served on the other party within 24 hours after filing the application with the Board.

(c) Within 14 days after receiving the information mentioned in clause (a), the other party must 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 serve on the applicant a copy of the list and statement.

This suggested wording is contained in other FCA legislation and will assist in better defining the unfinished bargaining and will also assist the Board in its decision as to whether first collective agreement arbitration should be directed as suggested in subsection (3) below.

(3) The Board shall consider and make its decision on an application under subsection (1) within 30 days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration or the Board where it appears to the Board that the process of collective bargaining has been unsuccessful because of,

(a) the refusal of the employer to recognize the bargaining authority of the trade union;

(b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;

(c) the failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement; or

(d) any other reason the Board considers relevant.

Where a direction is given under this subsection, the first collective agreement between the parties shall be settled by arbitration if agreed to by the parties pursuant to subsection (4) or by the Board pursuant to subsection (7).

This suggested wording is designed to ensure that the possible imposition of a first collective agreement is truly necessary as determined by the Labour Board. These factors have all been contained in the Ontario legislation since 1995. Such provisions reinforce the important principle that imposed collective agreements should be rare and exceptional.

~~(2)~~ **(4)** Within ten days after being served with ~~notice under subsection (1)~~ **the direction under subsection (3),** the bargaining agent and employer may serve notice on the Board of

(a) the agreement of the bargaining agent and employer to conclude the first collective agreement by arbitration; and

(b) the name of a person who has agreed to act as ~~arbitrator~~ **nominee of each of the parties to a three person arbitration board or if they agree to submit the matter to a sole arbitrator, the name of a person who has agreed to act as that arbitrator**.

To maximize fairness to both union and employer, the representative three person board should be the norm, with the parties having the option to agree on a sole arbitrator if they choose. Changes to include the "arbitration board" are then necessary in subsections (5), (6), (10), (11) and (12) below.

~~(3)~~ **(5)** Within sixty days after a notice is served on the Board under subsection (2), the **arbitration board or** arbitrator shall settle the provisions of the first collective agreement.

~~(4)~~ **(6)** The provisions of this Act respecting arbitration apply mutatis mutandis to an **arbitration board or** arbitrator acting under this Section.

~~(5)~~ **(7)** Where an application is made under subsection (1) and the parties do not agree to proceed by arbitration under subsection (**4**), the Board shall inquire into the negotiations between the parties and, where the parties do not conclude a first collective agreement within sixty days after the date of the application, the Board shall, within a further three days,

(a) settle the provisions of a first collective agreement between the parties; or

(b) notify the parties in writing that, in the opinion of the Board, the parties might possibly, either through their own endeavours or with the assistance of the conciliation officer, conclude a first collective agreement within thirty days after the date of the notice under this clause and that therefore the Board declines to settle the provisions of a first collective agreement between the parties.

~~(6)~~ **(8)** Where the Board sends a notice to the parties under clause (b) of subsection (7) and the parties fail to conclude a first collective agreement within the thirty day period referred to therein, the Board shall, within a further thirty days, settle the provisions of a first collective agreement between the parties.

~~(7)~~ **(9)** Where an application under subsection (1) is made during a strike by, or a lockout of, employees in the unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lockout, as the case may be, and the employer shall reinstate the employees in the unit in the employment they had at the time the strike or lockout commenced

(a) in accordance with any agreement between the employer and the bargaining agent respecting reinstatement of the employees in the unit; or

(b) where no agreement respecting reinstatement of the employees in the unit is reached between the employer and the bargaining agent, on the basis of the ~~seniority~~ **service** standing of each employee in relation to the ~~seniority~~ **service** of the other employees in the unit employed at the time the strike or lockout commenced, except as may be directed by an order of the Board made for the sole purpose of allowing the employer at a totally shut-down workplace to resume normal operations in stages.

The change from "seniority" to "service" is necessary because "seniority" is an exclusive creation of a collective agreement and since this relates to the negotiation or arbitration of the first collective agreement, the proper word here is "service".

~~(8)~~ **(10)** In settling the provisions of a first collective agreement under this Section, the Board, **arbitration board** or arbitrator shall accept, without amendment, any provisions agreed upon in writing by the parties and shall give the parties an opportunity to present evidence and make representations, and the Board**, arbitration board** or arbitrator ~~may~~ **shall** take into account:

(a) the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the unit **in the same industry**; ~~and~~

(b) minimum terms and conditions of employment contained in the Labour Standards Code;

(c) the employer's ability to pay in light of its fiscal situation;

(d) the economic situation in Nova Scotia and in the municipality where the employer is located;

(e) the employer's ability to attract and retain qualified employees; and

(f) such other matters as the Board**, arbitration board** or arbitrator considers will assist in arriving at provisions of a first collective agreement between the parties that are fair and reasonable in the circumstances.

These suggested changes are designed to provide balance and necessary additional criteria which the Board, or arbitrators should be required to take into account. The current suggestion that decision-making criteria all be discretionary does not make sense – if such full discretion were really intended, only the current proposed clause (b) [(f), in the above] would be needed. In Bill 108 introduced by then-MLA Maureen MacDonald on November 16, 2006, the proposed item (b) above was included, as was the reference to the "same industry" in item (a). All of these factors are consistent with criteria that interest arbitrators typically apply, and with legislation in Ontario.

~~(9)~~ **(11)** Where the Board**, arbitration board** or an arbitrator settles the provisions of a first collective agreement under this Section, the collective agreement is effective for a period one year from the date on which the Board**, arbitration board** or arbitrator settles the provisions thereof, and the collective agreement is binding on the parties and on the employees in the unit as though it were a collective agreement voluntarily entered into between the parties, except to the extent that any of its provisions may be amended by the parties by subsequent agreement in writing.

~~(10)~~ **(12)** The Board**, arbitration board** or arbitrator shall commit to writing every collective agreement settled under this Section **and file a copy with the Minister.**

At present, only collective agreements voluntarily entered into need be filed with the Minister under Section 46 of the *Act*; wording is necessary so these imposed collective agreements are also required to be filed with the Minister.

(13) This Section and subsection (3) of Section 38 do not apply to work of an employer who operates a business in the construction industry as defined in clause (c) of Section 92, or regarding work that is necessary and integral to such employer's on-site work in the construction industry, or regarding such employer's

work that is ancillary maintenance or service work related to its construction industry activities.

The Explanatory Note to Bill No. 102, as introduced, says that the "...amendments do not apply to the construction industry". The wording of the present Section 4 limits the exception to only work in the construction industry which is performed "on-site" as defined in clause (c) of Section 92. Many businesses in the construction industry perform construction work on-site and off-site work, such as shop fabrication of, or supplying materials for, construction sites that is necessary and integral to work on construction sites, and maintenance and service work ancillary to its construction industry activities. If the intent of the legislation is that it not apply to the construction industry, these "off-site" activities should also be excluded.

4 Section 93 of Chapter 475, as amended by Chapter 35 of the Acts of 1994 and Chapter 61 of the Acts of 2005, is further amended by striking out "and Sections" in the second line and substituting ", subsection (3) of Section 38 and Sections 40A,".

5 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

First Contract Arbitration Legislation Across Canada

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
Canada Labour Code, RSC 1985, c L-2	*Labour Relations Code*, RSBC 1996 CHAPTER 244	Trade Union Act, RSS 1978, c T-17	C.C.S.M. c. L10 The Labour Relations Act	Labour Relations Act, 1995, S.O. 1995, c. 1, Sched. A	Labour Code, RSQ, c C-27	RSNL1990 CHAPTER L-1 *Labour Relations Act*	Bill 102
Settlement of First Agreement Minister may refer dispute to Board **30.** (1) Where an employer or a bargaining agent is required, by notice given under section 48, to commence collective bargaining for the purpose of entering into the first collective agreement between the parties with respect to the bargaining unit for which the bargaining agent has been certified and the requirements of paragraphs 89(1)(*a*) to (*d*) have otherwise been met, the Minister may, if the Minister considers it necessary or advisable, at any time thereafter direct the Board to inquire into the dispute and, if the Board considers it advisable, to settle the terms and conditions of the first collective agreement between the parties. Board may settle terms and conditions (2) The Board shall proceed as directed by the Minister under subsection (1) and, if the Board settles the terms and conditions of a first collective agreement referred to in that subsection, those terms and conditions shall constitute the collective agreement between the parties and shall be binding on them and on the employees in the	**First Collective Agreement** **55** (1) Either party may apply to the associate chair of the Mediation Division for the appointment of a mediator to assist the parties in negotiating a first collective agreement, if (a) a trade union certified as bargaining agent and an employer have bargained collectively to conclude their first collective agreement and have failed to do so, and (b) the trade union has taken a strike vote under section 60 and the majority of those employees who vote have voted for a strike. (2) If an application is made under subsection (1) an employee must not strike or continue to strike, and the employer must not lock out or continue to lock out, unless a strike or lockout is subsequently authorized under subsection (6) (b) (iii). (3) The associate chair must appoint a mediator within 5 days of receiving an application under subsection (1). (4) An application under subsection (1) must include a list of the disputed issues and the position of the party making the application on those issues.	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;	SETTLEMENT OF FIRST AGREEMENTS **Dispute re first agreement** 87(1) Where (a) an employer or bargaining agent for a unit is required, by notice given under section 60 after the coming into force of this section, to commence collective bargaining with a view to the conclusion of a first collective agreement between the employer and the bargaining agent in respect of the unit; (b) a conciliation officer appointed under subsection 67(1) has notified the board and the parties under subsection 68(3.1), or 120 days have expired since the appointment; (c) a period of 90 days after the certification of the bargaining agent, and any period of extension that may be ordered in respect of the bargaining agent and the employer under subsection 10(3), have expired; and (d) the bargaining agent and the employer have not concluded a first collective agreement; the bargaining agent or the employer may apply in writing to the board	**First agreement arbitration** **43.** (1) Where the parties are unable to effect a first collective agreement and the Minister has released a notice that it is not considered advisable to appoint a conciliation board or the Minister has released the report of a conciliation board, either party may apply to the Board to direct the settlement of a first collective agreement by arbitration. 1995, c. 1, Sched. A, s. 43 (1). **Duty of Board** (2) The Board shall consider and make its decision on an application under subsection (1) within 30 days of receiving the application and it shall direct the settlement of a first collective agreement by arbitration where, irrespective of whether section 17 has been contravened, it appears to the Board that the process of collective bargaining has been unsuccessful because of, (a) the refusal of the employer to recognize the bargaining authority of the trade union; (b) the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification; (c) the failure of the respondent to make	**DIVISION I.1** FIRST COLLECTIVE AGREEMENT 93.1. Where a first collective agreement is negotiated for the group of employees contemplated by the certification, a party may apply to the Minister to submit the dispute to an arbitrator after the intervention of the conciliator has not been successful. 1977, c. 41, s. 45; 1983, c. 22, s. 48. 93.2. The application to the Minister must be in writing and a copy of it must be sent to the other party at the same time. 1977, c. 41, s. 45. 93.3. Even if the conciliation officer has continued to assist the parties in trying to reach a collective agreement after the application for arbitration, the Minister may entrust an arbitrator with endeavouring to settle the dispute. 1977, c. 41, s. 45; 1983, c. 22, s. 48; 2006, c. 58, s. 9. 93.4. The arbitrator must decide to determine the content of the first collective agreement where he is of opinion that it is unlikely that the parties will be able to reach a collective agreement within a reasonable time. He shall then inform the parties and the Minister of his	**First collective agreement** **81.** (1) Where a trade union certified as a bargaining agent and an employer have been engaged in collective bargaining to conclude a first collective agreement and have failed to do so, either party may make an application to the board to inquire into the dispute and, where the board considers it advisable, to settle the terms and conditions for the first collective agreement. (2) Where the board settles the terms and conditions of a first collective agreement, those terms and conditions shall be considered to constitute the collective agreement between the trade union and the employer and to be binding on them and the employees, except to the extent that the trade union and employer agree in writing to vary those terms and conditions. (3) Where an application is made under subsection (1), and upon the date that the board advises the parties that it has determined that it is advisable to proceed to impose a first collective agreement, an employee shall not strike or continue to strike, and the employer shall not lock out or continue to lock out the employees. 2011 c9 s1	Be it enacted by the Governor and Assembly as follows: 1 Chapter 475 of the Revised Statutes, 1989, the Trade Union Act, is amended by adding immediately after Section 25 the following Section: 25A Where the Board has certified a bargaining agent, a conciliation officer shall contact both parties within fourteen days of the certification to provide information and education on the collective bargaining process to assist in the settlement of a first agreement. 2 Section 38 of Chapter 475 is amended by adding immediately after subsection (2) the following subsection: (3) Where the appointment of a conciliation officer under Section 37 is in respect of a first collective agreement and, after conferring with the parties, the conciliation officer (a) is satisfied that the parties have made reasonable efforts to conclude a collective agreement; and (b) is of the opinion that the parties are not likely to conclude a collective agreement, the conciliation officer, for the purpose of subsection (1) of Section 40A, may,

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
bargaining unit, except to the extent that such terms and conditions are subsequently amended by the parties by agreement in writing. Matters the Board may consider (3) In settling the terms and conditions of a first collective agreement under this section, the Board shall give the parties an opportunity to present evidence and make representations and the Board may take into account (*a*) the extent to which the parties have, or have not, bargained in good faith in an attempt to enter into the first collective agreement between them; (*b*) the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the bargaining unit; and (c) such other matters as the Board considers will assist it in arriving at terms and conditions that are fair and reasonable in the circumstances. Duration of agreement (4) Where the terms and conditions of a first collective agreement are settled by the Board under this section, the agreement is effective for a period of two years after the date on which the Board settles	(5) Within 5 days of receiving the information referred to in subsection (4), the other party must give to the party making the application and to the associate chair a list of the disputed issues and the position of that party on those issues. (6) If the first collective agreement is not concluded within 20 days of the appointment of the mediator, the mediator must report to the associate chair and recommend either or both of the following: (a) the terms of the first collective agreement for consideration by the parties; (b) a process for concluding the first collective agreement including one or more of the following: (i) further mediation by a person empowered to arbitrate any issues not resolved by agreement and to conclude the terms of the first collective agreement; (ii) arbitration by a single arbitrator or by the board, to conclude the terms of the first collective agreement; (iii) allowing the parties to exercise their rights under this Code to strike or lock out. (7) If the parties do not accept the mediator's recommended terms of settlement or if a first	(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	to settle the provisions of a first collective agreement between the parties and, where a party so applies, the board shall as soon as practicable serve notice on the parties of receipt of the application. **Agreement to proceed by arbitration** 87(2) Within 10 days after being served with notice under subsection (1), the bargaining agent and employer may serve notice on the board of (a) the agreement of the bargaining agent and employer to conclude the first collective agreement by arbitration; and (b) the name of a person who has agreed to act as arbitrator. **Arbitrator to settle first collective agreement** 87(2.1) Within 60 days after a notice is served on the board under subsection (2), the arbitrator shall settle the provisions of the first collective agreement. **Application of provisions respecting arbitrator** 87(2.2) The provisions of this Act respecting arbitration apply with necessary modifications to an arbitrator acting under this section. **Conclusion of collective agreement**	reasonable or expeditious efforts to conclude a collective agreement; or (d) any other reason the Board considers relevant. 1995, c. 1, Sched. A, s. 43 (2). **Choice of arbitrator** (3) Where a direction is given under subsection (2), the first collective agreement between the parties shall be settled by a board of arbitration unless within seven days of the giving of the direction the parties notify the Board that they have agreed that the Board arbitrate the settlement. 1995, c. 1, Sched. A, s. 43 (3). **Arbitration by Board** (4) Where the parties give notice to the Board of their agreement that the Board arbitrate the settlement of the first collective agreement, the Board, (a) shall appoint a date for and commence a hearing within 21 days of the giving of the notice to the Board; and (b) shall determine all matters in dispute and release its decision within 45 days of the commencement of the hearing. 1995, c. 1, Sched. A, s. 43 (4). **Same** (5) The parties to an arbitration by the Board shall jointly pay to the Board for payment into the Consolidated Revenue Fund the amount determined under the regulations for the expense of the arbitration. 1995,	decision. 1977, c. 41, s. 45; 1983, c. 22, s. 49. 93.5. If a strike or lock-out is in progress at that time, it must end from the time when the arbitrator informs the parties that he has deemed it necessary to determine the content of the collective agreement to settle the dispute. From such time, the conditions of employment applicable to the employees comprised in the bargaining unit shall be those the maintenance of which is provided for in section 59. 1977, c. 41, s. 45; 1983, c. 22, s. 50. 93.6. *(Repealed).* 1977, c. 41, s. 45; 1983, c. 22, s. 51. 93.7. At any time, the parties may agree upon one of the matters of the dispute. The agreement shall be recorded in the arbitration award, which shall not amend it. 1977, c. 41, s. 45. 93.8. *(Repealed).* 1977, c. 41, s. 45; 1983, c. 22, s. 52. 93.9. Sections 75 to 93 apply to the arbitration provided for in this division. 1977, c. 41, s. 45; 1983, c. 22, s. 53; 2001, c. 26, s. 46; 2006, c. 58, s. 10.	**Arbitration of agreement** **81.1** (1) Where a trade union or a council of trade unions and an employers' organization have been engaged in collective bargaining to conclude a first collective agreement applicable to employees employed on an offshore petroleum production platform and either party is satisfied that an agreement cannot be reached, that party may by written notice to the other party require matters in dispute to be referred to an arbitration board and those matters shall be settled by arbitration. (2) The notice given under subsection (1) shall contain the name of the person appointed to be arbitrator by the party giving the notice. (3) The party to whom the notice is given shall within 10 days after receiving the notice name the person who it appoints to be arbitrator and advise the party who gave the notice of the name of its appointee. (4) The 2 arbitrators named in accordance with this provision shall within 10 days after the appointment of the second of them name a third arbitrator and he or she shall be the chairperson of the arbitration board. (5) Where the party to whom notice is given fails to name an arbitrator within the period of 10 days after receiving the notice or where the 2	after the expiry of ninety days and before the expiry of one hundred and twenty days from the day of the appointment, notify the Board and the parties in writing that the parties, after making reasonable efforts, have not been able to conclude a first collective agreement. 3 Chapter 475 is further amended by adding immediately after Section 40 the following Section: 40A (1) Where (a) an employer or bargaining agent for a unit is required, by notice given under Section 33 after the coming into force of this Section, to commence collective bargaining with a view to the conclusion of a first collective agreement between the employer and the bargaining agent in respect of the unit; (b) a conciliation officer appointed under Section 37 has notified the Board and the parties under subsection (3) of Section 38, or one hundred and twenty days have expired since the appointment; (c) a period of ninety days after the certification of the bargaining agent has expired; and (d) the bargaining agent and the employer have not concluded a first collective agreement, the bargaining agent or the employer may apply in writing to the Board to settle the provisions of a

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
he terms and conditions of the collective agreement. R.S., 1985, c. L-2, s. 80; • 1998, c. 26, s. 34.	collective agreement is not concluded within 20 days of the report under subsection (6), the associate chair must direct a method set out in subsection (6) (b) for resolving the dispute. (8) If the associate chair directs a method set out in subsection (6) (b) (i) or (ii), the parties must refrain from or cease any strike or lockout activity, and the terms of the collective agreement recommended or concluded under that subsection are binding on the parties.	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:	**by board** 87(3) Where an application is made under subsection (1) and the parties do not agree to proceed by arbitration under subsection (2), the board shall inquire into the negotiations between the parties and, where the parties do not conclude a first collective agreement within 60 days after the date of the application, the board shall, within a further three days (a) settle the provisions of a first collective agreement between the parties; or (b) notify the parties in writing that, in the opinion of the board, the parties might, either through their own endeavours or with the assistance of the conciliation officer, conclude a first collective agreement within 30 days after the date of the notice under this clause, and that therefore the board declines to settle the provisions of a first collective agreement between the parties. **Failure of parties to conclude agreement** 87(4) Where the board sends a notice to the parties under clause (3)(b) and the parties fail to conclude a first collective agreement within the 30 day period referred to therein, the board shall, within a further 30 days, settle the	c. 1, Sched. A, s. 43 (5). **Private arbitration** (6) Where the parties do not agree that the Board arbitrate the settlement of the first collective agreement, each party, within 10 days of the giving of the direction under subsection (2), shall inform the other party of the name of its appointee to the board of arbitration referred to in subsection (3) and the appointees so selected, within five days of the appointment of the second of them, shall appoint a third person who shall be the chair. 1995, c. 1, Sched. A, s. 43 (6). **Same** (7) If a party fails to make appointment as required by subsection (6) or if the appointees fail to agree upon a chair within the time limited, the appointment shall be made by the Minister upon the request of either party. 1995, c. 1, Sched. A, s. 43 (7). **Same** (8) A board of arbitration appointed under this section shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions and section 116 applies to the board of arbitration, its decision and proceedings as if it were the Board. 1995, c. 1, Sched. A, s. 43 (8). **Same** (9) The remuneration and expenses of the members of a board of arbitration appointed under this section shall be paid as		arbitrators named by the parties fail to agree upon the naming of the chairperson within 10 days after the naming of the second arbitrator, the minister shall, on the request of either party, name an arbitrator on behalf of the party who failed to name an arbitrator, or shall name the chairperson and, where the case so requires, the minister shall name the second arbitrator and the chairperson. (6) The decision of the majority of the members of the board of arbitrators is the decision of the board and, where there is no majority decision, the decision of the chairperson shall be the decision of the board. (7) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. (8) Where a trade union or a council of trade unions and an employers' organization referred to in this section so agree, a single arbitrator satisfactory to the parties may be appointed instead of an arbitration board, and where a single arbitrator is appointed under this subsection, the arbitrator has the powers and duties conferred and imposed on an arbitration board formed in accordance with this section, and reference to a board of arbitration in these provisions shall be considered reference to a single arbitrator appointed	first collective agreement between the parties and, where a party so applies, the Board shall as soon as practicable serve notice on the parties of receipt of the application. (2) Within ten days after being served with notice under subsection (1), the bargaining agent and employer may serve notice on the Board of (a) the agreement of the bargaining agent and employer to conclude the first collective agreement by arbitration; and (b) the name of a person who has agreed to act as arbitrator. (3) Within sixty days after a notice is served on the Board under subsection (2), the arbitrator shall settle the provisions of the first collective agreement. (4) The provisions of this Act respecting arbitration apply mutatis mutandis to an arbitrator acting under this Section. (5) Where an application is made under subsection (1) and the parties do not agree to proceed by arbitration under subsection (2), the Board shall inquire into the negotiations between the parties and, where the parties do not conclude a first collective agreement within sixty days after the date of the application, the Board shall, within a further three days, (a) settle the provisions of

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
		(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.	provisions of a first collective agreement between the parties. **Termination of strike or lockout** 87(5) Where an application under subsection (1) is made during a strike by, or a lockout of, employees in the unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lockout, and the employer shall reinstate the employees in the unit in the employment they had at the time the strike or lockout commenced (a) in accordance with any agreement between the employer and the bargaining agent respecting reinstatement of the employees in the unit; or (b) where no agreement respecting reinstatement of the employees in the unit is reached between the employer and the bargaining agent, on the basis of the seniority standing of each employee in relation to the seniority of the other employees in the unit employed at the time the strike or lockout commenced, except as may be directed by an order of the board made for the sole purpose of allowing the	follows: 1. A party shall pay the remuneration and expenses of the member appointed by or on behalf of the party. 2. Each party shall pay one-half of the remuneration and expenses of the chair. 1995, c. 1, Sched. A, s. 43 (9). **Same** (10) Subsections 6 (8), (9), (10), (12), (13), (14), (17) and (18) of the *Hospital Labour Disputes Arbitration Act* and subsections 48 (12) and (18) of this Act apply with necessary modifications to a board of arbitration established under this section. 1995, c. 1, Sched. A, s. 43 (10). **Same** (11) The date of the first hearing of a board of arbitration appointed under this section shall not be later than 21 days after the appointment of the chair. 1995, c. 1, Sched. A, s. 43 (11). **Same** (12) A board of arbitration appointed under this section shall determine all matters in dispute and release its decision within 45 days of the commencement of its hearing of the matter. 1995, c. 1, Sched. A, s. 43 (12). **Mediation** (13) The Minister may appoint a mediator to confer with the parties and endeavour to effect a settlement. 1995, c. 1, Sched. A, s. 43 (13).		in accordance with this subsection. 1997 c44 s7 **Beginning and termination** **81.2** The board of arbitrators shall begin the arbitration proceedings within 30 days after it is constituted and shall deliver the decision or award within 60 days after the beginning of the arbitration proceedings, but this latter period may be extended by written agreement of the parties concerned or by the Labour Relations Board on the application of one of the parties, in which event the decision or award shall be delivered within that extended period which extended period in the case of an application to the Labour Relations Board shall not be greater than 60 days. 1997 c44 s7 **Term of agreement** **81.3** Notwithstanding section 83, a collective agreement arrived at under sections 81.1 and 81.2 shall be effective for a period of 3 years or the longer period that the parties may agree to. 1997 c44 s7 **Presentation of evidence** **82.** In settling terms and conditions under section 81, the board may give the parties an opportunity to present evidence and make representations, and	a first collective agreement between the parties; or (b) notify the parties in writing that, in the opinion of the Board, the parties might possibly, either through their own endeavours or with the assistance of the conciliation officer, conclude a first collective agreement within thirty days after the date of the notice under this clause and that therefore the Board declines to settle the provisions of a first collective agreement between the parties. (6) Where the Board sends a notice to the parties under clause (b) of subsection (5) and the parties fail to conclude a first collective agreement within the thirty day period referred to therein, the Board shall, within a further thirty days, settle the provisions of a first collective agreement between the parties. (7) Where an application under subsection (1) is made during a strike by, or a lockout of, employees in the unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lockout, as the case may be, and the employer shall reinstate the employees in the unit in the employment they had at the time the strike or lockout commenced (a) in accordance with any agreement between the employer and the bargaining agent respecting reinstatement

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
			employer at a totally shut-down workplace to resume normal operations in stages. **Procedure for settling agreement** 87(6) In settling the provisions of a first collective agreement under this section, the board or arbitrator shall accept, without amendment, any provisions agreed upon in writing by the parties and shall give the parties an opportunity to present evidence and make representations, and the board or arbitrator may take into account (a) the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the unit; and (b) such other matters as the board or arbitrator considers will assist in arriving at provisions of a first collective agreement between the parties which are fair and reasonable in the circumstances. **Term of first agreement** 87(7) Where the board or an arbitrator	**Effect of direction on strike or lock-out** (14) The employees in the bargaining unit shall not strike and the employer shall not lock out the employees where a direction has been given under subsection (2) and, where the direction is made during a strike by, or a lock-out of, employees in the bargaining unit, the employees shall forthwith terminate the strike or the employer shall forthwith terminate the lock-out and the employer shall forthwith reinstate the employees in the bargaining unit in the employment they had at the time the strike or lock-out commenced, (a) in accordance with any agreement between the employer and the trade union respecting reinstatement of the employees in the bargaining unit; or (b) where there is no agreement respecting reinstatement of the employees in the bargaining unit, on the basis of the length of service of each employee in relation to that of the other employees in the bargaining unit employed at the time the strike or lock-out commenced, except as may be directed by an order of the Board made for the purpose of allowing the employer to resume normal operations. 1995, c. 1, Sched. A, s. 43 (14). **Non-application** (15) The requirement		may take into account (a) the extent to which the parties have, or have not, bargained in good faith in an effort to conclude a first collective agreement; (b) terms and conditions of employment negotiated through collective bargaining for comparable employees performing the same or similar functions in the same or related circumstances; and (c) other matters that the board considers will help it in arriving at terms and conditions that are fair and reasonable in the circumstances. 2006 c46 s9 **Term of first collective agreement** **83.** Where the terms and conditions of a first collective agreement are settled by the board under section 81, the agreement shall be effective for a minimum period of 18 months up to a maximum period of 36 months, as determined by the board, from the date on which the board advises the parties that it has determined that it is advisable to impose the terms and conditions of the collective agreement,	of the employees in the unit; or (b) where no agreement respecting reinstatement of the employees in the unit is reached between the employer and the bargaining agent, on the basis of the seniority standing of each employee in relation to the seniority of the other employees in the unit employed at the time the strike or lockout commenced, except as may be directed by an order of the Board made for the sole purpose of allowing the employer at a totally shut-down workplace to resume normal operations in stages. (8) In settling the provisions of a first collective agreement under this Section, the Board or arbitrator shall accept, without amendment, any provisions agreed upon in writing by the parties and shall give the parties an opportunity to present evidence and make representations, and the Board or arbitrator may take into account (a) the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the unit; and (b) such other matters as the Board or arbitrator considers will assist in arriving at provisions of a first collective agreement between the parties that

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
			settles the provisions of a first collective agreement under this section, the collective agreement shall be effective for a period one year from the date on which the board or arbitrator settles the provisions thereof, and the collective agreement shall be binding on the parties and on the employees in the unit as though it were a collective agreement voluntarily entered into between the parties, except to the extent that any of its provisions may be amended by the parties by subsequent agreement in writing. **Agreement in writing** 87(8) The board or arbitrator shall commit to writing every collective agreement settled under this section, and section 73, with necessary modifications, applies to the collective agreement.	to reinstate employees set out in subsection (14) applies despite the fact that replacement employees may be performing the work of employees in the bargaining unit, but subsection (14) does not apply so as to require reinstatement of an employee where, because of the permanent discontinuance of all or part of the business of the employer, the employer no longer has persons engaged in performing work of the same or a similar nature to work which the employee performed before the strike or lock-out. 1995, c. 1, Sched. A, s. 43 (15). **Working conditions not to be altered** (16) Where a direction has been given under subsection (2), the rates of wages and all other terms and conditions of employment and all rights, privileges and duties of the employer, the employees and the trade union in effect at the time notice was given under section 16 shall continue in effect, or, if altered before the giving of the direction, be restored and continued in effect until the first collective agreement is settled. 1995, c. 1, Sched. A, s. 43 (16). **Non-application** (17) Subsection (16) does not apply so as to effect any alteration in rates of wages or in any other term or condition of employment agreed to by the employer and the trade union. 1995, c. 1, Sched. A, s. 43 (17).		or the date the employees returned to work, whichever is earlier.	are fair and reasonable in the circumstances. (9) Where the Board or an arbitrator settles the provisions of a first collective agreement under this Section, the collective agreement is effective for a period one year from the date on which the Board or arbitrator settles the provisions thereof, and the collective agreement is binding on the parties and on the employees in the unit as though it were a collective agreement voluntarily entered into between the parties, except to the extent that any of its provisions may be amended by the parties by subsequent agreement in writing. (10) The Board or arbitrator shall commit to writing every collective agreement settled under this Section. 4 Section 93 of Chapter 475, as amended by Chapter 35 of the Acts of 1994 and Chapter 61 of the Acts of 2005, is further amended by striking out "and Sections" in the second line and substituting ", subsection (3) of Section 38 and Sections 40A,". 5 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
				Matters to be accepted or considered (18) In arbitrating the settlement of a first collective agreement under this section, matters agreed to by the parties, in writing, shall be accepted without amendment. 1995, c. 1, Sched. A, s. 43 (18). **Effect of settlement** (19) A first collective agreement settled under this section is effective for a period of two years from the date on which it is settled and it may provide that any of the terms of the agreement, except its term of operation, shall be retroactive to the day that the Board may fix, but not earlier than the day on which notice was given under section 16. 1995, c. 1, Sched. A, s. 43 (19). **Extension of time** (20) The parties, by agreement in writing, or the Minister may extend any time limit set out in this section, despite the expiration of the time. 1995, c. 1, Sched. A, s. 43 (20). **Non-application** (21) This section does not apply to the negotiation of a first collective agreement, (a) where one of the parties is an employers' organization accredited under section 136 as a bargaining agent for employers; or (b) where the agreement is a provincial agreement within the meaning of section 151. 1995, c. 1, Sched. A, s. 43 (21). **Application** (22) This section applies to an employer and			

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
				a trade union where the trade union has acquired or acquires bargaining rights for employees of the employer before or after May 26, 1986, and the bargaining rights have been acquired since January 1, 1984 and continue to exist at the time of an application under subsection (1). 1995, c. 1, Sched. A, s. 43 (22). **Definitions** (23) In subsections (23.1) to (23.4), "decertification application" means an application for a declaration that a trade union no longer represents the employees in a bargaining unit; ("requête en révocation de l'accréditation") "displacement application" means an application for certification by a trade union, other than the trade union that represents the employees in a bargaining unit, as bargaining agent for those employees. ("requête en substitution") 2000, c. 38, s. 5. **Application of subs. (23.2)** (23.1) Subsection (23.2) applies if, (a) a decertification application or displacement application has been filed with the Board and before a final decision is made on it an application under subsection (1) is filed			

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
				with the Board; or (b) an application under subsection (1) has been filed with the Board and before a final decision is made on it a decertification application or displacement application is filed with the Board. 2000, c. 38, s. 5. **Procedure in dealing with multiple applications** (23.2) The Board shall proceed to deal with the decertification application or displacement application, as the case may be, before dealing with or continuing to deal with the application under subsection (1). 2000, c. 38, s. 5. **When application under subsection (1) to be dismissed** (23.3) If the Board grants the decertification application or displacement application, it shall dismiss the application under subsection (1). 2000, c. 38, s. 5. **When application under subs. (1) proceeds** (23.4) If the Board dismisses the decertification application or displacement application, it shall proceed to deal with the application under subsection (1). 2000, c. 38, s. 5. **Transitional** (23.5) Subsections (23.2) to (23.4) apply with respect to an application referred to in those subsections that was filed			

Federal	British Columbia	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	Nova Scotia (Proposed)
				with the Board before the day on which the *Labour Relations Amendment Act, 2000* received Royal Assent only if the Board has not made a final decision on that application before that day. 2000, c. 38, s. 5. **Same** (24) An application for a declaration that a trade union no longer represents the employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsection 63 (2). 1995, c. 1, Sched. A, s. 43 (24). **Same** (25) An application for certification by another trade union as bargaining agent for employees in the bargaining unit filed with the Board after the Board has given a direction under subsection (2) is of no effect unless it is brought after the first collective agreement is settled and unless it is brought in accordance with subsections 7 (4), (5) and (6). 1995, c. 1, Sched. A, s. 43 (25). **Procedure** (26) The *Arbitration Act, 1991* does not apply to an arbitration under this section. 1995, c. 1, Sched. A, s. 43 (26).			