

SUMMARY TABLE OF CONTENTS

<i>About the Authors</i>	iii
<i>Acknowledgments</i>	v
<i>Preface</i>	vii
<i>Introduction</i>	ix
<i>Table of Contents</i>	xvii
Chapter One—Overview of the Ontario <i>Labour Relations Act</i>	1
Chapter Two—Interesting Developments in Freedom of Association	29
Chapter Three—Unions Acquiring Bargaining Rights	33
Chapter Four—Collective Bargaining Procedure	61
Chapter Five—The Collective Agreement	79
Chapter Six—Unfair Labour Practices	87
Chapter Seven—Sale of Business and Related Employer	99
Chapter Eight—Termination of Bargaining Rights	105
Chapter Nine—Enforcement	117
Chapter Ten—Rules of Procedure	121
Chapter Eleven—Construction Industry	123
Labour Relations Act, 1995	141
Purposes and Application of Act	145
Freedoms	147
Establishment of Bargaining Rights by Certification	147
Negotiation of Collective Agreements	163
Contents of Collective Agreements	181
Operation of Collective Agreements	193
Termination of Bargaining Rights	199

Ontario Labour Relations Act Quick Reference

Timeliness of Representation Applications	205
Successor Rights.....	207
Unfair Practices	213
Locals Under Trusteeship	222
Interference With Local Trade Union.....	223
Information	224
Enforcement	227
Administration	236
General.....	247
Construction Industry.....	255
Residential Sector of the Construction Industry.....	285
Special Rules for Concrete Formwork in Certain Areas	292
Province-Wide Bargaining	298
Short Title	340
105/01—Deemed Abandonment of Bargaining Rights.....	341
187/93—Ontario Construction Secretariat	348
94/07—General	350
522/05—Arbitration—Residential Sector of the Construction Industry.....	354
98/16—Deemed Abandonment of Bargaining Rights —Sarnia Working Agreement	357
Rules of Procedure of the Ontario Labour Relations Board	363
<i>Index</i>	423

TABLE OF CONTENTS

<i>About the Authors</i>	iii
<i>Acknowledgments</i>	v
<i>Preface</i>	vii
<i>Introduction</i>	ix
<i>Summary Table of Contents</i>	xv
Chapter One: Overview of the Ontario Labour Relations Act	
A History of Constant Change.....	1
History of Organized Labour Relations in Canada and Ontario	1
The First Half of the Twentieth Century	2
World War II and the Arrival of Canadian Labour Legislation	6
Recent Changes to the <i>Labour Relations Act</i>	8
Changes to the LRA under Bill 148	13
Card-Based Union Certification	14
Union Access to Employee Information.....	14
Votes Outside the Workplace	16
Remedial Certification	16
First Contract Mediation.....	16
“Just Cause” Protection	17
Consolidated Bargaining Units.....	18
Reviewing and Amending the Structure of Bargaining Units on Mutual Agreement	18
Successor Rights.....	19
Return to Work After a Strike or Lock-Out.....	19
Increased Fines	19
Jurisdiction of the Ontario Labour Relations Board.....	20
Who is Covered by the <i>Labour Relations Act</i> ?	23

Ontario Labour Relations Act Quick Reference

Chapter Two: Interesting Developments In Freedom of Association

Chapter Three: Unions Acquiring Bargaining Rights

Part I: Overview	33
Definition of a Trade Union	33
Trade Union Status	33
Voluntary Recognition versus Certification	34
Organizing Drive	36
Employer Free Speech	37
Union Persuasion	40
Right of Access to a Workplace	42
Appropriate Bargaining Unit	42
Security Guards and Other Special Groups	46
Part II: The Certification Process	47
Application	47
Timely Application	48
Employer Response	49
Ontario Labour Relations Board Directions	50
Representation Vote	51
Employer Challenge	53
Majority Support	54
Interim Certificate	55
Certification When the <i>Labour Relations Act</i> is Contravened	55
Bar to Reapplying	58
Chapter Four: Collective Bargaining Procedure	
Part I: Overview	61
Notice	61
Statutory Freeze	61
Duty to Bargain in Good Faith	62

Table of Contents

Conciliation	66
Mediation.....	66
Ratification Vote	67
Final Offer Vote.....	67
First Agreement Arbitration	68
Right to Collective Bargaining	68
Part II: Strikes and Lock-outs	71
Mandatory Strike Vote.....	71
“No Board” Report.....	72
Replacement Workers.....	72
Reinstatement of Striking Employees	73
Unlawful Strikes and Lock-outs.....	74
Picketing.....	75
Chapter Five: The Collective Agreement	
Part I: Overview	79
Required Provisions.....	79
Union Membership and Dues Deduction.....	79
Permissive Provisions	80
Binding Effect	80
Minimum Term of Agreement	81
Part II: Rights Arbitration and Mediation-Arbitration under a Collective Agreement.....	81
Consensual Arbitration.....	81
Expedited Arbitration	84
Mediation-Arbitration.....	84
Chapter Six: Unfair Labour Practices	
Interference	88
Particular Obligations of Unions	89
Respect for Bargaining Rights	91
Intimidation and Coercion.....	91

Ontario Labour Relations Act Quick Reference

Employer Free Speech	92
Statutory Freeze	93
Strike-breaking Misconduct.....	95
Ontario Labour Relations Board Remedies to Unfair Labour Practices.....	96
Chapter Seven: Sale of Business and Related Employer	
Definition of Sale.....	99
Successor Employer Obligations.....	101
Related Employer.....	102
Successor Unions and Union Mergers	104
Chapter Eight: Termination of Bargaining Rights	
Part I: Overview	105
Open Periods for Decertification	105
No Collective Agreement.....	105
Collective Agreement for a Term of Three Years or Less	106
Collective Agreement for a Term Greater than Three Years.....	106
Voluntary Recognition	107
Application by Employees.....	107
Application by Anyone.....	111
Fraud	111
Failure to Bargain	111
Simultaneous Decertification and First Contract Arbitration Applications	112
Part II: Information.....	112
Information to be Posted.....	112
Collective Agreements to be Filed	113
Constitution to be Filed	114
Union Disclosure	114

Table of Contents

Chapter Nine: Enforcement

Inquiry by Labour Relations Officer.....	117
Declarations.....	117
Damages for Unlawful Strike.....	118
Prosecution.....	118

Chapter Ten: Rules of Procedure

Rules of Procedure.....	121
Powers and Duties of the Ontario Labour Relations Board.	121

Chapter Eleven: Construction Industry

Appropriate Bargaining Unit.....	124
Certification.....	125
Changes to Certification Procedures.....	126
Termination of Bargaining Rights.....	130
Termination of Bargaining Rights—Non-Construction Employers.....	131
Jurisdictional Disputes.....	133
Conciliation.....	133
Time Bars to Certification Applications.....	134
Strike and Ratification Votes.....	135
Accreditation.....	135
Province-Wide Bargaining in the ICI Sector.....	136
Grievance Referrals in the Construction Industry.....	137
Project Agreements.....	138
Residential Sector.....	138

LABOUR RELATIONS ACT, 1995

1	Definitions.....	141
---	------------------	-----

PURPOSES AND APPLICATION OF ACT

2	Purposes.....	145
---	---------------	-----

Ontario Labour Relations Act Quick Reference

3	Non-application —	145
4	Certain Crown agencies bound.....	146

FREEDOMS

5	Membership in trade union	147
6	Membership in employers' organization.....	147

ESTABLISHMENT OF BARGAINING RIGHTS BY CERTIFICATION

6.1	Transition re employee lists	147
7	Application for certification	148
8	Voting constituency	152
8.1	Disagreement by employer with union's estimate..	153
9	Board to determine appropriateness of units.....	155
10	Certification after representation vote.....	157
11	Remedy if contravention by employer, etc.	158
11.1	Remedy of contravention by trade union, etc.	159
11.2	Transition.....	160
12	Certification of councils of trade unions	160
12.1	No discharge or discipline following certification .	161
13	Right of access	161
14	Security guards	161
15	What unions not to be certified	162
15.1	[Repealed 2018, c. 14, Sched. 2, s. 4.]	162
15.2	Transition.....	163

NEGOTIATION OF COLLECTIVE AGREEMENTS

16	Notice of desire to bargain	163
16.1	[Repealed 2018, c. 14, Sched. 2, s. 6.]	163
17	Obligation to bargain	163
18	Appointment of conciliation officer, where notice given	163
19	Appointment of mediator.....	164

Table of Contents

20	Duties	165
21	Conciliation board, appointment of members.....	165
22	Certain persons prohibited as members	166
23	Notice to parties of appointment.....	166
24	Vacancies	166
25	Terms of reference.....	167
26	Oath of office	167
27	Duties	167
28	Procedure.....	167
29	Sittings	168
30	Minister to be informed of first sitting.....	168
31	Quorum	168
32	Casting vote.....	168
33	Power	168
34	When report to be made	169
35	Duty of mediator.....	170
36	Failure to report.....	170
37	Industrial inquiry commission.....	170
38	Appointment of special officer	170
39	Disputes Advisory Committee	171
40	Voluntary arbitration	171
41	Where Minister may require ratification vote.....	172
42	Vote on employer's offer	172
43	First agreement arbitration	172
43.1	Transition.....	178
44	Mandatory ratification vote.....	180
 CONTENTS OF COLLECTIVE AGREEMENTS		
45	Recognition provision.....	181
46	Provision against strikes and lock-outs.....	181
47	Deduction and remittance of union dues.....	181

Ontario Labour Relations Act Quick Reference

48	Arbitration provision	182
49	Referral of grievances to a single arbitrator	187
50	Consensual mediation-arbitration	189
51	Permissive provisions.....	190
52	Religious objections.....	193

OPERATION OF COLLECTIVE AGREEMENTS

53	Certain agreements not to be treated as collective agreements	193
54	Discrimination prohibited	194
55	More than one collective agreement prohibited ...	194
56	Binding effect of collective agreements on employers, trade unions and employees	194
57	Binding effect of collective agreements on members of employers' organizations.....	194
58	Minimum term of collective agreements.....	196
59	Notice of desire to bargain for new collective agreement.....	197
60	Application of ss. 17 to 36.....	198
61	Dissolution of councils of certified trade unions ..	198

TERMINATION OF BARGAINING RIGHTS

62	Effect of certification.....	199
63	Application for termination, no agreement	199
63.1	Transition.....	202
64	Where certificate obtained by fraud	203
65	Termination for failure to give notice.....	203
66	Termination of bargaining rights after voluntary recognition.....	204

TIMELINESS OF REPRESENTATION APPLICATIONS

67	Application for certification or termination after conciliation	205
----	---	-----

Table of Contents

SUCCESSOR RIGHTS

68	Declaration of successor union	207
69	Definitions	207
69.1	Successor rights, building services	212
69.2	[Repealed 2018, c. 14, Sched. 2, s. 9.]	212

UNFAIR PRACTICES

70	Employers, etc., not to interfere with unions	213
71	Unions not to interfere with employers’ organizations	213
72	Employers not to interfere with employees’ rights .	213
73	Employers not to interfere with bargaining rights .	214
74	Duty of fair representation by trade union, etc.	214
75	Duty of fair referral, etc., by trade unions	214
76	Intimidation and coercion	215
77	Persuasion during working hours	215
78	Strike-breaking misconduct, etc., prohibited	215
79	Strike or lock-out, agreement	216
79.1	First collective agreement ballot questions	217
80	Reinstatement of employee	218
80.1	No discharge or discipline following strike or lockout	219
81	Unlawful strike	219
82	Unlawful lock-out	219
83	Causing unlawful strikes, lock-outs	219
84	Saving	220
85	Refusal to engage in unlawful strike	220
86	Working conditions may not be altered	220
87	Protection of witnesses rights	221
88	Removal, etc., of posted notices	222

Ontario Labour Relations Act Quick Reference

LOCALS UNDER TRUSTEESHIP

89	Trusteeship over local unions	222
----	---	-----

INTERFERENCE WITH LOCAL TRADE UNION

89.1	Definitions	223
------	-----------------------	-----

INFORMATION

90	Collective agreements to be filed	224
91	Officers, constitution, etc.	224
92	Duty of union to furnish financial statement to members	224
92.1	[Repealed 2005, c. 15, s. 6.]	225
93	Definition	225
94	Representative for service of process	226
95	Publications	227
95.1	Indirect collection of personal information	227

ENFORCEMENT

96	Inquiry by labour relations officer	227
97	“Person” defined for purposes of ss. 87, 96	229
98	Board power re interim orders	229
99	Jurisdictional, etc., disputes	230
100	Declaration and direction by Board re unlawful strike	232
101	Declaration and direction by Board in respect of unlawful lock-out	232
102	Filing in court	233
103	Notice of claim for damages after unlawful strike or lock-out where no collective agreement	233
104	Offences	234
105	Information may be in respect of one or more offences	235

Table of Contents

106	Parties	235
107	Style of prosecution	235
108	Proceedings in Superior Court of Justice	236
109	Consent	236

ADMINISTRATION

110	Board, continued	236
111	Powers and duties of Board, general	240
112	Mistakes in names of parties	244
113	Proof of status of trade union	244
114	Jurisdiction	244
115	Reference of questions	245
115.1	When no decision, etc., after six months	245
116	Board's orders not subject to review	246
117	Testimony in civil proceedings, etc.	246
118	Documentary evidence	246
118.1	Powers under the <i>Canada Labour Code</i>	247

GENERAL

119	Secrecy as to union membership	247
120	Competency as a witness	248
121	Delegation	249
122	Mailed notices	249
122.1	Requests, applications etc. to Minister	251
123	Defects in form; technical irregularities	252
124	Administration cost	252
124.1	Remuneration and expenses of conciliation boards, etc.	252
125	Regulations	252

CONSTRUCTION INDUSTRY

126	Definitions	255
-----	-----------------------	-----

Ontario Labour Relations Act Quick Reference

126.1	Construction industry, application.....	258
127	[Repealed 2000, c. 38, s. 24.].....	259
127.1	Grandparented non-construction employers	259
127.2	Non-construction employers, application for termination	259
127.3	Application of section.....	260
128	Bargaining units in the construction industry	261
128.1	Application for certification without a vote	261
129	Notice of desire to bargain	267
130	What deemed to be a collective agreement	268
131	Notice of desire to bargain for new collective agreement.....	268
132	Application for termination, no agreement	269
133	Referral of grievance to board	270
134	Accreditation of employers' organization.....	272
135	Board to determine appropriateness of unit	273
136	Determinations by Board.....	273
137	Effect of accreditation.....	275
138	Application of s. 57(1), (2).....	276
139	Termination of accreditation.....	277
140	Individual bargaining prohibited	279
141	Duty of fair representation by employers' organization.....	279
142	Membership in employers' organization.....	280
143	Fees	280
144	Direction by board re unlawful strike.....	280
145	Definitions	282
146	Application	282
147	Jurisdiction of the local trade union	283
148	Application	284
149	[Repealed 2018, c. 8, Sched. 14, s. 5.].....	284

Table of Contents

150	Administration of benefit plans	284
RESIDENTIAL SECTOR OF THE CONSTRUCTION INDUSTRY		
150.1	Interpretation	285
150.2	Deemed expiry of collective agreements	286
150.2.1	[Repealed 2005, c. 15, s. 9.]	288
150.3	Prohibition, strikes and lockouts	288
150.4	Arbitration	288
150.5	Meetings at Director's direction	291
150.6	Continued application of former provisions	292
SPECIAL RULES FOR CONCRETE FORMWORK IN CERTAIN AREAS		
150.7	Carpenters District Council of Ontario	292
PROVINCE-WIDE BARGAINING		
151	Definitions	298
152	[Repealed 2000, c. 38, s. 31.]	299
153	Designation by Minister	300
154	Application to Board by employee bargaining agency .	304
155	Application to Board by employer bargaining agency .	305
156	Employee bargaining agencies, vesting of rights, etc. . .	305
157	Employer bargaining agencies, vesting of rights, etc. . .	305
158	Application for certification in the industrial, commercial and institutional sector	306
159	Voting constituency	307
160	Certification after representation vote	307
160.1	[Repealed 2015, c. 38, Sched. 12, s. 3.]	308
161	Termination of collective agreement	308
162	Agency shall make only one agreement	310
163	Non-application of s. 57	310
163.1	Project agreements	311
163.1.1	Adding new project to agreement	318

Ontario Labour Relations Act Quick Reference

163.2	Local modifications to provincial agreement.	321
163.3	Referral to arbitration.	324
163.4	Service.	331
163.5	Election.	332
164	Calling of strikes	334
165	Who may vote, employees	335
166	Application re sector.	336
167	Bargaining agency not to act in bad faith, etc.	338
168	Corporation to facilitate ICI bargaining	338

SHORT TITLE

169	340
-----	-----------	-----

105/01 — DEEMED ABANDONMENT OF BARGAINING RIGHTS

1	Definitions	341
2	Bargaining rights deemed abandoned	341
2.1	Bargaining rights deemed abandoned	342
3	Commencement	342
Schedule 1	— Board Geographic Area 8	342
Schedule 2	— Provincial Agreements	343
Schedule 3	— Voluntary Recognition Agreements	346
Schedule 4	— Provincial Agreements	346
Schedule 5	— Voluntary Recognition Agreements	347

187/93 — ONTARIO CONSTRUCTION SECRETARIAT

1	. . . . .	348
2	. . . . .	348
3	. . . . .	348
4	. . . . .	349
5	. . . . .	349
6	. . . . .	349
7	. . . . .	349

Table of Contents

94/07 GENERAL

1	Filing of arbitration awards.....	350
2	Schedules of arbitrators' fees.....	350
3	Forms	351
4	Revocation.....	352
Schedule 1	.....	352

**522/05 — ARBITRATION — RESIDENTIAL SECTOR OF THE
CONSTRUCTION INDUSTRY**

1	Application of Regulation	354
2	Beginning proceeding	354
3	Arbitrator.....	354
4	Method of arbitration.....	355
5	Timing of award.....	355
6	Execution of agreement	355
7	Revocation.....	356

**98/16 — DEEMED ABANDONMENT OF BARGAINING RIGHTS —
SARNIA WORKING AGREEMENT**

1	Definitions	357
2	Bargaining rights deemed abandoned	358
3	O. Reg. 105/01	358
4	Rights and obligations	359
5	Future bargaining	360
6	Amendment.....	360
7	Commencement	360
Schedule 1	.....	360

ONTARIO LABOUR RELATIONS BOARD 2014 RULES OF PROCEDURE

PART I — GENERAL MATTERS

Rule 1	Application, Interpretation, Conflicts and Definitions	366
--------	---	-----

Ontario Labour Relations Act Quick Reference

Rule 2	Non-Compliance	368
Rule 3	Time	369
Rule 4	Constitutional Challenges.....	369
Rule 5	Obligation to Make Allegations Promptly.....	370

PART II — COMMENCEMENT OF PROCEEDINGS

Rule 6	Commencement—Delivery and Filing.....	370
Rule 7	Applications and Responses—Delivery and Filing ..	372
Rule 8	Documents—Delivery and Filing.....	374

PART III — CERTIFICATION AND TERMINATION APPLICATIONS AND REPRESENTATION VOTES

Rule 9	Certification.....	376
Rule 10	Termination of Bargaining Rights under Section 63 of the Act.....	378
Rule 11	Representation Votes	380

PART IV — ADDITIONAL RULES FOR SPECIFIC APPLICATIONS

Rule 12	First Collective Agreement Arbitration.....	381
Rule 13	Jurisdictional Disputes (Non-Construction).....	383
Rule 14	Successor Rights—Trade Union.....	384
Rule 15	Applications under Section 69 and/or Subsection 1(4)—Sale of a Business/Related Employer.....	385
Rule 16	Duty of Fair Representation and Fair Referral Applications.....	386
Rule 17	Ministerial or Director References.....	387
Rule 18	Requests for Reconsideration	387
Rule 19	Applications for Interim Order.....	388
Rule 20	Applications under the <i>Public Sector Labour Relations Transition Act, 1997</i> Rule (“PSLRTA”)...	389
Rule 21	Applications under the <i>Employment Standards Act, 2000</i> Rule (“ESA”) and the <i>Employment Protection</i>	

Table of Contents

	<i>for Foreign Nationals Act (Live-In Caregivers and Others), 2009 Rule (“EPFNA”)</i>	391
Rule 22	Applications under Section 61 of the <i>Occupational Health and Safety Act</i> Rule (“OHSA”)	393

PART V — CONSTRUCTION INDUSTRY

Rule 23	Accreditation and Termination of Accreditation	395
---------	--	-----

CERTIFICATION AND TERMINATION APPLICATIONS IN THE CONSTRUCTION INDUSTRY

Rule 24	Filing and Delivering	397
Rule 25	Certification	398
Rule 26	Termination of Bargaining Rights under Section 63 or 132 of the Act	401
Rule 27	Termination of Bargaining Rights under Section 127.2 of the Act (Non-Construction Employer) . . .	404
Rule 28	Jurisdictional Disputes (Construction)	405
Rule 29	Sector Dispute	406

PART VI — RULES FOR GRIEVANCE REFERRALS IN THE CONSTRUCTION INDUSTRY

Rule 30	Definitions	407
Rule 31	Fees	407
Rule 32	Consequences of Failing to Pay Fees	408
Rule 33	Notice to Accredited Employers’ Organizations and to Employee Bargaining Agency in the I.C.I. Sector	408
Rule 34	Applications under Section 133 of the Act	409
Rule 35	Request for Hearing and Notice of Intent to Defend or Participate	410
Rule 36	Where Responding Party Defaults	411
Rule 37	Responses	411

Ontario Labour Relations Act Quick Reference

PART VII — HEARING PROCEDURES AND ADMINISTRATION

Rule 38	Hearing Procedures	412
Rule 39	Dismissal without a Hearing or Consultation	413
Rule 40	Administration	413
Rule 41	Expedited Proceedings	414

PART VIII — TRANSITION PROVISIONS

Rule 42	Transition	415
---------	----------------------	-----

PART IX — OTHER FORMS AND INFORMATION BULLETINS

Ambulance Services	416
Colleges Collective Bargaining Act, 2008	416
Consent to Institute Prosecution	416
Crown Employees Collective Bargaining Act, 1993	417
Employee Status	417
Environmental Bill of Rights	417
Environmental Protection Act	418
Failure to Comply with Terms of Settlement	418
Failure to Furnish Financial Statement	418
Inadequate Financial Statement	419
Occupational Health & Safety Act	419
Public Inquiries Act 2009	419
Public Service of Ontario Act, 2006	420
Religious Exemption	420
Right of Access	421
Smoke-Free Ontario Act	421
Unfair Labour Practice	421
Unlawful Strike or Lock-Out	422
Index	423