

TIMELINESS OF APPLICATION*	APPROPRIATE BARGAINING UNIT	REPRESENTATION VOTE	DECERTIFICATION
<p><u>No certified trade union, no collective agreement</u></p> <p>At any time. s.12(2)</p> <p><u>Certified trade union but no agreement</u></p> <p>10 months after certification; the Board** may consent to an earlier application. s.12(3)</p> <p><u>Trade union and expired agreement</u></p> <p>When notice to bargain has been given, 10 months after the expiration of the agreement; the Board may consent to an earlier application. s.12(7)</p> <p><u>Agreement in force (2 years or less)</u></p> <p>After the commencement of the last 2 months of operation. s.12(4)</p> <p><u>Agreement in force (more than 2 years)</u></p> <p>During the 23rd and 24th months of the term, during the last 2 months of each subsequent year or after the commencement of the last 2 months of operation. s.12(5)</p> <p><u>Agreement in force (for further term(s))</u></p> <p>During the last 2 months of each year of the further term or after the commencement of the last 2 months of the operation of the agreement. s.12(6)</p> <p><u>Where strike or lockout in effect</u></p> <p>No application may be made without the consent of the Board. s.12(8)</p> <p><u>Where application refused</u></p> <p>The Board may prescribe a waiting period before a new application may be made by the same applicant. s.13(7)</p>	<p>"Unit" means a group of employees whether it is an employer unit or a plant unit or a subdivision of either. s.7(1)(n)</p> <p>***The term "employee" includes a dependent contractor as defined in the Act. s.7(1) (f.1)</p> <p>The Board may include or exclude employees in order to make a unit appropriate for collective bargaining or for other good reason. s.13(2)</p> <p>* After an application for certification, the employer concerned may not alter the rates of wages or any other term or condition of employment of any employees affected while the application is pending or, if the trade union is certified, until the parties have met to bargain collectively. However, changes may be made with the consent of the Board. s.16</p> <p>** The term "Board" means the Labour Relations Board.</p> <p>*** This legislation will apply when section 3 of S.P.E.I. 1994, c.32 is proclaimed into force.</p> <p>**** This legislation will apply when section 9 of S.P.E.I. 1994, c.32 is proclaimed into force.</p>	<p>Whenever it deems it necessary, the Board will take a representation vote. s.13(3)</p> <p>The Board will certify the trade union when satisfied that a majority of the employees in the unit wish it to be their bargaining agent. s.13(5)</p> <p>It is considered that a person wishes that the applicant trade union be certified as bargaining agent if at the date of application for certification he/she is a member in good standing of the union or has signed a document stating that he/she wishes the certification of the union as bargaining agent, and the person has paid at least two dollars in union dues within three months before the date of application. Regulations under the Labour Act. s.3(4)</p> <p>The representative character may be determined by a vote in favour of the union by a majority of eligible employees in the unit who exercise their right to vote. s.13(4),(8)</p> <p>A pre-hearing representation vote may be requested by a trade union, be allowed by the Board, and become valid. s.14</p>	<p><u>Timeliness of application</u></p> <p>Same as for certification. s.20(4)</p> <p><u>Criteria</u></p> <p>An employer, any employee, or the trade union concerned may apply to the Board for the revocation of certification on the ground that the union has lost the support of the majority. s.20(1)</p> <p>If the Board is satisfied that the majority of the employees in a unit no longer wish the trade union to represent them, it will revoke the certification. s.20(2)</p> <p>Whenever it deems it necessary, the Board will take a vote. s.20(4)</p> <p><u>****Timeliness of application</u></p> <p>Same as for certification. s.20(5) to (11)</p> <p><u>Criteria</u></p> <p>The trade union, a majority of the employees in the bargaining unit or the employer concerned may apply for the revocation of bargaining rights. s.20(1)</p> <p>If the Board is satisfied that a majority of the employees in a unit wish the trade union to be decertified as bargaining agent for such employees, it will decertify the union. s.20(2)</p> <p>If an application is made by an employer, the Board may revoke the certification of a bargaining agent only if it is satisfied that it has abandoned its bargaining rights in respect of the employees concerned. s.20(3)</p>

COLLECTIVE BARGAINING AND GOVERNMENT INTERVENTION DURING NEGOTIATIONS

NOTICE TO BARGAIN

FAILURE TO SETTLE COLLECTIVE BARGAINING DISPUTE

No previous collective agreement
 Either party may give notice to commence bargaining. s.21

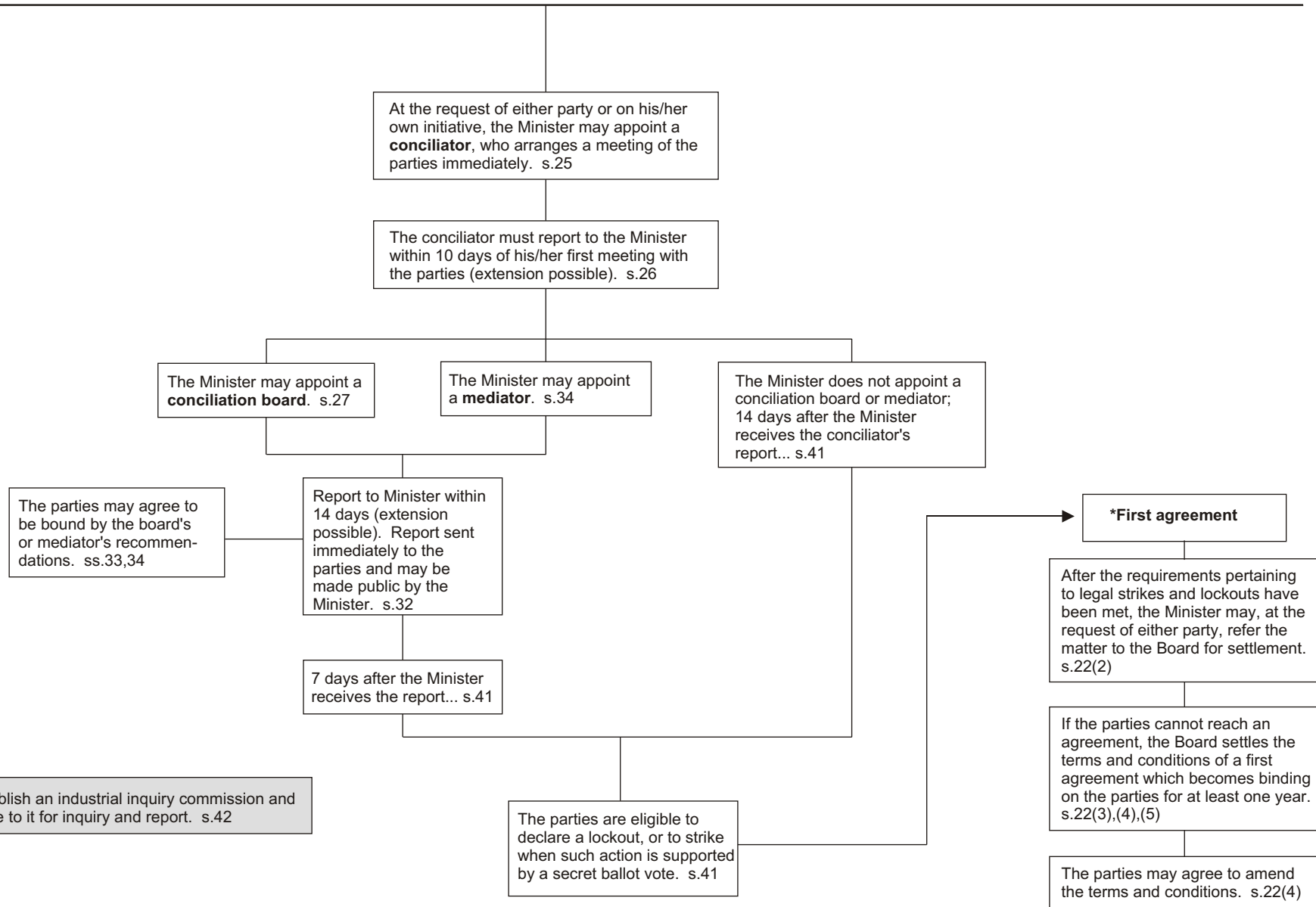
Prior to expiry of collective agreement
 Either party may give notice to commence bargaining within the time prescribed by the agreement or, if not specified, at least 2 months before the expiry date. s.23

Statutory obligation
 The parties must commence to bargain within 20 days after notice has been given or such further time as they may agree upon. ss.22(1),24

Statutory freeze following notice to bargain
 An employer may not alter rates of wages or any other term or condition of employment without the consent of the bargaining agent until a collective agreement has been concluded, or the parties have acquired the right to strike or to lock out. ss.22(b),24(b)

***Statutory freeze following notice to bargain**
 An employer may not alter rates of wages or any other term or condition of employment without the consent of the bargaining agent. If no collective agreement is in force, this applies until an agreement has been concluded or the parties have bargained and have failed to conclude a first collective agreement. If there is a collective agreement, this freeze applies until a new collective agreement has been concluded, or the parties have acquired the right to strike or to lock out. ss.22(1),24(b)

The Minister may establish an industrial inquiry commission and refer matters in dispute to it for inquiry and report. s.42



*This legislation will apply when section 10 of S.P.E.I. 1994, c.32 is proclaimed into force.

REQUIREMENTS CONCERNING LEGAL STRIKES

Prince Edward Island

PREREQUISITES TO LEGAL STRIKE (Similar requirements apply with respect to legal lockouts)

No strike during the term of a collective agreement, except if it contains a reopener clause for renegotiation of wages. Unresolved differences that may arise over the interpretation, application, administration or alleged violation of a collective agreement are settled by arbitration, without stoppage of work. ss.36,37,41(3)

No strike until the parties have bargained collectively and:

- a) until 14 days after the report of the conciliator was filed with the Minister and a conciliation board or mediator has not been appointed, or
- b) until 7 days after the report of the conciliation board or mediator was filed with the Minister. s.41(3)

STRIKE VOTE

No strike is permitted until after a vote has been taken by secret ballot of the employees in the unit affected as to whether to strike and the majority of the employees voting is in favour. Such a vote may not be taken until the prerequisites to a legal strike have been met. s.41(4)

STRIKE REPLACEMENTS AND REINSTATEMENT

Upon the termination of a legal strike or lockout, the employees affected are entitled to be reinstated in their employment without discrimination according to the terms and conditions of employment then in force. s.9(3)

This requirement does not apply where, due to a decline in business, the operations or the functions (including similar work) performed by the employees before the work stoppage, have been suspended or discontinued. Should those operations be resumed, the employees who were on strike or locked out must be reinstated first. s.9(4)

The employment of replacement employees is deemed to be terminated at the end of the strike or lockout, subject only to the terms and conditions of any return to work agreement. s.9(5)

CERTAIN OBLIGATIONS AND PROHIBITIONS APPLYING TO THE PARTIES

Prince Edward Island

BARGAINING AGENT

EMPLOYER

Limitations on the application of union security clauses requiring dismissal

No bargaining agent may require an employer to discharge an employee for non-membership in a trade union if membership is not available to the employee on the same terms and conditions generally applicable to other members. s.9(9)

Authorization to deduct union dues

Where there is no check-off provision in a collective agreement, the employer must make the deduction of initiation fees and union dues if an employee in the unit provides a signed written request that such deductions be made from his/her wages. Such request may not be revoked within six months from the date it is made. s.45