

TIMELINESS OF APPLICATION*	APPROPRIATE BARGAINING UNIT	REPRESENTATION VOTE	DECERTIFICATION
<p><u>No certified trade union</u></p> <p>An application may be filed at any time.</p> <p><u>Certified trade union</u></p> <p>If the trade union is applying with respect to a unit of employees who are already represented by a certified trade union, the timeliness of the application varies depending on whether a collective bargaining agreement is in force.</p> <p><u>No collective agreement in force</u></p> <p>Not less than 30 days or more than 60 days before the anniversary date of certification. s.5(k)(ii)</p> <p><u>Agreement in force</u></p> <p>Not less than 30 days or more than 60 days before the anniversary of the effective date of the agreement. ss.5(k)(i),33(5)</p> <p><u>Where application refused</u></p> <p>No subsequent application by the same applicant for the same or a substantially similar unit before 6 months, unless the Board** abridges that period. s.5(b)</p> <p><u>Where unsuccessful application dismissed</u></p> <p>The Board has the power to bar from making a similar application, for up to one year, the unsuccessful applicant, any of the employees affected by the application, any person or trade union representing such employees, or any person or organization representing the employer affected by the application. s.18(m), (n)</p>	<p>The Board may make an order determining whether the appropriate unit of employees for the purpose of bargaining collectively is an employer unit, craft unit, plant unit, a subdivision thereof, or some other unit. s.5(a)</p> <p>The term “employee” includes a person engaged by another person to perform services if, in the opinion of the Board, the relationship between those persons is such that the terms of the contract between them can be the subject of collective bargaining. s.2 (f) (i.1)</p> <p>The term “employee” also includes any person designated by the Board as an employee for the purposes of the Act notwithstanding that, for the purpose of determining whether or not the person to whom he/she provides services is vicariously liable for his/her acts or omissions, he/she may be held to be an independent contractor. s.2 (f) (iii)</p> <p>*No employer may change rates of wages, hours of work, conditions or tenure of employment, benefits or privileges while any application is pending before the Board. s.11(1)(j)</p> <p>** The term "Board" means the Labour Relations Board.</p>	<p>In determining what trade union, if any, represents a majority of employees in an appropriate unit, the Board may, at its discretion, direct that a vote be taken by secret ballot of all employees eligible to vote. s.6(1)</p> <p>Where an application for certification is made and another trade union is already certified with respect to the bargaining unit, the Board orders a representation vote by secret ballot if 25% or more of the employees in the unit have within 6 months preceding the date of application indicated that the applicant union is their choice as representative for the purpose of collective bargaining. s.6(2)</p> <p>The Board may, however, refuse to hold the vote if satisfied that another trade union represents a clear majority of the employees in the unit or when, within six months preceding an application by the same union, it has ordered a vote of the employees in the same unit. s.6(2)</p> <p>Votes ordered by the Board are by secret ballot and conducted under its supervision. s.7(1)</p> <p>In a vote, a quorum consists of a majority of those eligible to vote who cast ballots, and a majority of the voting employees determines the trade union, if any, that represents the employees. s.8</p> <p>Signed cards stating that individual employees wish to be represented by the union are considered as evidence of employee support for the union's application for certification.</p> <p>The Board may reject evidence or information concerning a matter occurring after the date of application for certification. s.10</p>	<p>The Board may rescind an order determining that a trade union represents a majority of employees in an appropriate unit if:</p> <ol style="list-style-type: none"> there is an agreement in existence, upon application during a period of not less than 30 days or more than 60 days before the anniversary of the effective date of the agreement; there is no agreement and an application is made during a period of not less than 30 days or more than 60 days before the anniversary date of the order to be rescinded or amended; or the Board is satisfied that the order was obtained by fraud (it then rescinds the order). ss.5(k),16 <p>If the Board finds that the trade union or an employee has committed an unfair labour practice or has otherwise violated the Act, and that there is no evidence of majority support for an application to rescind a certification order, but that majority support would otherwise have been obtained, it must order a representation vote. s.10.2</p>

CERTIFICATION OF TRADE UNIONS *(continued)*

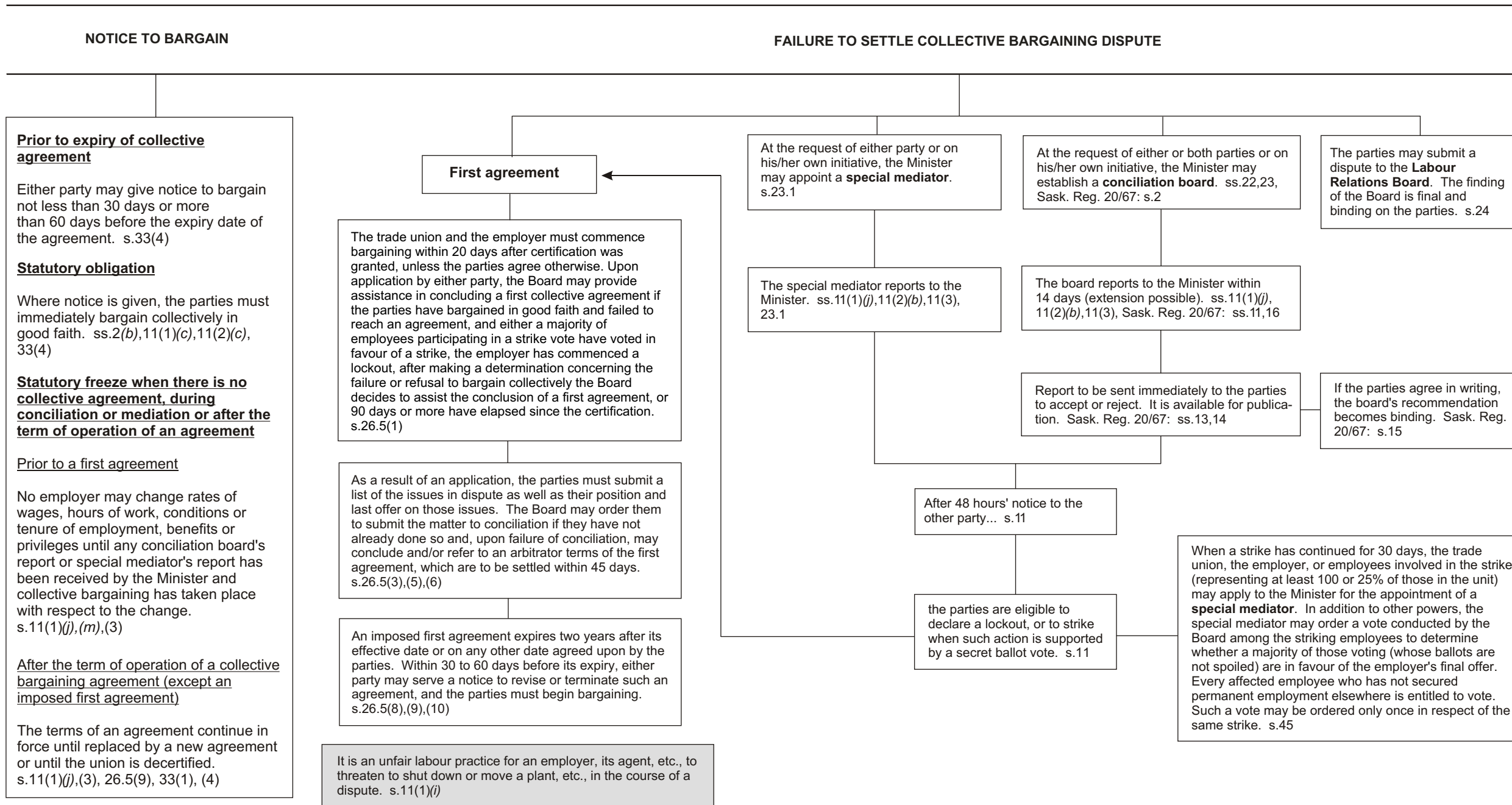
Saskatchewan

TIMELINESS OF APPLICATION
APPROPRIATE BARGAINING UNIT
REPRESENTATION VOTE
DECERTIFICATION

If the Board finds that the employer or its representative has committed an unfair labour practice or has otherwise violated the Act, and that there is no evidence of majority support for the application, but that majority support would otherwise have been obtained, it must order a representation vote. s.10.1

The Board has the power to order, at any time before a proceeding has been finally disposed of, that a vote or an additional vote be taken among the employees affected, and that the ballots cast in any such vote be sealed in ballot boxes and not counted except as directed by the Board. s.18(v)

COLLECTIVE BARGAINING AND GOVERNMENT INTERVENTION DURING NEGOTIATIONS



REQUIREMENTS CONCERNING LEGAL STRIKES

Saskatchewan

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

Trade unions are prohibited from commencing strike action:

while an application is pending before the Board or any matter is pending before a board of conciliation or special mediator appointed under the Act; s.11(2)(b)

during the term of a collective agreement. Unresolved differences that may arise over the meaning, application or alleged violation of a collective agreement are settled through a grievance arbitration process. ss.25,26,26.1,44(2)

Strike notice

The trade union must give the employer or its agent at least 48 hours' written notice of the date and time the strike will commence. It must, promptly thereafter, serve a similar notice on the Minister or his/her representative. s.11(6)

Strikes during the period of an election

The Labour-Management Dispute (Temporary Provisions) Act gives the Lieutenant Governor in Council the power to prohibit a work stoppage during an election where, in his/her opinion, a labour-management dispute creates a situation of pressing public importance or endangers (or may endanger) the health or safety of any person in the province. s.14

STRIKE VOTE

It is an unfair labour practice for an employee, a trade union, or any other person to declare, authorize, or take part in a strike unless a strike vote has been taken by secret ballot among all employees in the unit affected by the collective bargaining and a majority of those voting have voted in favour of a strike. No strike vote by secret ballot is required in a bargaining unit of 2 employees or less. s.11(2)(d)

Upon application by the trade union or affected employees, the Board may decide to supervise, conduct, or scrutinize a strike or ratification vote or a vote on the employer's final offer. ss.11(8) and 45(2)

STRIKE REPLACEMENTS AND REINSTATEMENT

Following the conclusion of a strike or lockout, where the parties have not reached an agreement for reinstating the employees affected, the employer must reinstate them to the positions they held when the work stoppage began. If there is insufficient work for all striking or locked-out employees, they must be reinstated in accordance with any provisions of the collective agreement providing for recall based on seniority or, in the absence of such provisions, in accordance with each employee's length of service as determined when the strike or lockout began. Any employee who is not reinstated due to insufficient work is entitled to notice of layoff or pay in lieu of notice (a back-to-work protocol agreed to by the parties takes precedence over the Labour Standards Act provisions on those subjects). s.46(1),(2),(3)

Striking or locked-out employees are entitled to displace any persons hired to perform their work during the work stoppage. s.46(4)

CERTAIN OBLIGATIONS AND PROHIBITIONS APPLYING TO THE PARTIES

Saskatchewan

BARGAINING AGENT

EMPLOYER

Duty of fair representation

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

Limitations on the application of union security clauses requiring dismissal

A trade union or any person is prohibited from seeking to have an employee discharged for failure to acquire or maintain membership in a trade union, where such membership is a condition of employment and the employee tenders payment of the periodic dues, assessments, and initiation fees uniformly required as a condition of acquiring and maintaining membership. Such employee is then deemed to maintain his/her membership in the trade union. ss.11(2)(e), 36(3)

Compulsory deduction of union dues

Upon the request of a union representing a majority of employees in a bargaining unit, a collective agreement must contain a clause compelling every employee who is or becomes a member of the union to maintain his/her membership in the union as a condition of employment and every new employee to join the union within 30 days after the commencement of the employment. s.36(1)

Non-union members of the bargaining unit are required, as a condition of employment, to tender to the union the periodic dues uniformly required to be paid by members of the union. s.36(1)

Upon a written application of an employee and upon request of a union representing the majority of employees, the employer must deduct union dues, assessments, and initiation fees from the employees' wages and periodically remit these to the union. s.32(1)

The Board may issue an order excluding from the bargaining unit an employee who objects to membership in or financial support of a union as a matter of conscience based on religious training or belief. This excluded employee must pay to a charity mutually agreed upon by the employee and the union or designated by the Board if no agreement is reached an amount at least equal to the amount of dues and assessments payable by union members. s.5(l)