

Guide to Labour Relations Law

in Canada

Canadian labour relations law protects workers' rights to join and form unions, bargain collectively and engage in collective action.

Labour laws promote healthy relationships between workers, unions and employers.

Foreign workers, including workers without a valid work permit, are covered by labour relations laws in most provinces.

Provincial or federal: which labour relations law applies?

Unless you work in a federally regulated industry, the laws that apply to the relationship between unions, workers and employers are those of the province in which you work. Federal industries are generally governed by the *Canada Labour Code*.

What activities do labour relations laws protect?

Canadian labour relations laws in all provinces share many similarities and are based on core principles that protect workers and unions.

These laws protect:

Freedom of association and the right to organize

- Workers have the right to organize themselves to promote and defend their interests in employment.
- Governments have the duty to protect workers when they exercise their right to organize.



The right to bargain collectively

- Workers have the right to negotiate working conditions as a group.
- Employers have a duty to bargain in good faith with a union when a majority of their workers have chosen union representation.

The right to strike

- Workers' right to strike is more limited than the right to bargain collectively and the right to organize.
- Workers in Canada can take part in a legal strike only at the end of a collective agreement (a work agreement between a union and an employer).

As a worker, you have the right to join with other workers to address shared problems and to improve your working conditions.



Labour relations.

The relationships between unions, workers and employers are often referred to as labour or industrial relations.

Federal industries subject to the *Canada Labour Code* include:

- industries that operate across provincial and national borders (bus operations, trucking, pipelines, ferries, shipping, etc.);
- air transport, aircraft and airports.
- telecommunications (radio and TV broadcasting, telephone and cable systems);
- banks;
- works declared by Parliament to be for the general advantage of Canada (e.g., grain elevators, uranium mining and processing);
- most federal Crown corporations.

Private companies in the Yukon, Northwest Territories and Nunavut are also subject to the *Canada Labour Code*.

What is a union and what can it do for me?

A union is a group of employees who work together to get better wages, hours and working conditions.

Unions:

- represent you to the employer;
- negotiate wages, hours and working conditions in “collective bargaining agreements”;
- make sure that the collective bargaining agreement is put into effect.



What are the advantages and disadvantages of joining a union?

Joining a union can have many benefits, including better wages, benefits and working conditions.

Joining a union can also have costs, like union dues and striking when needed.

Union certification

A union must be certified before it can force an employer to negotiate a collective agreement covering the employees it represents.

- Over 50 percent of the workers in your workplace or in a unit within your workplace must choose to become members of a union before your union can become certified.
- Certification means that a union has been given official permission from a labour board to act on behalf of a group of workers called a bargaining unit.
- Workers and their unions are protected from employer interference when they are trying to become certified by a labour board.

Is it legal for my employer to try to interfere with my right to join or not join a union?

When you are covered by labour relations legislation, your employer cannot interfere with your right to join the trade union of your choice.

Employers and persons acting on behalf of employers CANNOT:

- threaten, penalize or intimidate you in any way because you belong to a union or are considering joining a union;
- participate in a union or contribute to a union;
- discriminate against any person because he or she is, was, or wants to be a member of a union. Such discrimination includes refusing to hire or firing a worker as well as any other situation where a worker is treated differently because of his or her association with a union;
- change employment conditions to prevent workers and potential workers from becoming union members.

Does the union have any duties toward its members?

- If you are represented by a union, you have a right to expect that the union will act in good faith and provide you with fair representation without discrimination.
- Unions are also prohibited from making threats, penalizing or intimidating you in any way because you have decided not to associate with a union or because you have decided to associate with another union.

Where can I go to file a complaint if my rights as a union member are violated?

- Each province (as well as the federal government) has an agency responsible for labour relations called a labour board (except in Quebec, where this is the job of the Commissioner General of Labour).
- The labour boards (and the Quebec Commissioner) certify unions, investigate complaints of unfair labour practices, interpret the labour laws, and decide cases. They also help employers and unions resolve issues before conflict occurs.

Grievances

Most collective bargaining agreements have a way for dealing with problems. It is called a grievance procedure.

A grievance is a complaint that you can file against the employer when the employer violates the collective bargaining agreement.

The employer and your union will talk about the complaint and try to settle the problem.

If they cannot settle the problem, then your grievance may go to arbitration.

In arbitration, an independent arbitrator will hear both sides of the complaint and make a decision.

Do I have a constitutional right to be a union member?

The Canadian Constitution does not protect your right to be in a union. However, all workers have basic constitutional rights in Canada.

You can associate with any group you choose.

- Even if you are a worker not covered by the labour relations law of your province or jurisdiction, you are free to be a member of a union or other work-related association.
- Section 2 of the *Charter of Rights and Freedoms* provides that everyone is entitled to the fundamental freedoms of association and expression.
- No law or government official can unreasonably limit your constitutional freedoms.

Peaceful informational picketing is legal.

- Workers sometimes choose to protest by picketing. Picketing usually is a demonstration outside a business or organization. Picketing puts pressure on the employer and informs the public about workplace problems. Peaceful picketing is protected by the *Charter of Rights and Freedoms*.

Contact your labour board to find out if you are protected by labour relations laws.

- Domestic workers are included everywhere except in Alberta, New Brunswick and Ontario.
- Farm workers are included everywhere in Canada except in Alberta, Ontario, Quebec (when fewer than three such workers are ordinarily and continuously employed), and New Brunswick (when fewer than five employees are employed).
- Tree planters are included everywhere.
- Fishers are included everywhere (in Newfoundland and Labrador and New Brunswick, fishers are covered by a separate law).
- All Canadian labour relations laws exclude managers.

Secondary picketing

Secondary picketing is picketing activity that takes place outside workplaces or associations that do business or have a relationship with the worker's employer.

- Depending on the jurisdiction, secondary picketing is either prohibited or permitted under certain conditions.
- Secondary picketing does not include activities like issuing press releases, engaging in letter-writing campaigns and communicating information through paid advertising. These kinds of activities are protected by the *Charter of Rights and Freedoms*.



Commission for Labor Cooperation