

UNIONS AND EMPLOYEE CHOICE RIGHTS: A FIVE COUNTRY COMPARISON

Canada, Australia, New Zealand, United Kingdom and United States

TABLE OF CONTENTS

Introduction.....	3
<i>Certification or Recognition:</i>	6
1) "Open Period" for Unionization:	6
2) Union Membership Required?	8
3) Proof of union membership valid for how long? Are they validated?.....	9
4) What level of Membership evidence is required to apply for certification/recognition, or access to bargain?.....	9
5) Threshold for certification without a vote.	10
6) Is a secret ballot vote required for certifications?	11
7) Voluntary recognition	12
8) Can employees be unionized for employer unfair labour practices?	12
9) Minimum evidence required for "remedial certification"?.....	12
<i>Decertification:</i>	13
10) Open Period for Decertification.....	13
11) Can an Employer seek decertification of a union?	14
12) Threshold of support for decertification.	14
13) Employer misconduct	15
14) Is a decertification vote always a "secret ballot" vote? Who oversees the vote?.....	15
15) Strikes – always have a vote? Who gets to vote? Who administers the vote?	16
16) Who can cross a picket line?.....	16
17) Is employment conditional to union membership?.....	17
18) Freedom of Expression	17
19) Employee access to an Employee Advisor or Lawyer	18
20) Funded employee legal advice:	19
<i>APPENDICIES:</i>	20
APPENDIX A	
Five Country Labour Law Provisions Chart	
APPENDIX B	
Certification and Decertification Provisions Chart	
APPENDIX C	
Partial List of Information Sources	

Introduction

This document has been prepared by volunteers at the Canadian LabourWatch Association in consultation with a range of individuals, government agencies, labour lawyers and other subject matter experts in five countries all of whom were very generous with their time. See Appendix C for details of some of the people and organizations who kindly assisted us. LabourWatch takes full responsibility for the wording in this draft document. We are continuing to review the employee choice realities of five countries and are in the process of adding more. We will periodically update this document on our website.

The purpose of this document is for LabourWatch to begin to develop an understanding and provide information about employee rights regarding unionization in other countries, but, as much as possible, in a way that relates to the terminology and labour relations structures that exist in Canada today.

Canada is increasingly alone with respect to key aspects of unionization, for example: forcing employees to pay union dues, allowing forced union membership for employees who are then subject to union discipline and conditional employment, allowing unions to supervise strike votes instead of a neutral third party or government agency and in having no vehicles to assist employees who may not wish to become or remain unionized. Our 11 Guiding Principles provide a basis for advancing employee rights that will enable informed employees, to make informed choices and give informed consent.

In Canada, there are currently 11 labour law jurisdictions; one for each province in the country, and the federal jurisdiction that covers all employees who fall within federal constitutional jurisdiction. Most of these 11 labour codes, and the Labour Boards they typically create, deal with both private and public sector workers. Labour Watch does not yet provide information concerning the labour codes and labour relations boards that cover the federal public service, some other federally regulated workers or the New Brunswick civil service.

Membership and Union Security or Recognition

Canada: In Canada, the choice of whether or not to join a union is an individual decision that is voluntary (except in Saskatchewan and in any Canadian workplace with a forced membership clause in a collective agreement). Whether or not to unionize a workplace is, in principle, a collective decision that is based on majority support in the workplace. The employees at a particular business or enterprise are in principle, free to express their true wishes concerning whether or not they want union representation, provided that the employees together comprise a group that is considered to be appropriate for collective bargaining. If an affirmative decision is made by a majority of the employees (judged by a secret ballot simple majority vote or by card certification without a vote), then the labour board in question has the power to declare that the union chosen is the exclusive bargaining agent for that group of employees in that workplace. This declaration is called "certification" of a trade union.

Under-bargaining can occur: a certification order is issued for certain classes of employees but during negotiations the union and employer agree to leave certain classes out (or they inadvertently forget to clearly include them in the collective agreement). Similarly, over-bargaining can occur whereby employees not in the certification order are added to the scope clause during bargaining. Finally, circumstances can arise where certain classes are in the certification for one union but as things evolve they might in the end be represented by another union in the same workplace because the parties agree to move certain classes of employees between unions and/or bargaining units.

Most labour legislation in Canada is intended, at least in principle, to 1) establish and protect the right of employees to exercise the choice referred to above; 2) promote efficient collective bargaining once the choice has been made; 3) oversee the mechanics of the labour relations system, for example the adjudication of disputes as they arise; and 4) to deter or prohibit interference in the established rights by any person, but especially the employer. Canada's system is generally tipped in favour of employees who wish to obtain or maintain union representation and against those who may wish to remain or

become union-free. Employers may also, to varying degrees depending on the jurisdiction voluntarily recognize a union and bypass certain steps in the process. Employers are prohibited from dominating the administration of a union.

Dues and Membership: Dues are the payment of a service fee, usually monthly, by a unionized employee (whether a forced or voluntary member of the union or not a member at all) for the representation service the employee in principle receives from the union. Whether dues are paid, how much, and when, is largely a matter between the unionized employees and the union. However, in Canada almost all unionized employees pay dues which most employers, by collective agreement, will agree to deduct dues at source and remit funds directly to the union. There are some exemptions or alternatives in some jurisdictions based on religious reasons. Employers may try to negotiate a voluntary dues clause, but this is rare and is the exception to the rule. In such a case the employer would also seek a voluntary membership clause and it could be up to the union to obtain authorizations to be given to the employer to deduct dues and remit them to the union.

Subject to these rare exemptions, the payment of union dues is almost always mandatory for persons who are represented by a trade union. This is the case whether or not a particular employee has taken up membership in the trade union. On the other hand, a union cannot unilaterally reject a membership application or expel a member for arbitrary or discriminatory reasons, but an employee who is expelled from or denied membership would have to launch legal proceedings at the respective labour board to challenge such an event.

Unionized employees may voluntarily join a union. In some workplaces, however, employers consent to a common union demand that the collective agreement include a clause requiring membership. Consequences for not obtaining, or maintaining, membership in good standing can include termination of employment at one extreme while at the other, expulsion leading to loss of employment is limited to non-payment of dues in some jurisdictions. Loss of membership for crossing a picket line or criticizing your union in the media could lead to loss of employment in some jurisdictions in Canada if the union wants to pursue discipline of a member to its potential conclusion.

One workplace can have multiple collective agreements and bargaining units, including situations where employees working side by side are represented by different unions. There will always be a rationale for which class of employee is in which union though.

Some agreements allow for individual contracts, so long as they are within the parameters of the collective agreement - these may include professional hockey players, quasi-contractors in the courier/delivery business and most commonly agreements that state the wage rates are minimums.

In Canada employees may find themselves in one of four different work unionized workplaces:

Closed Shop: This arrangement is common in the construction industry and in some industries where craft unions predominate. A closed shop is a union security provision whereby the employer is required to hire and employ only members of a particular union, frequently through a union hiring hall, or from lists maintained by the union.

Hiring hall: Office or hall run by the union, or jointly by the employer and the union, which refers workers to jobs; usually established in conjunction with a closed shop clause in a collective agreement which requires an employer to hire workers referred by the union. Workers referred must be members in good standing and referrals usually tied to seniority lists.

Union Shop: Union security provision under which the employer may hire employees who are not union members, but each employee in the bargaining unit must join the union and remain a member in good standing during the lifetime of the collective agreement as a condition of employment. While some collective agreements provide that this obligation is triggered as soon as the employee becomes

employed, the majority of the collective agreements that provide for a union shop have a time period, often the length of the probationary period, before the employee must join the union.

Agency Shop: collective agreement provision requiring all employees in a bargaining unit, as a condition of employment, to pay union dues or an equivalent amount, whether or not they are union members; see Rand Formula

Rand Formula: Union security agreement, developed by Justice Ivan Rand in 1946, which provides for mandatory check off of union dues or their equivalent, but does not require employees to join a union as a condition of employment; legislative requirement in a number of Canadian jurisdictions.

Open Shop: A place of work where union membership is not required as a condition of employment. Employees may join or not join the union. For example, in some construction workplaces or job sites, union members, unionized employees and non-union employees work side by side on the same job site. Unionized employees may also be from different unions.

Key Exception: In Saskatchewan the code requires everyone hired after certification to be a Member, but loss of employment for loss of membership can only be for non-payment of dues. Employees who join in a union drive must remain members. Only those who don't join before certification can remain non-members. If they later join they cannot resign membership except by leaving that employer.

Australia: In Australia the choice of whether or not to join a union is an individual, voluntary decision. With the introduction of recent amendments to the Federal Workplace Relations Act (2006) it is now illegal to include in any industrial agreement a provision that deals with an express or an implied requirement of union membership. There are no legally required closed shops or union shops in Australia, in fact they are illegal. The Work Choices Act, which came into force in 2006, significantly altered the industrial relations regime. The federal government effectively eliminated the state tribunals and state regulation of almost all private sector employees. States now predominately regulate state government employees and only some private sector employees as well.

States now only regulate state government employees.

Australia is working its way out of a complicated "Award" system which established "minimums" in different industry areas and or groups of companies and or types of jobs. These underpinned any individual enterprise agreements. There were well in excess of 7000 such awards which were supposed to delivery comparative pay and conditions or "equity." The complexity of the system can be understood by one example. Take a bar employee in the hospitality industry. Such a position would have different awards (ie) conditions, depending if a person worked in a coffee shop, hotel, casino, non-casino gaming club, North Queensland or South Queensland or central Australia. There would be different pay rates, hours of work and depending on where one worked. There are supposed to be "relativities" between each area. The Work Choices laws set up a process to simplify this system over about a 3 year period.

United Kingdom: In the UK, employees cannot be compelled to join a union. Employers cannot treat employees unfairly if they refuse to join, or leave, a union. It is also unlawful for an employer to attempt to induce membership of a trade union or force an employee to make payments to a union (union dues).

New Zealand: Union membership in New Zealand is voluntary and employees are entitled to join the union of their choice and may not be forced to join a union. Workplaces may be covered by more than one union, although this does not appear to cause much difficulty. Coverage by more than one union occurs but has little application to smaller employers, where there may be little if any union coverage. The repeal of the Employment Contracts Act has led to the formation of a considerable number of in-house unions. Such unions are formed and registered by employees who do not wish to be members of

one of the larger unions but still want to be covered by a collective agreement. There are no closed shops. Union membership is far higher in the public than in the private sector.

USA: There is no legal requirement that an employee join a union or pay full dues as a condition of employment. The most that can be requested is payment of a reduced "financial core fee". There are no "closed" or "union" shops in the USA. In Right to Work (RTW) states, the employee cannot be required to join a union or pay any fees at all to a union. In RTW states employees may join a union and therefore as a member must pay union dues, usually by payroll deduction administered by the employer. As union members these employees are subject to union discipline. In non-RTW states Employees cannot be required to join, but they can be required to pay a reduced financial core fee. A financial core fee is generally paid by a unionized employee who voluntarily decides to not become or remain a union member. In principal this is because this employee is covered by a collective agreement which the employee benefits from.

The amount of the core fee is by law supposed to be related to the actual cost of collective bargaining in the workplace. Union expenses for organizing other workplaces, political purposes and the initiatives outside collective bargaining are not to be part of the core expenses that a core fee is to cover. In practice there are a lot of issues and aggressive interpretation by the union of what is related to collective bargaining in a workplace. For example, unions argue that political efforts to change laws or funds to unionize workplaces affects the collective bargaining in other workplaces and should be considered "core".

All state and local or municipal government employees are exempt from the National Labour Relations Code (NLRA). Instead they are subject to their own state laws.

Certification or Recognition:

1) "Open Period" for Unionization:

What is the "Open Period" for certification of a non-union workplace? This period may be exclusive of the period in which Unions are allowed to "raid" each other, or any "Labour Board" orders that impose or restrict such an open period.

Canada: In all 11 labour law jurisdictions, a union may apply for certification at any time, whereas those seeking to decertify an incumbent union have various window periods.. Limits for a union's subsequent application for the same (or essentially the same) bargaining unit, in some jurisdictions face statutory limits, some have discretionary limits, some have no limits. Some will only limit the same union, some limit any union. Raid periods, since they require decertification of one union and certification by another mean that the certification application can only come as part of a successful decertification and all jurisdictions but one limit decertification to narrow windows of time based on the date of certification, the anniversary of the Collective agreement or the expiry of the collective agreement. Boards have powers to impose bars for a period of time on applications where they find the union has committed unfair labour practices.

Australia: Under the Australian industrial relations system each union has its own eligibility rules which in effect designate the industries and classifications that a particular union can represent. The area of union rules is highly regulated with the intent of avoiding demarcation disputes. (Demarcation disputes involve issues as to which union represents someone or a class of employees. For example, in Australia, X union represents clerical workers regardless of the employer and Y union represents janitorial) and this can mean multiple union in a workplace. As such, workplaces can and do have

multiple unions based on the classes of employee in the workplace who had joined a given union. Over the last 2 decades however unions have sought to minimize multiple representation through amalgamations. Whilst the question as to whether a particular union has coverage is largely determined through the rules, the WR Act does not compel an employer to formally recognize and/or bargain with a particular union. Union eligibility rules may have application in circumstances of right of entry to a workplace for a union rep to meet with employees they represent and in the area of making collective agreements.

New Zealand: There are no official 'non-union' workplaces although in some workplaces there may be no union coverage. The period of establishing a union (a society) is always open. The applicant group must be no less than 15 in number. Having been granted incorporated society status, the group must apply to the Registrar of Unions to be registered as a union under the Employment Relations Act. The decision to register as an incorporated society must be made by employees themselves and to become registered a society must be independent of and operate at arm's length from the employer.

Registration provides a union with representation and bargaining rights in respect to its members only. Unions must provide an annual return of members to the Registrar of Unions and the Registrar may cancel registration if there has been a failure to comply with the statutory rules for an incorporated society (for example, if membership falls below 15).

United Kingdom: Applications may be made at any time. An independent trade union seeking recognition on behalf of a group of employees must show that 10% of those in the bargaining unit are members of the union in order to make an application that the majority of the bargaining unit supports recognition. If the bargaining unit is disputed by the employer, then the union and the employer go to the CAC to get a determination. If the union has a majority of those in the bargaining unit in membership, it can claim recognition without a ballot.

There are no restrictions as to when a Union may apply for recognition, save that a request can only be made every 3 years, but it cannot be a simple repeat of a previously failed request. The request may be made at any time of the year but is subject to other requirements not related to time:

- Valid request made to employer.
- Union must be independent.
- Must identify bargaining unit.
- Other "relevant issues".
- Is "admissible".

Note: among other relevant issues, the application is not admissible if there is any union (whether independent or not) which is already voluntarily recognised for any worker or workers in the bargaining unit - there need not be a formal recognition agreement as long as the employer in fact negotiates with that other union for this bargaining unit. Even if they have refused to recognise that other union formally, and even if that union has no members. The Central Arbitration Committee (the "CAC") is the governing body for disputes over recognition. The underlying aim resulting in such oddities is to prevent the CAC from becoming involved in inter union disputes. So, if there is a union in place already - no matter how unrepresentative - this can have the effect of stifling other applications. It is possible, but not straightforward, to defeat the claims of that incumbent, but the well advised employer (and incumbent union) can make life difficult. Arguments over the union and appropriateness of the bargaining unit are common and typically intense.

USA: The union may apply for certification at any time, whereas those seeking to decertify an incumbent union have various window periods. In the USA employees can file for a "deauthorization election". The sole question is whether to remove the union security clause from the contract, and turn

the workplace into an "open shop". 30% + 1 must file for such an election, and it must be approved by 50% + 1 of the entire bargaining unit, (not just those who turn up to vote) for the deauthorization to pass. (Deauthorization is not the same thing as decertification.)

2) Union Membership Required?

Is proof of Union Membership required to apply for certification? Are any fees involved from the employee to the union?

Canada: In most Canadian jurisdictions a union must provide proof that an employee belongs to the union, or has recently applied to become a member of the union (Union Cards). One only requires a petition asking for representation without a requirement for membership (Alberta). Some jurisdictions require a nominal membership fee to be paid by the employee.

Australia: The question of union membership or coverage will impact upon whether a union can seek to make a collective labour agreement with the employer. An employer does not necessarily know who or if any employees are union members. But if a union wants a collective agreement they need to produce evidence of union members at a worksite. The ability of an employer to discover which employees are union members or not, is restricted.

New Zealand: It is not usual for unions to charge a joining fee but an annual subscription will be due from employees to the union. A collective agreement may provide for the employer to deduct union fees from union members' wages and for an employee on an individual employment agreement who is a union member, the Employment Relations Act provides that the agreement is to be treated as if it contains a provision requiring the employer to deduct with the employee's consent. However there is also an entitlement to exclude or vary the effect of this provision.

The Act also provides a balloting procedure to be used where the union and employer in bargaining for a collective agreement have agreed to the inclusion of a 'bargaining fee' clause. A bargaining fee clause requires the employer to deduct a fee for bargaining the collective agreement from non-union members on the assumption that they will benefit from the union's efforts. However, before the clause can come into effect the employer and union must together hold a secret ballot of both members of the union party to the collective and non-union members whose work comes within the collective's coverage clause. If the result of the ballot is agreement to the clause's inclusion, a non-union member has the period of time specified in the collective agreement in which to give written notice to the employer that he or she does not agree to pay the fee. A non-union member who does not object to paying the fee will thereafter be covered by the collective's terms and conditions. Objectors, however, remain on existing terms and conditions until these are varied by agreement with the employer. A bargaining fee must not be greater than the fee an employee would be required to pay as a union member. A bargaining fee clause expires when the collective expires and therefore must be renegotiated whenever the collective agreement is renegotiated.

United Kingdom: There is no requirement in the legislation for a union to provide 'proof' of its level of membership. However, if an employer disputes a union's claimed level of membership, the CAC can seek evidence from both the union and the employer so that a check can be undertaken of the level of union membership in the bargaining unit. A union may also provide evidence of employee support by way of, for example, a petition.

Where the Union applies to the CAC for recognition, the application is deemed admissible if members of the union make up at least 10% of the relevant bargaining unit. If there are not sufficient Union members then the application is inadmissible. Ploy and counter-ploy occur - for instance, the employer moves extra non-union members into the bargaining unit.

Union membership is a question of fact to be determined by the CAC after consideration of evidence and submissions.

USA: Employees may sign cards authorizing a union or they can sign a petition showing support for certification, such "Authorization" cards are not tied to actual membership in a union.

3) Proof of union membership valid for how long? Are they validated?

Related to Question #2 above: If required, how long are signatures or proof of membership valid for, before becoming "stale"? Are signatures checked by the Labour Board?

Canada: Actual membership cards, membership evidence (i.e. an application for membership) or signatures on a petition have valid periods that range from 90 days up to 12 months. Refer to chart in Appendix B for a specific breakdown.

Not all jurisdictions require or collect in a special step, specimen signatures and do a comparison.

Australia: Not applicable.

New Zealand: Not applicable.

United Kingdom: There is no requirement (whether statutory or otherwise) for Union membership to be for a minimum period. However, the duration of membership or the circumstances in which the worker joined the Union may be scrutinised by the CAC when it considers whether a ballot is necessary. This issue is addressed further below.

Evidence in support of recognition is not generally time sensitive. Common sense is considered the guide and 6 to 9 months is about where the line lies.

USA: Signatures are presumed valid for one year.

4) What level of Membership evidence is required to apply for certification/recognition, or access to bargain? What percentage membership evidence is required to apply for a secret ballot vote?

Canada: For example, in one of our provinces - Manitoba, if the Union proves that more than 40% of the employees are members there will be a secret ballot vote. If they can prove more than 65% are members the Union can be certified without a vote. The lowest threshold to get a vote is 25% in Saskatchewan. The highest is 50% + 1 in Newfoundland & Labrador.

See Appendix B for details of all of the labour code jurisdictions we have reviewed.

Australia: Under the new Work Choices laws, after a union has a member or a number of members for a workplace, they must get a valid permit (good for three years) from the Australian Industrial Relations Commission. This permit enables a union rep to enter a workplace where they have members. Reps are only allowed to speak with members and non-members about membership on employee break time. In a new relationship with an employer where the union seeks to represent the employee(s) the union must give written notice of its desire to negotiate a Collective Agreement/Enterprise Workplace Agreement on behalf of the employees or an Individual Australian Workplace Agreement in behalf of a single employee.

Where a union has "coverage" by virtue of the union's rules there is at least the possibility for the particular union to serve a bargaining notice on the employer. Similarly, if a trade union has coverage, it can make application to the Australian Industrial Relations Commission for an order permitting a ballot to take place with respect to proposed industrial action (strike). The ballot for the taking of industrial action is restricted to those employees that could or would fall under the eligibility rules of the union at a particular site. Whilst the union must have at least one member on the site, there is no requirement for the trade union to establish a particular level of membership in order to serve a bargaining notice and make application for a ballot to take industrial action (strike).

New Zealand: Once registered, a union is able to negotiate a collective agreement on behalf on any number of employees from as few as two upwards. In strict theory the employees in question need not necessarily work for the same employer.

United Kingdom: If a union wishes to apply for recognition to the CAC, it must have 10% of those in the bargaining unit in membership. It must then apply to the employer for recognition. If the employer rejects the request, or if negotiations take place which do not result in an agreement, the union can make an application to the CAC.

The CAC determines whether a ballot is required. An initial question for the CAC to determine is whether a majority of workers in the bargaining unit *would* support the Union being recognised for collective bargaining.

Initially, there is no need to demonstrate current and actual majority acceptance, but it is for the union to satisfy the CAC of that likely prospect of majority support - at least after a ballot (perhaps with a "*bandwagon*" effect) - if they cannot, then the CAC will not order a ballot.

However, even if it is entirely satisfied with the union's case about support, the CAC may order a ballot anyway - for example, in the interest of good industrial relations, because it might persuade a doubting employer to accept the situation, or if there is a dissenting group among the workforce.

USA: As noted above, if 30% + 1 of employees in a proposed bargaining unit sign union authorization cards, the NLRB will order a vote if the union files for an election.

5) Threshold for certification without a vote.

As stated in Question #4, is there is a level of support which if reached will result in an immediate certification of the bargaining unit with no vote?

Canada: We have 11 jurisdictions. Some mandate a secret ballot vote, others like Manitoba have threshold membership levels which can (and almost always do) lead to certification on cards.

See Appendix B for details of the 11 Canadian labour code jurisdictions we have reviewed.

Australia: Not applicable. Certification or recognition without a vote is not legal

New Zealand: Not applicable. Certification or recognition without a vote is not legal

United Kingdom: [see 1) above] If a majority of the employees in the bargaining unit are members of the union, it can apply to the CAC for recognition without a secret ballot vote. The CAC, for a limited number of reasons, has the authority to decide that there should nevertheless be a secret ballot vote. If a majority of employees are not union members, a secret ballot must be held.

The CAC can issue a declaration stating that the Union is recognised without a secret ballot vote where a majority of workers in the bargaining unit are already members of the Union (or Unions). Again, it is a question of fact as to who is a member of the Union. Reference can be made to membership lists or other documents purporting to demonstrate evidence of membership.

The threshold for certification or recognition is not without qualification. Having a majority who are members will not always result in 'automatic recognition'. The CAC may order a vote or ballot where it feels that it would be in the interests of good industrial relations or a significant number of members inform them (or membership evidence is produced leading the CAC to conclude that there are doubts) that they do not want the Union to conduct collective bargaining on their behalf.

USA: If 50% +1 of employees sign union authorization cards the employer may recognize the union as the exclusive bargaining representative of all employees without a secret-ballot election, known as card check certificates. However, the employer is not required to do so, but may insist on a secret ballot election. Unions aggressively pursue what is called a card check certification – getting the employer to waive the secret ballot vote if they can sign 50% + 1. Unions sometimes run corporate campaigns that go after an employer on many levels in many ways. Employee complaints about union card signing tactics are compounded by the power and monetary imbalance between employees and unions when it comes to fighting at the National Labour Relations Board (NLRB) against union organizing tactics especially when an employer allows them. Only when employees can find pro-bono counsel or assistance from an organization such as the National Right to Work Foundation (NRTW) is there a possibility for less imbalance for such employees before the Board.

6) Is a secret ballot vote required for certifications?

Are employees always guaranteed a secret ballot vote for certification? Are there conditions where they may not get a vote?

Canada: No and yes. Only Alberta guarantees votes under all circumstances. Other examples: BC & Ontario (non-construction) will have votes except if there are serious employer unfair labour practices – see #8. A number of jurisdictions will certify on cards from a low of 50% + 1 to a high of 65% for card certification.

Australia: No.

New Zealand: There is no requirement for a ballot in relation to union registration (certification). However, a secret ballot of union members may be required before the initiation of multi-employer/multi-union bargaining. The matter is decided by a single majority vote.

United Kingdom: No: recognition *can be* - not necessarily *will be* - declared if the CAC is satisfied that a majority of the bargaining unit are members and that the majority of the workers are likely to favour recognition.

Recognition may be declared where the CAC finds that the employer has breached its duty to co-operate generally in connection with the ballot by, for example, failing to allow access by the Union to the workers. Providing the vote has not been held the CAC may order a defaulting employer to remedy the breach within a specified time period.

If the employer fails to comply with the order the CAC has power to declare recognition without a vote taking place. If the vote does take place, the result will not stand as the declaration has already been made.

USA: No, If 50% +1 of employees sign union authorization cards the employer may recognize the union as the exclusive bargaining representative of all employees without a secret-ballot election.

7) Voluntary recognition

Can an employer decide they want to have a union without the above forms of certification?

Canada: Yes and there are various rules for how that can happen in the different jurisdictions.

Australia: If a union has coverage of a particular class of employee by virtue of its union rules, the union has the potential to be recognized by the employer and could assert entry rights and/or seek to commence a bargaining period and/or industrial action (strike). The employer, however, is not required to bargain with the union nor are there any laws with respect to bargaining in good faith. An employer cannot seek to make a collective agreement with a union that does not have constitutional coverage (union's constitution) of at least one of the employees who would be bound by the agreement.

New Zealand: No. The decision to form a union and negotiate with an employer is for the employees themselves or for existing union members. To qualify for union rights a group of 15 or more employees must, as previously noted, form an incorporated society.

United Kingdom: An employer and trade union may voluntarily agree on recognition at any time. There are no statutory conditions, such as a minimum level of membership, that need to be fulfilled.

USA: Yes, if 50% + 1 of employees sign.

8) Can employees be unionized for employer unfair labour practices?

Canada: In all but 1 jurisdiction, if an employer commits an unfair labour practice the employees can be certified without a vote or in spite of a vote against unionization. Some call this "remedial certification" others call it "automatic certification".

See Appendix B for details of the 11 Canadian labour code jurisdictions we have reviewed.

Australia: No.

New Zealand: No

United Kingdom: Employers and trade unions must refrain from using any 'unfair practice' during the balloting period. If a party commits an 'unfair practice', the CAC can order the party to take remedial action. If a party fails to comply with a CAC order, the CAC may, if that party is the employer, declare the union recognized or, if that party is the union, declare that the union is not recognized. Those remedies also apply if the 'unfair practice' involves the use of violence or the dismissal of a union official.

USA: Yes, however the US Supreme Court and lower federal courts view this as an extremely draconian remedy, and it's not used very often.

9) Minimum evidence required for "remedial certification"?

Related to Question #6, is there a minimum level of membership evidence required before the Labour Board would unionize employees without a vote or in spite of a vote?

Canada: In one Canadian province they will not grant a remedial certification if less than 40% of the employees have signed union cards. Some jurisdictions can ignore employee secret ballot votes rejecting unionization and unionize the employees because of employer conduct.

Australia: Not applicable.

New Zealand: Not applicable

United Kingdom: The application for recognition is subject at all times to the requirement for it to be valid and admissible (referred to at paragraph 2 above). The CAC can impose sanctions (ultimately a declaration of recognition) if the employer defaults in its duty to cooperate generally during the recognition process.

It may assist to understand the issue of unfair ballot practices in the UK. Both union and employer must refrain from such practices:

- Offering to buy a vote.
- Influencing vote by an outcome specific offer (example: pay rise if no recognition granted, closure of plant if granted).
- Seeking to coerce a voter into disclosing voting intention.
- Dismissing, disciplining a worker or threats to do so, or other detriment.
- Exercising or threatening to exercise undue influence.

The employer has other obligations such as access arrangements for information and meetings.

USA: It is conceivable that an employer could be forced to bargain with a union that has never demonstrated a 50% + 1 showing, but this would be an extreme exception to the normal rules.

Decertification:

10) Open Period for Decertification

Is there an open period or "window" for decertification?

Canada: All Canadian jurisdictions restrict decertification applications in ways they do not restrict certification applications. All jurisdictions, but one, limit applications to windows of 30 – 90 days. One of these has an annual 30 day window tied to the anniversary of the collective agreement. The balances have 1 window in the term of a collective agreement – usually the last 60 or 90 days before expiry. Most have a provision for agreements longer than, for example 3 years, that provide for windows in each year after the third, including the final year.

Australia: In limited circumstances, there is the potential for a union to be deregistered. This applies mainly to situations where the union is operated in an illegal manner and/or in contempt of the labour tribunals. The notion of decertification as it is in Canada is simply not relevant in Australia.

New Zealand: As previously noted, unions can be deregistered by the Registrar of Unions for failure to comply with Incorporated Societies Act requirements. Deregistration is provided for in two circumstances: where the Employment Relations Authority (an investigative body with jurisdiction, among other matters, in respect to union registration) makes an order directing the Registrar to deregister, or if a union asks the Registrar to cancel its registration.

United Kingdom: If recognition was declared by the CAC, an employer or worker can seek derecognition once three years has elapsed from the date recognition was declared. If recognition was the result of a voluntary agreement between an employer and a trade union, there is no relevant legislation and derecognition is determined by the terms of the parties' agreement.

USA: The National Labor Relations Board maintains many rules governing when employees can file for a decertification election. For unions already in place with a negotiated contract, the NLRB's general rule is that decertification elections can only be held near the expiration of the contract (or every three years, whichever comes first). This is called the "contract bar" rule. If employees miss that period, they will have to wait for the next one. For "new" unions which just became the exclusive bargaining representative and do not yet have a collective bargaining agreement, the general NLRB rule is that the union and employer must bargain in good faith for approximately a year before the NLRB will hold a decertification election.

11) Can an Employer seek decertification of a union?

Canada: A couple of jurisdictions allow this under very limited circumstances.

Australia: Possible, but unlikely.

New Zealand: No

United Kingdom: Yes an employer can, after the three year window seek de-recognition. See #10

USA: Yes. An employer can file for decertification if it has objective grounds to believe the union has lost majority support. Such "objective grounds" may include receipt of an employee petition expressing dissatisfaction with the union. This cannot be done in the middle of a collective agreement's term, however. The employer must wait until the end of the contract before seeking such an election.

12) Threshold of support for decertification.

What is the threshold level of support that must be shown for a union decertification application to be considered for an election or a ordered decertification? How is this required to be shown?

Canada: For example, in British Columbia, if 45% of employees complete a specific form indicating their wish to leave the union, the Board will hold a secret ballot vote to decertify the union among the employees. Only 3 jurisdictions appear to have the option of decertifying upon application, without a vote. (Note: In a few jurisdictions there can be and regularly are card certifications, but all of these jurisdictions requiring votes for decertification.) A number of jurisdictions have lower thresholds for unions to get a certification vote than for employee to get a decertification vote.

Australia: Not applicable.

New Zealand: Not applicable.

United Kingdom: If statutory recognition was declared without a ballot, an employer may apply to the CAC for derecognition if the majority of the employees in the bargaining unit are no longer members of the union.

An application for de-recognition is only valid and admissible if the CAC decides that at least 10 per cent of the workers constituting the bargaining unit are in favour of an end to the bargaining arrangement and a majority of the workers constituting the bargaining unit would be likely to favour an end to the bargaining arrangement.

The application for de-recognition will still be put to a vote of the workers. For the employer to succeed in a vote for de-recognition, a majority of the workers must vote and at least 40 per cent of the workers constituting the bargaining unit must vote in favour of de-recognition.

If the application is approved by the members vote, the CAC must issue a declaration that recognition will end on a specified date.

USA: Under the National Labor Relations Act, if 30% or more of the employees in a bargaining unit sign a Decertification Petition, the National Labor Relations Board will conduct a secret ballot election to determine if a majority of the employees wish to decertify the union and stop it from any further "exclusive representation." Often based on 50% + 1 of those who actually vote, not on who is illegible.

13) Employer misconduct

Can the Labour Board disallow a decertification application if it feels the Employer has influenced it, or behaved inappropriately?

Canada: Yes.

Australia: Not applicable.

New Zealand: Not applicable.

United Kingdom: The legislation relating to 'unfair practices' applies to both recognition and derecognition votes. In the case of derecognition, if the employer commits an unfair practice it could lead to the application for derecognition being refused and if the union commits an unfair practice it could lead to the cessation of any bargaining arrangements.

If the vote has not yet been held, the CAC can refuse the employer's application. The CAC must take steps to cancel the holding of a ballot. If it is too late to do so, the result will not stand and the application remains refused.

USA: Yes.

14) Is a decertification vote always a "secret ballot" vote? Who oversees the vote?

Canada: In Canada there are still two provinces who hold open floor, "show of hands" decertification votes. The rest are by secret ballot.

Australia: Not applicable.

New Zealand: Not applicable.

United Kingdom: It is central to both the recognition and de-recognition processes that the ballot is secret. This is to ensure a democratic process without risk of interference or disruption by the employer or union.

USA: Yes, also, if 50% or more of the employees in a bargaining unit sign a petition that they no longer want to be represented by the union, the employer can withdraw recognition without an election if it wishes to do so.

15) Strikes – always have a vote? Who gets to vote? Who administers the vote?

Can a Union call a strike without first receiving a mandate from the membership; can they call a strike without a vote?

Canada: There isn't always be a strike vote. All unionized employees can vote. Unions supervise their own votes. Employees have no statutory right to scrutineer strike votes.

Australia: Post March 2006 the process by which industrial action (strike) can be commenced involves:

- (a) The serving of a formal bargaining notice after the expiry of the existing workplace agreement.
- (b) Obtaining the permission of a labour tribunal for the conduct of a vote to take industrial action.
- (c) Conducting a vote process supervised by a third party (normally the Australian Electoral Commission).
- (d) Obtaining a majority vote in circumstances where more than 50% of the eligible employees vote.

If the above steps are completed, the industrial action then must take place within a restricted time frame.

New Zealand: There is no statutory requirement to hold a strike vote but in fact most unions are nowadays keen to be seen as democratic and so would at least hold a meeting and have a show of hands before going on strike. There may also be some instances of union members authorising the union to make its own decision about whether or not to go on strike. (Strikes in New Zealand are limited to strikes in furtherance of collective bargaining in defined circumstances and in relation to health and safety concerns. Strike action on social, economic or political grounds and secondary strike action against an employer not involved in the collective bargaining is not lawful.)

United Kingdom: When a trade union organizes industrial action (including strikes), it risks legal action by the employer for committing an "industrial tort". UK law however gives trade unions limited immunity from such actions if they meet certain very detailed legal requirements. Unions seeking such protection must ensure that the industrial action is official, ie authorized by and through the union and lawful, ie in line with statutory rules. To be lawful, the dispute must be a trade dispute relating to certain specified matters. There must be a voting process which satisfies further detailed criteria and a majority must vote in favour of the strike. The union organizes the ballot. All those members whom it is reasonable to believe will be induced by the union to take part in the industrial action must be given the opportunity to vote.

USA: No, there is no law mandating a strike vote. Many unions require one in their constitution, but that is a matter of choice, not legal mandate.

16) Who can cross a picket line?

Canada: In all but Quebec and BC, unionized employees may cross their union's picket line and do struck work. (In BC, employees hired before the earlier of: notice to bargain is given, or bargaining starts can cross a picket line to work.) In these 2 jurisdictions replacement workers may not be hired to perform struck work. In all others employees have a right to work and a right to the free speech act of crossing a picket line. Unions can fine members, but courts will not collect union fines except in Saskatchewan where the union has a statutory right to fine union members.

Australia: Anyone.

New Zealand: Anyone can cross the picket line provided there is no element of trespass involved. Pickets are not supposed to impede free passage but there will inevitably be occasions when this happens in the heat of the moment. Employers are not permitted to replace striking or locked out employees with employees taken on because of the strike or lockout but may use anyone already employed at the time the strike or lockout begins who is not principally employed for the purpose of doing the striking or locked out employees' work.

United Kingdom: Anyone may cross the picket line. Given the strict freedom of choice entrenched in the system unions may not fine or punish members for this sort of action.

USA: All employees can cross a picket line. However, unions can fine and discipline their own voluntary members. This is why many employees exercise their right to resign their membership prior to crossing picket lines and avoid being fined for working during a strike.

17) Is employment conditional to union membership?

Is it possible that an employee would be denied a job, or fired from a job for refusal to join a union?

Canada: Yes. Some jurisdictions limit the grounds to lose of membership due to none payment of dues. Given that payroll deductions at source are allowed and most employees agree, it is rare that dues are not paid.

Australia: It is illegal to deny a job to someone who has or has refused to become a member of a union or terminate someone who resigns or loses their membership.

New Zealand: No. It is illegal to deny employment or terminate employment because someone belongs to a union and likewise it is illegal to deny or terminate employment because someone is not a union member.

United Kingdom: No.

USA: No. Employment is never tied to actual membership in a union.

18) Freedom of Expression

Does labour legislation protect Employees' freedom of expression in terms of the right to hear information that enables them to make an informed decision about Unionization?

Canada: No, in all jurisdictions in Canada employees face a situation where the union has greater free speech rights than their employer. As a result they must make decisions about unionization in an environment where they may not have all the information they may want or need. In some jurisdictions employers are only allowed to say/write anything if it is to correct false or inaccurate information.

There are three distinct levels of freedom of speech set by the interpretation of legislation. The Employer has the least freedom to speak to matters relating to employees and bargaining. The Union has much more freedom to speak, limited only from such behaviour as intimidation, coercion, threats. In fact Boards provide considerable leniency allowing "salesmanship" and even often dismissing intimidation as employees "misunderstanding the certification process". Employees enjoy the greatest freedom of speech and expression.

Australia:

New Zealand: When a new employee who does not belong to a union is taken on, an employer is required to draw his or her attention to any collective agreement covering the work to be performed and, if the employee agrees, tell the union responsible for negotiating the collective about the new employee. A new employee will be covered by a relevant collective agreement for the first 30 days of employment but after that may either to stay under the collective agreement (which involves becoming a member of the union) or opt for an individual employment agreement. The Court has ruled that even if a collective agreement provides for an employer to let the union know about new employees, the employer may not do so without the employee's consent.

A current Employment Court ruling (at present under appeal) has found that unless a union and employer engaged in collective bargaining have agreed, in a bargaining process agreement, how communications during bargaining will occur, the employer may not communicate with the union members concerned at any time while bargaining is in progress, even to correct inaccurate factual information the union may have provided. However, whatever the outcome of the appeal, in general, the statutory requirement to act in good faith means, among other things, that all parties to an employment relationship (unions, employers and employees) must be 'active and constructive in establishing and maintaining a productive employment relationship' which, among other things, involves being 'responsive and communicative'.

United Kingdom: In the UK, there is a statutory Code of Practice on access and unfair practices during recognition and derecognition ballots which deals, among other things, with unions' access to employees in order to talk to employees about union recognition.

USA: Generally the law protects freedom of expression, but the employer can sometimes waive it's own free speech rights with neutrality agreements between the union and the employer. The NLRB can prevent or punish speech that threatens retaliation or promises benefits. Employers do not enjoy the same freedom of speech that unions do.

19) Employee access to an Employee Advisor or Lawyer

Do Employees who do not wish to be unionized, who are interested in decertifying a Union, or who have a Duty of Fair Representation Complaint against their Union have access to information and guidance from an Employee Advisor that is funded by union dues or taxes?

Australia: Yes. The Office of the Employment Advocate is a tax payer funded body that can assist any employee with respect to negotiating a workplace agreement with the employer. The Work Choices Act also created a body particularly focused on the construction sector which is to monitor and address unions that attempt to force membership as a condition of employment. This has been a problem in Australia.

Canada: No, employees in Canada are expected to seek and pay for legal representation in all matters pertaining to a complaint against their lawyer. Some Labour Boards offer rudimentary processes and instructions, but none offer any form of legal advice. Many employees tell stories and there are cases of Boards outright ignoring employee submissions or misleading employees about their rights.

New Zealand: The kinds of issue to which this question refers do not arise under New Zealand's legislation.

United Kingdom: No, employees must secure and pay for their own representation.

USA: No, employees must secure and pay for their own representation.

20) Funded employee legal advice:

Do employees have funded assistance through an Employee Advisor or lawyer, consistent with other employment legislation that provides financial and legal assistance to Employees seeking recourse against their Employer. What hurdles will an employee face when appearing before a Board or Committee with legal representation?

Australia: Yes. The Office of the Employment Advocate provides free assistance to Australian employees. However, there is only limited mechanisms for assistance for the pursuit of claims.

Canada: As stated above, employees opposed to unionization or alleging unfair labour practices or duty of fair representation applications are expected to attend proceedings and initiate applications without state or union dues funded legal advice. In fact, in many cases if an employee attends an application, hearing, or proceeding with legal representation they will often meet a very cool reception from the Labour Board as Employer influence based on "adverse inference". Employees with legal counsel will often face hearing questions such as: how did you find your lawyer, what is their retainer, what is their hourly rate, how are you able to pay their fees.

New Zealand: All employees, unionized or not (and at whatever level in an organization they work) and all employers have access to free mediation via the Department of Labour's Mediation Service. (Private mediation has a cost.) However, the service generally is more used in respect to personal grievance complaints (dismissal or employer action to the employee's disadvantage), claims for arrears of wages and holiday pay, discrimination claims and the like. Claims relating to collective bargaining, the interpretation of employment agreements (collective or individual) or the Employment Relations or Holidays Acts, strike action, union membership and so on are more likely to go to the Employment Relations Authority for investigation. In a more complex case, the Authority will refer the complaint or claim to the Employment Court. With both institutions a filing fee applies but in the Authority parties are free to represent themselves and occasionally do so before the Court as well. Any cost therefore, relates to representation by legal counsel or an advocate although legal aid is available in cases of need. Representation by their union is free to union members. While most claims are against employers, the same system applies to the occasional employer claim against a union or employee (as, for example, with a restraint of trade claim) although any entitlement to legal aid would likely apply only to an employee.

United Kingdom: No, employees must secure and pay for their own representation.

USA: No, employees must secure and pay for their own representation.

Appendix A	Australia	Canada	Canada	New Zealand	United Kingdom	United States
Key Labour Law Provisions		Weakest Employee Rights Jurisdiction	Jurisdiction With Some Employee Rights			
Can workers be forced to pay union dues to keep their job?	No	Yes	Yes	No	No	No Right to Work States Yes Non-Right to work states, but only a "financial core fee"
Can unionized employees be forced to join the union	No	Yes	Yes	No	No	No
Can workers lose their job for crossing picket lines or openly opposing the union because union can expel or deny membership?	No	Yes	No SK and Fed limit termination for non-membership to failure to pay dues	No	No	No can only be fined by the union??
Are secret ballot strike votes always required before a strike can occur?	Yes	No while legislation appears to require strike votes, instances continue of strikes without votes	Yes	Yes	Yes	No
Are strike votes supervised by the union or an independent 3rd party?	Independent 3rd party	Union	Union	Independent 3rd party	Independent 3rd party	Union
Are secret ballot votes required by law for union certification?	No	No All but AB have card certification or allow certification for employer ULP.	Yes - Alberta only	Yes	No	Yes unless employer and union agree to deny employees a vote
Can employees be unionized for employer unfair labour practices without, or in spite of a vote?	No	Yes	No SK and AB do not give Board power to deny employee votes on certification	No	No	No
Is there only a limited open period for decertification?	Not applicable.	Yes (all but BC)	No BC only one to enable decertification after 10 months, window never closes (some exceptions for partial decertification)	not applicable	Yes after 3 years	Near the end of a the contract, or every 3 years, which ever comes first
Can the Labour Board disallow a decertification application if it feels the employer has influenced it, or behaved inappropriately?	Not applicable	Yes	Yes	not applicable	Yes but it has never happened	Yes
Is a decertification vote always a "secret ballot" vote?	Not applicable	No	Yes	not applicable	Yes	Yes
Can unionized employees cross a picket line to go to their workplace? (Issue: does law abrogate unionized employee right to cross or not)	Yes	No (Quebec), some limits on unionized employees in BC	Yes	Yes	Yes	Yes
Does labour legislation protect employees' freedom of expression in terms of the right to hear information that enables them to make an informed decision about unionization?	Yes	No	No	Yes	Yes	Yes
Employee access to a funded "Employee Advisor" to assist with complaints against union and employer re unionization	Yes	No	No	Yes	Yes	No

Appendix B	Alberta	British Columbia	Federal	Manitoba	New Brunswick	Newfoundland & Labrador	Nova Scotia	Nova Scotia - Construction	Ontario	Ontario - Construction	Prince Edward Island	Québec	Saskatchewan
Open Period for Unionization (see note 1)	All year	All year	All year	All year	All year	All year	All year	All year	All year	All year	All year	All year	All year
Actual Union Membership or Application Required to Apply for Certification or Secret Ballot Vote (as applicable) in Appropriate Bargaining Unit	No (but Membership cards require at least \$2). Petitions allowed.	Yes	Yes (+ at least \$5)	Yes	Yes (+ at least \$1)	Yes	Yes (+ at least \$2)	Yes (+ at least \$2)	Yes	Yes	Yes	Yes (+ at least \$5)	Yes
Signatures on Cards or Petitions for Certification and Payments (if Applicable) Stale Dated After:	90 days (except for Members in "good standing")	90 days	6 months	6 months	3months	90 days	90 days	unclear	12 months	unclear	3 months	12 months	6 months
Cards or Membership Evidence Required for Application for Secret Ballot Vote in Appropriate Bargaining Unit	40%	45%	35% to 50%	40% to less than 65%	40% to 60%	50% + 1 for application and certification, if application had support of at least 40% (see note 2)	40%	35% to 50%	Appearance of at least 40%	Appearance of at least 40%	50% + 1	35% to 50%	25% to 50%
Employees Wanting Unionization for Card Certification: No Vote Held	No	No	50% + 1	65%	60% + 1	No	No	50% + 1	No	55% +1	50% + 1	50% + 1 see note 3	50% + 1
Secret Ballot Vote Required for Certifications	Yes	Yes, except for Remedial Certification	No	No	No	No	Yes	No	Yes, except for Remedial Certification	No	No	No	No
Discretionary Certification from Membership Evidence	No	No	No	No	Yes, more than 50%	Yes, where Board satisfied majority & parties jointly request no vote.	No	Yes, more than 50%	No	No	Yes	Yes, but not tested	Yes, with majority support
Board Can Unionize Without Vote Due to Employer Misconduct (Automatic or Remedial Certification)	No	Yes	Yes	Yes	Yes (see note 4)	Yes	Yes	Yes	Yes	Yes	Yes	Yes, but not tested	No
"Minimal" Membership Evidence Required for Board to Use Automatic or Remedial Certification	Not applicable	Yes, if satisfied would have achieved majority support	Majority support could have been obtained but for unfair labour practice	Yes	Yes but can be less than majority membership evidence	50% + 1 of cards in the appropriate bargaining unit	Provided at least 40% card support	Provided at least 40% card support	Unknown	Unknown	No	Unknown	Not applicable

1. This row does not address provisions regarding open periods for one union to raid another when that involves a decertification and certification process or when a brief ban on organizing by a certain union comes as a result of a prior unsuccessful campaign or a Board Order for reasons such as Union Unfair Labour Practices.

2. In Newfoundland and Labrador, unions apply with at least 50% +1 and a vote is held. Vote is only counted if it is determined that the original application represented at least 40% of the bargaining unit. When counting the vote, if 70% or more of the appropriate bargaining unit cast a vote, 50% +1 of those voting is necessary for certification and if less than 70% cast a vote then, 50% + 1 of the entire appropriate bargaining unit is necessary for certification and in both cases Board is bound by the vote.

3. Québec - Provided there is agreement on the bargaining unit and the employees covered.

4. New Brunswick has never used its power to certify a group of employees because of employer unfair labour practices.

This is a summary of legislation, Board procedures and Board/Court decisions as of April 2005. We endeavour to keep it up to date. This chart is also only a summary and the particulars of any situation may give rise to differences. If your need is more than general information in nature you should work with a lawyer and/or the respective labour board to understand all of the particulars impacting your situation. Please contact us with any suggestions for improvement.

Appendix B	Alberta	British Columbia	Federal	Manitoba	New Brunswick	Newfoundland & Labrador	Nova Scotia	Nova Scotia - Construction	Ontario	Ontario - Construction	Prince Edward Island	Québec	Saskatchewan
Open Period for Decertification vs. Small Windows - i.e. 30 to 90 Days Before Collective Agreement Expires	No	Yes	No	No	No	No	No	No	No	No	No	No	No
Employee Signatures Required for Decertification Vote	40%	45%	50%+1	50% + 1	40%	40%	See note 1	See note 1	40%	40%	50% + 1	50% + 1	50% + 1
Board Can Throw Out Employee Decertification Application if Finds Employer Involved	Yes	Yes	Yes	Yes	Yes	Must hold vote, only nullify vote for employer misconduct	Yes	unclear	Yes	unclear	Yes	Yes	Yes
Secret Ballot Vote Required for Decertification	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes

1. Nova Scotia - Employees must demonstrate that a "significant number of members of the trade union" allege that the union not adequately fulfilling its responsibilities; or the union "no longer represents a majority of employees in the unit". NS LRB has not clarified exactly what percentage constitutes a "significant number" but it is less than 50% + 1.

This is a summary of legislation, Board procedures and Board/Court decisions as of April 2005. We endeavour to keep it up to date. This chart is also only a summary and the particulars of any situation may give rise to differences. If you need is more than general information in nature you should work with a lawyer and/or the respective labour board to understand all of the particulars impacting your situation. Please contact us with any suggestions for improvement.

APPENDIX C Partial List of Information Sources

Australia: Ken Phillips Exec Director Independent Contractors of Australia and Work Reform
Director Institute of Public Affairs.

WorkChoices - www.workchoices.gov.au

New Zealand: New Zealand Department of Labour - www.dol.govt.nz

United Kingdom: Keith Hearn, Managing Partner Ford & Warren Solicitors www.forwarn.com
Central Arbitration Committee - www.cac.gov.uk

USA: Glenn Taubman, Lawyer, National Right to Work Legal Defense Foundation –
www.nrtw.org