

Labour Relations Act, 1995

S.O. 1995, CHAPTER 1
SCHEDULE A

Consolidation Period: From February 23, 2024 to the [e-Laws currency date](#).

Last amendment: [2021, c. 25, Sched. 11](#).

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Contents of Collective Agreements

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Arbitration

48 (1) Every collective agreement shall provide for the final and binding settlement by arbitration, without stoppage of work, of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement, including any question as to whether a matter is arbitrable. 1995, c. 1, Sched. A, s. 48 (1).

Same

(2) If a collective agreement does not contain a provision that is mentioned in subsection (1), it shall be deemed to contain a provision to the following effect:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of the appointment of the second of them, appoint a third person who shall be the chair. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chair within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chair governs.

1995, c. 1, Sched. A, s. 48 (2).

Where arbitration provision inadequate

(3) If, in the opinion of the Board, any part of the arbitration provision, including the method of appointment of the arbitrator or arbitration board, is inadequate, or if the provision set out in subsection (2) is alleged by either party to be unsuitable, the Board may, on the request of either party, modify the provision so long as it conforms with subsection (1), but, until so modified, the arbitration provision in the collective agreement or in subsection (2), as the case may be, applies. 1995, c. 1, Sched. A, s. 48 (3).

Appointment of arbitrator by Minister

(4) Despite subsection (3), if there is failure to appoint an arbitrator or to constitute a board of arbitration under a collective agreement, the Minister, upon the request of either party, may appoint the arbitrator or make the appointments that are necessary to constitute the board of arbitration, as the case may be, and any person so appointed by the Minister shall be deemed to have been appointed in accordance with the collective agreement. 1995, c. 1, Sched. A, s. 48 (4).

Appointment of settlement officer

(5) On the request of either party, the Minister may appoint a settlement officer to endeavour to effect a settlement before the arbitrator or arbitration board appointed under subsection (4) begins to hear the arbitration. However, no appointment shall be made if the other party objects. 1995, c. 1, Sched. A, s. 48 (5); 1998, c. 8, s. 7.

Payment of arbitrators

(6) Where the Minister has appointed an arbitrator or the chair of a board of arbitration under subsection (4), each of the parties shall pay one-half the remuneration and expenses of the person appointed, and, where the Minister has appointed a member of a board of arbitration under subsection (4) on failure of one of the parties to make the appointment, that party shall pay the remuneration and expenses of the person appointed. 1995, c. 1, Sched. A, s. 48 (6).

Time for decision

(7) An arbitrator shall give a decision within 30 days after hearings on the matter submitted to arbitration are concluded. 1995, c. 1, Sched. A, s. 48 (7).

Same, arbitration board

(8) An arbitration board shall give a decision within 60 days after hearings on the matter submitted to arbitration are concluded. 1995, c. 1, Sched. A, s. 48 (8).

Same

(9) The time described in subsection (7) or (8) for giving a decision may be extended,

(a) with the consent of the parties to the arbitration; or

(b) in the discretion of the arbitrator or arbitration board so long as he, she or it states in the decision the reasons for extending the time. 1995, c. 1, Sched. A, s. 48 (9).

Oral decision

(10) An arbitrator or arbitration board may give an oral decision and, if he, she or it does so, subsection (7) or (8) does not apply and the arbitrator or arbitration board,

(a) shall give the decision promptly after hearings on the matter are concluded;

(b) shall give a written decision, without reasons, promptly upon the request of either party; and

(c) shall give written reasons for the decision within a reasonable period of time upon the request of either party. 1995, c. 1, Sched. A, s. 48 (10).

Orders re decisions

(11) If the arbitrator or arbitration board does not give a decision within the time described in subsection (7) or (8) or does not provide written reasons within the time described in subsection (10), the Minister may,

(a) make such orders as he or she considers necessary to ensure that the decision or reasons will be given without undue delay; and

(b) make such orders as he or she considers appropriate respecting the remuneration and expenses of the arbitrator or arbitration board. 1995, c. 1, Sched. A, s. 48 (11).

Powers of arbitrators, chair of arbitration boards, and arbitration boards

(12) An arbitrator or the chair of an arbitration board, as the case may be, has power,

(a) to require any party to furnish particulars before or during a hearing;

(b) to require any party to produce documents or things that may be relevant to the matter and to do so before or during the hearing;

(c) to fix dates for the commencement and continuation of hearings;

(d) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases; and

(e) to administer oaths and affirmations,

and an arbitrator or an arbitration board, as the case may be, has power,

(f) to accept the oral or written evidence as the arbitrator or the arbitration board, as the case may be, in its discretion considers proper, whether admissible in a court of law or not;

(g) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to the arbitrator or the arbitration board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences;

(h) to authorize any person to do anything that the arbitrator or arbitration board may do under clause (g) and to report to the arbitrator or the arbitration board thereon;

(i) to make interim orders concerning procedural matters;

(j) to interpret and apply human rights and other employment-related statutes, despite any conflict between those statutes and the terms of the collective agreement. 1995, c. 1, Sched. A, s. 48 (12).

Restriction re interim orders

(13) An arbitrator or the chair of an arbitration board shall not make an interim order under clause (12) (i) requiring an employer to reinstate an employee in employment. 1995, c. 1, Sched. A, s. 48 (13).

Power re mediation

(14) An arbitrator or the chair of an arbitration board, as the case may be, may mediate the differences between the parties at any stage in the proceedings with the consent of the parties. If mediation is not successful, the arbitrator or arbitration board retains the power to determine the difference by arbitration. 1995, c. 1, Sched. A, s. 48 (14).

Enforcement power

(15) An arbitrator or the chair of an arbitration board, as the case may be, may enforce the written settlement of a grievance. 1995, c. 1, Sched. A, s. 48 (15).

Extension of time

(16) Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, despite the expiration of the time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension. 1995, c. 1, Sched. A, s. 48 (16).

Substitution of penalty

(17) Where an arbitrator or arbitration board determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator or arbitration board may substitute such other penalty for the discharge or discipline as to the arbitrator or arbitration board seems just and reasonable in all the circumstances. 1995, c. 1, Sched. A, s. 48 (17).

Effect of arbitrator's decision

(18) The decision of an arbitrator or of an arbitration board is binding,

(a) upon the parties;

(b) in the case of a collective agreement between a trade union and an employers' organization, upon the employers covered by the agreement who are affected by the decision;

(c) in the case of a collective agreement between a council of trade unions and an employer or an employers' organization, upon the members or affiliates of the council and the employer or the employers covered by the agreement, as the case may be, who are affected by the decision; and

(d) upon the employees covered by the agreement who are affected by the decision,

and the parties, employers, trade unions and employees shall do or abstain from doing anything required of them by the decision. 1995, c. 1, Sched. A, s. 48 (18).

Enforcement of arbitration decisions

(19) Where a party, employer, trade union or employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any party, employer, trade union or employee affected by the decision may file in the Superior Court of Justice a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1995, c. 1, Sched. A, s. 48 (19); 2000, c. 38, s. 7.

Procedure

(20) The *Arbitration Act, 1991* does not apply to arbitrations under collective agreements. 1995, c. 1, Sched. A, s. 48 (20).

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