

TRADE UNION DUES PROVISIONS

INTRODUCTION

All Canadian jurisdictions recognize the need for a trade union to make arrangements for its own financial security. These arrangements take two forms. First, unions can negotiate clauses into collective agreements that outline the extent of an employee's obligation to belong to or pay dues to the union. These are called "union security" clauses. Second, unions or their members can compel the employer to collect those dues and give them to the union. This is called "dues checkoff."

The courts regard union security clauses as proper matters for collective bargaining. Unions are free to negotiate a variety of arrangements for employees to join and pay dues. These arrangements range from voluntary membership and dues payment to compulsory membership before employment. As these arrangements are subject to bargaining, employers are free to agree or resist certain types of clauses. Many jurisdictions in Canada have, however, defined the minimum type of arrangement necessary. The [Labour Relations Code](#) does not place such minimums on union security arrangements negotiated in collective agreements.

The Code does provide for mandatory dues checkoff if requested by the employee. This obligation of the employer to collect and remit dues to the union exists even if the union has not negotiated union security provisions into the collective agreement.

Unions are free to make rules and guidelines about membership in general, and set initiation fees and dues. The Code places some limited restrictions on their right to do so. This policy describes:

- the statutory provisions;
- processing applications; and
- remedies.

STATUTORY PROVISIONS

Several sections of the [Labour Relations Code](#) are relevant to union dues provisions.

Section 27: Dues Check Off

Section 27 provides:

27(1) An employee may, in writing, authorize the employee's employer to deduct from wages due to the employee an amount payable by that employee to a trade union for

- (a) union dues, and

(b) initiation fees not exceeding an amount equivalent to one month's union dues.

(2) The employer shall, from wages due to the employee, make the deductions authorized by the employee, and the authorization

(a) is effective only for the amount or the percentage of the wages specified in it, and

(b) continues in force for at least 3 months and afterwards until revoked in writing by the employee.

(3) The employer shall by the 15th day of each month remit to the trade union named in the authorization

(a) the dues deducted for the preceding month, and

(b) a written statement of the name of the employee for whom the deduction was made and of the amount or percentage of the employee's wages of each deduction,

until the authorization is revoked in writing by the employee and the revocation is delivered to the employer.

(4) On receipt of a revocation of an authorization to deduct union dues, the employer shall immediately give a copy of the revocation to the trade union concerned.

Section 27 provides for voluntary dues checkoff. An employee may authorize the employer to deduct from wages union initiation fees and dues, for payment to the union. Once an employee makes this written authorization, the employer must comply until the employee revokes such authorization in writing. This authorization does not require support by any clause in the collective agreement.

Section 28: Temporary Membership

Section 28 provides:

28 If a trade union issues a temporary card, document or other permit to a person who is not a member of the trade union, the dues or fees charged each month by the trade union for the temporary card, document or other permit shall not exceed an amount equivalent to the dues or fees payable by a member of the trade union for the same period.

Sometimes a union will grant a non-member a form of temporary membership, to allow the person to work on union projects. This usually occurs in construction, when a member of a related local moves temporarily to the province, and needs to work on a unionized project. Section 28 prevents the union from applying a kind of surcharge or extra cost in the form of extra or unusual fees or dues.

Section 29: Union Membership Restriction

Section 29 provides:

29(1) Subject to subsection (2), nothing in this Act prevents a trade union from continuing an existing collective agreement or entering into a new collective agreement with an employer or employers' organization whereby all the employees or any unit of employees of the employer or of one or more employers represented by the employers' organization are required to be members of a trade union.

Section 29(1) gives explicit statutory permission to unions and employers to negotiate union shop and closed shop types of union security arrangements. Sections 29(2) and 29(3) describe the limited circumstances under which the Board will grant an employee an exemption from union membership or payment of fees and dues. These are often referred to as the “religious objector” provisions. See: [[Religious Objector Provisions, Chapter 31\(c\)](#)].

Other Relevant Sections

Unions are reasonably free to make their own rules and procedures to govern their internal affairs. Union bylaws and constitutions contain these rules and procedures, which include membership rules and guidelines about initiation fees and union dues. The [Code](#) does place some limited restrictions on how the union applies these internal rules and procedures. In particular, the [Code](#) requires that application of union membership rules and discipline standards be done fairly and uniformly, and without discrimination. This includes application of rules and procedures about fees and dues. See: [[Internal Trade Union Unfair Labour Practices, Chapter 33\(e\)](#)].

There are two sections of the Code which imply that unions have the right to take certain actions against members who fail to pay dues, assessments and fees normally required as a condition of becoming or remaining a union member.

Section 151(g) provides:

151 No trade union and no person acting on behalf of a trade union shall

(g) require an employer to terminate the employment of an employee because the employee has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;

This section allows a union to require an employer to fire an employee who is no longer a union member, but only if the employee has not paid dues or fees according to the union's rules and practices. Otherwise, the union is committing an unfair labour practice.

Section 26 provides:

26 No trade union shall expel or suspend any of its members or take disciplinary action against or impose any form of penalty on any person for any reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union, unless that person has been

- (a) served personally or by double registered mail with specific charges in writing,
- (b) given a reasonable time to prepare the person's defence,
- (c) afforded a full and fair hearing, including the right to be represented by counsel, and
- (d) found guilty of the charge or charges, and if a monetary penalty has been imposed, fails to pay it after having been given a reasonable time to do so.

This section outlines requirements for procedural fairness when a union disciplines or otherwise affects the union membership of an employee. See: [[Internal Trade Union Unfair Labour Practices, Chapter 33\(e\)](#)]. These requirements are **not** necessary when the reason for the union's action is that the employee has not paid dues or fees according to the union's rules and practices.

PROCESSING APPLICATIONS

There are two possible venues for dealing with a disagreement between the parties about union security provisions:

- **Arbitration:** The parties may have negotiated union security provisions into the collective agreement. If so, the grievance and arbitration procedure in the agreement is a possible means of enforcement. Under those circumstances, the officer should encourage the parties to use the internal procedure. See: [[Deferral to Collective Agreement, Chapter 31\(e\)](#)].
- **Application to the Board:** If the parties have not negotiated union security provisions, then the only protection available is statutory. Even if they have such provisions in the collective agreement, the parties still have the option of making an application to the Board. This is the case, however, only if the employee has given a Section 27 authorization.

There are two ways the application may come to the Board:

- **As a reference of a difference:** Under Section 16(3), the parties may refer a difference about the application or operation of the Act to the Board. The parties can refer any dispute about the obligation under Section 27 to the Board.

- **As part of a bad faith bargaining complaint:** A union may allege that an employer's resistance of a Rand Formula union security clause amounts to a failure to bargain in good faith. See: [*GCIU 34-M v. Southam Inc.* [2000] Alta.L.R.B.R. 177].
- **As a part of a larger unfair labour practice complaint:** A party may be complaining of one or more unfair labour practices by the other. These may include some action about check-off or payment of union dues or fees. For example, a union may complain under Section 148(1)(a)(i) that an employer is interfering with its abilities to administer its activities. As a part of the complaint, the union may allege that the employer is withholding dues or fees collected by the employer from employees' wages. See also: [*Teamsters 987 et al. v. Westfair Foods (#1)* [1992] Alta. L.R.B.R. 274; *Teamsters 987 et al. v. Westfair Foods* [1992] Alta.L.R.B.R. 694].

REMEDIES

Sections 16(8) and 17(2) authorize the Board to give any remedy it thinks appropriate to a complaint, reference or application. Possible remedies to this type of application would include:

- directing the employer to pay the appropriate dues or fees to the union. See: [*International Molders and Allied Workers Union 360 v. Barber Industries and Polesystems Ltd.* [1982] Alta.L.R.B. 82-004];
- directing the employer to stop collecting dues or fees and paying them to the union. See: [*Teamsters 987 et al. v. Westfair Foods* [1992] Alta. L.R.B.R. 274];
- directing the union to stop requiring employees to pay dues or fees. See: [*Teamsters 987 et al. v. Westfair Foods* [1992] Alta.L.R.B.R. 694];
- directing the union to refund to the employees improperly collected dues and fees. See: [*Teamsters 987 et al. v. Westfair Foods* [1992] Alta.L.R.B.R. 694]; and
- any other remedial action the Board thinks appropriate.

For further details on remedies, see: [[Remedies, Chapter 19\(d\)](#)].