

## Chapter 2 – The Legal Environment

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### TRUE/FALSE

1. A tripartite board has three stakeholders: employees, unions, and management.

ANS: F                      PTS: 1                      REF: p. 32

2. Labour boards frequently determine charges of bad faith bargaining by either labour or management.

ANS: F                      PTS: 1                      REF: p. 32

3. An unfair labour practice is an alleged violation of a labour relations act.

ANS: T                      PTS: 1                      REF: p. 35

4. Employer structure is a criterion for determining an unfair labour practice.

ANS: F                      PTS: 1                      REF: p. 36

5. Conciliation is a process in which a neutral third party forces labour and management to settle their dispute.

ANS: F                      PTS: 1                      REF: p. 38

6. In some provinces, employers may force a last-offer vote during a strike.

ANS: T                      PTS: 1                      REF: p. 38

7. In their early decisions, the Supreme Court found that freedom of association did not include the right to strike.

ANS: T                      PTS: 1                      REF: p. 53

8. The *B.C. Health Services* decision of the Supreme Court (2007) found that freedom of association includes the right to strike.

ANS: F                      PTS: 1                      REF: p. 53

9. Pay equity provides for equal pay for work of equal value between men and women.

ANS: T                      PTS: 1                      REF: p. 58

10. Globalization of trade and the increased mobility of capital have created pressure for new international labour market rules.

ANS: T                      PTS: 1                      REF: p. 67

**MULTIPLE CHOICE**

1. What was the Wagner Act intended to do?
- replace industrial unionism
  - protect the union right to organize and strike
  - protect property rights
  - establish international labour standards

ANS: B                      PTS: 1                      REF: p. 29-30                      MSC: Remember

2. Scientific management and mass production resulted in which phenomenon?
- greater labour-management cooperation
  - rise of craft unionism
  - rise of industrial unionism
  - stricter labour legislation

ANS: C                      PTS: 1                      REF: p. 29                      MSC: Higher order

3. Which of the following was a result of the *Wagner Act*?
- The Great Depression worsened
  - scientific management went into decline
  - unions were recognized without violence
  - union density stabilized

ANS: C                      PTS: 1                      REF: p. 29-30                      MSC: Higher order

4. Why was the *Snider* decision important?
- It gave unions the right to strike.
  - It protected the employer right to manage.
  - It determined that labour matters fell under provincial jurisdiction.
  - It provided for conciliation before a strike could take place.

ANS: C                      PTS: 1                      REF: p. 30                      MSC: Remember

5. The *Snider* case resulted in a special system of law in Canada. What is this system called?
- shared jurisdiction
  - scientific management
  - labour law
  - dispute investigation

ANS: A                      PTS: 1                      REF: p. 30                      MSC: Remember

6. Why was P.C. 1003 introduced in Canada nine years after the *Wagner Act*?
- The Canadian parliamentary political system is slower than the American one.
  - World War II delayed its implementation.
  - A strong labour movement made change unnecessary.
  - It met with union opposition.

ANS: B                      PTS: 1                      REF: p. 31                      MSC: Remember

7. Which industries fall under Canadian federal labour law?
- agriculture and performing arts
  - media broadcasting and banking
  - education and communications
  - mining and logging

ANS: B                      PTS: 1                      REF: p. 31                      MSC: Higher order

8. Canadian industrial unionism arose primarily in which industry?
- fishing
  - logging
  - agriculture
  - steel

ANS: D                      PTS: 1                      REF: p. 31                      MSC: Remember

9. Which of the following statements about certification procedures in Canada is accurate?
- All provinces require unions to win a vote of the employees.
  - Management can have a say in selecting the union.
  - Certification may occur without a vote.
  - Employee votes are not legally binding.

ANS: C                      PTS: 1                      REF: p. 32                      MSC: Remember

10. Why was the principle of exclusivity important in developing labour law?
- It defined bargaining units.
  - It reduced conflict between unions.
  - It limited management rights.
  - It defined tripartite board jurisdiction.

ANS: B                      PTS: 1                      REF: p. 32                      MSC: Higher order

11. Why are labour boards an important alternative to courts?
- courts are never neutral
  - lawyers are not present at board hearings
  - tripartite stakeholders do not agree
  - courts do not specialize in labour law

ANS: D                      PTS: 1                      REF: p. 32                      MSC: Higher order

12. Under what circumstances can a labour board certify a union without an employee vote?
- an unfair labour practice hindered employees
  - 40% of employees signed a union card
  - there is no application for certification
  - a community of interest exists

ANS: A                      PTS: 1                      REF: p. 32                      MSC: Higher order

13. Why are Canadian labour boards tripartite in nature?
- to match the three levels of jurisdiction in Canada
  - they represent three competing stakeholder perspectives
  - an odd number prevents a tie
  - boards hear three kinds of cases

ANS: B                      PTS: 1                      REF: p. 33                      MSC: Higher order

14. Why is the determination of the bargaining unit an important labour relations issue?
- employer structure can alter the bargaining unit
  - labour boards cannot make this determination
  - other processes and rights flow from this decision
  - it is based on management interests

ANS: C                      PTS: 1                      REF: p. 35                      MSC: Higher order

15. Which group does a bargaining unit include?
- managerial employees
  - confidential employees with respect to labour relations
  - supervisors
  - subordinate employees

ANS: D                      PTS: 1                      REF: p. 35-36                      MSC: Higher order

16. What is the rationale for excluding managers from unions?
- They are part of the management team.
  - They are involved in planning decisions.
  - They have access to confidential information.
  - They object to being in a union.

ANS: C                      PTS: 1                      REF: p. 35-36                      MSC: Remember

17. Which of the following remedies can be granted by labour boards?
- establish inquiry commission
  - order last-offer vote
  - issue cease and desist orders for intimidation
  - establish a tripartite board

ANS: C                      PTS: 1                      REF: p. 36, 37                      MSC: Remember

18. What is an example of the duty of representation?
- supporting a troublesome employee's grievance
  - a free vote for a union
  - "one member, one vote" union democracy
  - management consent to a union drive on company time

ANS: A                      PTS: 1                      REF: p. 37                      MSC: Higher order

19. What does “the duty of fair representation” mean?
- Firms must be nondiscriminatory in dealing with employees.
  - Employees must treat other employees fairly.
  - Unions must represent employees fairly and equally.
  - Labour boards must represent both union and nonunion employees equally.

ANS: C                      PTS: 1                      REF: p. 37-38                      MSC: Higher order

20. Which of the following statements defines what “good faith bargaining” is?
- Labour and management must make reasonable offers.
  - Both parties must bargain in an honest manner.
  - Both parties must make a significant attempt to reach a settlement.
  - Both parties must bargain in a cooperative manner.

ANS: C                      PTS: 1                      REF: p. 38                      MSC: Remember

21. Where is the concept of voluntarism most prominent?
- in U.S. labour law
  - in provincial law
  - in Canadian federal law
  - in labour board rulings

ANS: A                      PTS: 1                      REF: p. 38                      MSC: Remember

22. Why is conciliation controversial?
- A facilitator imposes a settlement.
  - It favours unions because conciliators often take the union side.
  - Management takes unfair advantage of normal operations.
  - It is always required in labour disputes.

ANS: C                      PTS: 1                      REF: p. 38                      MSC: Higher order

23. Which of the following first contract arbitration models is most difficult to achieve?
- a no-fault approach
  - a bad faith bargaining remedy
  - a final offer arbitration remedy
  - a breakdown in negotiations approach

ANS: B                      PTS: 1                      REF: p. 38                      MSC: Higher order

24. Which of the following is a form of dispute resolution common in Canada?
- voluntarism
  - certification
  - arbitration
  - discrimination

ANS: C                      PTS: 1                      REF: p. 38, 45                      MSC: Higher order

25. What is the role of a neutral third party in arbitration?
- observes and records negotiations
  - plays same role as an Industrial Inquiry Commission
  - facilitates a negotiated agreement
  - imposes a settlement

ANS: D                      PTS: 1                      REF: p. 45                      MSC: Higher order

26. Clause 42(1) of the Nova Scotia *Trade Union Act* writes into a collective agreement a dispute resolution mechanism if the agreement lack such a clause. What is this an example of ?
- arbitrators' influence on public policy
  - arbitrators' interpretation of relevant law
  - a labour peace provision
  - duty of fair representation

ANS: C                      PTS: 1                      REF: p. 46-47                      MSC: Higher order

27. Why was the Supreme Court decision in the *Lavigne* case (1991) important?
- It ensured unrestricted freedom of association.
  - It is the only point of similarity with U.S. law.
  - It established a baseline tolerance for discrimination.
  - It recognized that union goals reach beyond collective bargaining.

ANS: D                      PTS: 1                      REF: p. 49                      MSC: Higher order

28. Which statement reflects the legal environment in Canada?
- It is legal to strike during the term of an agreement.
  - No province has a law preventing replacement workers during a strike.
  - Arbitrators have limited powers to interpret collective agreement terms.
  - Freedom of association includes the right to bargain collectively.

ANS: D                      PTS: 1                      REF: p. 53                      MSC: Remember

29. The *Charter* protects which fundamental freedom?
- association
  - the right to strike
  - arbitration
  - human rights

ANS: A                      PTS: 1                      REF: p. 53                      MSC: Higher order

30. Employment law is generally silent on which subject?
- hours of work
  - overtime
  - health and safety
  - pay performance systems

ANS: D                      PTS: 1                      REF: p. 55-58                      MSC: Higher order

31. Which group of workers is included in employment legislation?
- cab drivers
  - designated professions
  - farm workers
  - students

ANS: A                      PTS: 1                      REF: p. 56                      MSC: Higher order

32. Which is a ground for discrimination under Canadian human rights legislation?
- equal pay for work of equal value
  - family status
  - union representation
  - conciliation

ANS: B                      PTS: 1                      REF: p. 57                      MSC: Remember

33. What is the definition of “systemic discrimination”?
- equal pay for work of equal value
  - equal pay for protected groups
  - unlawful action by one employee against another
  - unequal treatment of a protected group under established company rules

ANS: D                      PTS: 1                      REF: p. 58                      MSC: Higher order

34. Employment equity in Canada applies to which group?
- women
  - agricultural workers
  - labour boards
  - students

ANS: A                      PTS: 1                      REF: p. 58-59                      MSC: Remember

35. How does the ILO declaration on Fundamental Principles and Rights at Work affect Canada?
- must eliminate poverty
  - must respect freedom of association and collective bargaining
  - must ratify convention 98
  - must revise discrimination statutes

ANS: B                      PTS: 1                      REF: p. 67                      MSC: Higher order

### SHORT ANSWER

1. Provide two ways in which the *Wagner Act* dealt with interunion conflict.

ANS:

- recognition strikes were made illegal
- labour boards were established to supervise the recognition process
- the union was granted exclusive jurisdiction to represent all employees

PTS: 1                      REF: p. 32

2. Give three examples of typical labour board cases.

ANS:

1. certification and decertification
2. unfair labour practices
3. declaration of illegal strikes or lockouts

PTS: 1 REF: p. 32

3. Other than determining who are managerial employees, what other factors do labour boards consider in a certification procedure?

ANS:

1. the existence of community of interests among the employees seeking representation
2. the wishes of the employees
3. the employer structure

PTS: 1 REF: p. 35-36

4. The U.S. *Wagner Act* differs from Canadian labour law in two key aspects. What are they?

ANS:

Both aspects restrict the legal use of conflict in Canada.

1. Under the *Wagner Act*, mediation is voluntary; that is, the parties must request the help of a mediator. In several Canadian jurisdictions, third-party assistance in the form of conciliation is mandatory before a strike can take place.
2. Under Canadian law there is a ban on strikes during the term of a collective agreement.

PTS: 1 REF: p. 38

5. The internal responsibility model of occupational health and safety defines three employee rights and responsibilities. What are they?

ANS:

1. the right to know about hazards
2. the right to participate in joint committees
3. the right to refuse unsafe work without fear of reprisal

PTS: 1 REF: p. 58