

Chapter 2 – The Legal Environment

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?
- a. replace industrial unionism
 - b. protect the union right to organize and strike
 - c. protect property rights
 - d. establish international labour standards

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

2. Scientific management and mass production resulted in which phenomenon?
- a. greater labour-management cooperation
 - b. rise of craft unionism
 - c. rise of industrial unionism
 - d. 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*?
- a. The Great Depression worsened
 - b. scientific management went into decline
 - c. unions were recognized without violence
 - d. union density stabilized

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

4. Why was the *Snider* decision important?
- a. It gave unions the right to strike.
 - b. It protected the employer right to manage.
 - c. It determined that labour matters fell under provincial jurisdiction.
 - d. 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?
- a. shared jurisdiction
 - b. scientific management
 - c. labour law
 - d. 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*?
- a. The Canadian parliamentary political system is slower than the American one.
 - b. World War II delayed its implementation.
 - c. A strong labour movement made change unnecessary.
 - d. It met with union opposition.

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

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

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

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

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

9. Which of the following statements about certification procedures in Canada is accurate?
- a. All provinces require unions to win a vote of the employees.
 - b. Management can have a say in selecting the union.
 - c. Certification may occur without a vote.
 - d. 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?
- a. It defined bargaining units.
 - b. It reduced conflict between unions.
 - c. It limited management rights.
 - d. 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?
- a. courts are never neutral
 - b. lawyers are not present at board hearings
 - c. tripartite stakeholders do not agree
 - d. 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?
- a. an unfair labour practice hindered employees
 - b. 40% of employees signed a union card
 - c. there is no application for certification
 - d. a community of interest exists

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

13. Why are Canadian labour boards tripartite in nature?
- a. to match the three levels of jurisdiction in Canada
 - b. they represent three competing stakeholder perspectives
 - c. an odd number prevents a tie
 - d. 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?
- a. employer structure can alter the bargaining unit
 - b. labour boards cannot make this determination
 - c. other processes and rights flow from this decision
 - d. it is based on management interests

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

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

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

16. What is the rationale for excluding managers from unions?
- a. They are part of the management team.
 - b. They are involved in planning decisions.
 - c. They have access to confidential information.
 - d. 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?
- a. establish inquiry commission
 - b. order last-offer vote
 - c. issue cease and desist orders for intimidation
 - d. establish a tripartite board

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

18. What is an example of the duty of representation?
- a. supporting a troublesome employee's grievance
 - b. a free vote for a union
 - c. "one member, one vote" union democracy
 - d. 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?
- a. Firms must be nondiscriminatory in dealing with employees.
 - b. Employees must treat other employees fairly.
 - c. Unions must represent employees fairly and equally.
 - d. 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?
- a. Labour and management must make reasonable offers.
 - b. Both parties must bargain in an honest manner.
 - c. Both parties must make a significant attempt to reach a settlement.
 - d. 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?
- a. in U.S. labour law
 - b. in provincial law
 - c. in Canadian federal law
 - d. in labour board rulings

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

22. Why is conciliation controversial?
- a. A facilitator imposes a settlement.
 - b. It favours unions because conciliators often take the union side.
 - c. Management takes unfair advantage of normal operations.
 - d. 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. a no-fault approach
 - b. a bad faith bargaining remedy
 - c. a final offer arbitration remedy
 - d. 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?
- a. voluntarism
 - b. certification
 - c. arbitration
 - d. discrimination

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

25. What is the role of a neutral third party in arbitration?
- a. observes and records negotiations
 - b. plays same role as an Industrial Inquiry Commission
 - c. facilitates a negotiated agreement
 - d. 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 ?
- a. arbitrators' influence on public policy
 - b. arbitrators' interpretation of relevant law
 - c. a labour peace provision
 - d. 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?
- a. It ensured unrestricted freedom of association.
 - b. It is the only point of similarity with U.S. law.
 - c. It established a baseline tolerance for discrimination.
 - d. 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?
- a. It is legal to strike during the term of an agreement.
 - b. No province has a law preventing replacement workers during a strike.
 - c. Arbitrators have limited powers to interpret collective agreement terms.
 - d. 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?
- a. association
 - b. the right to strike
 - c. arbitration
 - d. human rights

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

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

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

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

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

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

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

33. What is the definition of “systemic discrimination”?
- a. equal pay for work of equal value
 - b. equal pay for protected groups
 - c. unlawful action by one employee against another
 - d. 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?
- a. women
 - b. agricultural workers
 - c. labour boards
 - d. 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?
- a. must eliminate poverty
 - b. must respect freedom of association and collective bargaining
 - c. must ratify convention 98
 - d. 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:

- 1. recognition strikes were made illegal
- 2. labour boards were established to supervise the recognition process
- 3. 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