

# Table of Contents

	PAGE
<i>Dedication</i> . . . . .	iii
<i>Acknowledgements</i> . . . . .	v
<b>Introduction: Collective Bargaining in Canada</b> . . . . .	<b>1</b>
<b>Chapter One Setting the Stage for Collective Bargaining</b> . . . . .	<b>7</b>
Establishing the Collective Bargaining Relationship . . . . .	10
Certification . . . . .	10
Voluntary Recognition . . . . .	11
The Bargaining Obligations and Statutory Freeze . . . . .	12
The Collective Agreement within the Constellation of Workplace Legislation . . . . .	13
<b>Chapter Two The Collective Agreement</b> . . . . .	<b>15</b>
What is a Collective Agreement? . . . . .	15
Changes during the term of the collective agreement . . . . .	16
The Collective Agreement, Workplace Legislation and Management's Rights . . . . .	17
Workplace Legislation . . . . .	17
Management's Rights . . . . .	17
Mandatory Provisions in a Collective Agreement . . . . .	18
Recognition Clause . . . . .	18
Grievance and Arbitration Clause . . . . .	20
No Strikes – No Lockouts . . . . .	28
Duration . . . . .	29
<b>Chapter Three Background to Bargaining</b> . . . . .	<b>31</b>
The Bargaining Framework . . . . .	31

The First Collective Agreement . . . . .	32
Renegotiating an Existing Collective Agreement . . . . .	33
Getting Started – The Union Bargaining Committee . . . . .	35
The Bargaining Committee . . . . .	35
The Bargaining Proposals . . . . .	36
Getting Started – The Employer’s Bargaining Committee . . . . .	40
The Bargaining Committee . . . . .	40
Internal Rules in the Bargaining Process . . . . .	42
Location for Negotiations . . . . .	43
Continuance of Pay for Negotiations. . . . .	44
<b>Chapter Four Preparation for Negotiations . . . . .</b>	<b>47</b>
Ongoing Preparations . . . . .	47
Negotiation Objectives. . . . .	47
Union Negotiation Objectives . . . . .	48
Employer Negotiation Objectives. . . . .	48
Getting Started . . . . .	49
The Current Collective Agreement. . . . .	50
Workplace Issues. . . . .	51
The External Environment . . . . .	51
The Collective Agreement . . . . .	52
Economy . . . . .	55
The Political Environment. . . . .	55
Strategies . . . . .	56
Labour-Management Committees . . . . .	59
Amendments to the Collective Agreement . . . . .	60
<b>Chapter Five Principles of Negotiations. . . . .</b>	<b>63</b>
Identification . . . . .	64
Evaluation . . . . .	64
Resolution . . . . .	66
Rules for Negotiators . . . . .	68
Rule 1: Negotiate Positively. . . . .	68
Rule 2: Be Objective . . . . .	69
Rule 3: Never Assume Knowledge on the Part of Others. . . . .	69
Rule 4: Always Maintain Your Integrity . . . . .	70
Rule 5: Negotiators are Real People . . . . .	70
Rule 6: Watch your language . . . . .	71
Rule 7: Keep Your Perspective . . . . .	71
Rule 8: Don’t Lose Your Sense of Humour. . . . .	72
Rule 9: Remember Why You Are There . . . . .	72
Rule 10: Try to Learn Each Time You Negotiate . . . . .	72



Legislated Outcome/Arbitration . . . . .	109
The Tactics and Strategies of Dispute Resolution	
Neutrals . . . . .	111
Relationship Conflicts . . . . .	111
Data Conflicts . . . . .	112
Interest Conflicts . . . . .	112
Structural Conflicts . . . . .	113
Value Conflicts . . . . .	114
Strategies and Tactics of Neutrals in Trying to Resolve the Parties' Problems . . . . .	114
Practice Tips . . . . .	115
Narrowing the Scope of Issues . . . . .	119
Settlement and Ratification . . . . .	120
No Settlement . . . . .	121
<b>Chapter Eight Strikes, Lockouts and their Resolution . . . . .</b>	<b>123</b>
What is a Strike . . . . .	124
What is a Lockout . . . . .	125
Remedies for Illegal Strike and Lockout . . . . .	126
Discipline for Misconduct . . . . .	127
Picket Line Activities . . . . .	128
Replacement Workers . . . . .	129
When the Strike is Over . . . . .	131
Settlement & Ratification . . . . .	132
Resolving Strikes and Lockouts Through Mediation . . . . .	133
Mediation Process . . . . .	136
Strike Issues and Dynamics . . . . .	139
Picket Line Behaviour . . . . .	140
Preventative Dispute Resolution Training . . . . .	140
<b>Chapter Nine Collective Bargaining in the Public Sector . . . . .</b>	<b>143</b>
Legislative Structure of Public Sector Collective Bargaining . . . . .	145
Collective Bargaining Limitations in the Public Sector . . . . .	147
Dispute Resolution in Public Sector Negotiations . . . . .	148
Statutory Interference with Collective Bargaining . . . . .	149
Back-to-Work Legislation . . . . .	150
The Changing Collective Bargaining Landscape . . . . .	150
Compulsory Dispute Resolution – Interest Arbitration . . . . .	151
Criticism of Interest Arbitration . . . . .	151
The Narcotic Effect . . . . .	152
The Chilling Effect . . . . .	152

Secondary Effect . . . . .	153
Interest Arbitration Criticisms – An Evaluation. . . . .	153
The Interest Arbitration Process and Arbitral Decision-making . . . . .	154
Comparability . . . . .	155
Replication . . . . .	155
Incrementalism . . . . .	156
Total Compensation . . . . .	157
Statutory Criteria . . . . .	158
<b>Chapter Ten Why Collective Agreement Language Matters . . . . .</b>	<b>161</b>
Plan the Discussions on Language. . . . .	162
The Value of Plain Language . . . . .	162
How to Achieve an “Easier-to-Read” Collective Agreement . . . . .	163
Consideration No. 1 – Use short, concise sentences. . . . .	163
Consideration No. 2 – Restructure multi-part phrases into subsections. . . . .	164
Consideration No. 3 – Be more organized – use headings . . . . .	164
Consideration No. 4 – Avoid legalese and other multisyllabic words . . . . .	166
Consideration No. 5 – Use your negotiation team to review draft language. . . . .	167
Consideration No. 6 – Use consistent language throughout the agreement . . . . .	167
Consideration No. 7 – When in doubt, get help. . . . .	167
Consideration No. 8 – When a party does not want plain-language . . . . .	168
Consideration No. 9 – Understand grammar and punctuation . . . . .	168
Summary . . . . .	168
<b>Chapter Eleven Collective Agreement Language - the Essential Framework . . . . .</b>	<b>169</b>
Names of the Parties . . . . .	170
Purpose . . . . .	170
Recognition & Scope Clause . . . . .	171
Management Rights . . . . .	172
Union Representation . . . . .	176
Grievance Procedure and Arbitration . . . . .	179
(i) Defining a grievance. . . . .	180
(ii) Timelines . . . . .	180

(iii) Form of Grievance . . . . .	181
(iv) Steps in the Grievance Process . . . . .	181
(v) Arbitration . . . . .	182
(vi) Employer Grievance . . . . .	183
(vii) Expedited Policy Grievances . . . . .	183

<b>Chapter Twelve Collective Agreement Language</b>	
<b>Defining the Parties' Relationship . . . . .</b>	<b>185</b>
No Strike, No Lock-outs . . . . .	185
Union Security . . . . .	188
(i) Closed Shop . . . . .	189
(ii) Union Shop . . . . .	190
(iii) Agency Shop . . . . .	190
(iv) Maintenance of Membership . . . . .	191
(v) Voluntary check-off . . . . .	192
Union membership "in good standing" . . . . .	192
Seniority . . . . .	194
Four Parts of Seniority . . . . .	195
(i) Defining Seniority . . . . .	195
(ii) Accruing Seniority . . . . .	196
(iii) Applying Seniority . . . . .	197
(iv) Losing Seniority . . . . .	197
Lay Off, Bumping and Recall . . . . .	198
Contracting Out . . . . .	202
Union Representation . . . . .	203
Duration and Renewal of Collective Agreement . . . . .	205

<b>Chapter Thirteen Collective Agreement Language</b>	
<b>Defining Employee Rights &amp;</b>	
<b>Entitlements . . . . .</b>	<b>209</b>
Hours of Work . . . . .	209
Overtime . . . . .	212
Rest Periods . . . . .	215
Reporting Time . . . . .	216
Call-in Pay . . . . .	216
Standby Pay . . . . .	217
Vacation with Pay . . . . .	217
Paid Holidays . . . . .	224
Leaves of Absence . . . . .	227
1. Personal leave . . . . .	227
2. Maternity, Parental and Adoption leave . . . . .	228
4. Bereavement leave . . . . .	231
5. Jury Duty . . . . .	233

6. Military or reservist leave . . . . .	233
7. Education leave . . . . .	234
8. Family leave . . . . .	235
Job Posting & Filling Vacancies . . . . .	235
Absence due to illness or disability . . . . .	238
Human Rights Considerations . . . . .	241
<b>Chapter Fourteen Costing the Collective Agreement . . . . .</b>	<b>243</b>
Getting Started . . . . .	244
What is Included in Total Compensation. . . . .	244
What is Rollup? . . . . .	244
Factors of Total Compensation Found in the Collective Agreement . . . . .	245
Bringing Information Together . . . . .	256
Table 1: Total Weekly Wage per Classification . . . . .	256
Table 2: Average Annual Salary per Full Time Equivalent . . . . .	257
Table 3: Average Hourly Wage per Full-Time Equivalent . . . . .	258
Table 4: Average Hourly Cost of Overtime per Full-Time Equivalent . . . . .	259
Table 5: Total Pension Contributions . . . . .	261
Table 6: Average Pension Costs per Full-Time Equivalent. . . . .	262
Bringing it all together . . . . .	262
Table 7: Summary of Total and Average Full-Time Employee Costs . . . . .	264
Using Costing Information in Negotiations . . . . .	265
Table 8: Cost Implications of Union's 5% Proposals . . . . .	266
Table 9: Cost Implications of Union's 5% Proposals on Rollup Averages. . . . .	267
Some General Comments about Costing . . . . .	268
Automatic Cost-of-Living Adjustments (COLA) . . . . .	268
<b>Chapter Fifteen Employee Benefit and Pension Plans . . . . .</b>	<b>271</b>
Health Care Benefit Plans . . . . .	271
Union Operated or Joint-Trustee Plans . . . . .	273
Unions and Benefit Plans . . . . .	273
Employers and Benefit Plans . . . . .	274
Benefits and the Collective Agreement. . . . .	274
Pension Plans . . . . .	277
Evolution of Pensions in Canada. . . . .	278

The Components of Retirement Income . . . . .	278
Pension Structures . . . . .	279
Defined Benefit Plans . . . . .	280
Variations on the Defined Benefit Plan . . . . .	282
Defined Contribution Plans . . . . .	282
The Allure of DC Pension Plans . . . . .	283
Group & Individual Registered Plans . . . . .	283
Multi-Employer & Union Pension Plans . . . . .	284
Pension Portability . . . . .	287
Collective Agreement Examples of Pension Plans . . . . .	284
Some Concluding Thoughts on Pensions and Benefits . . . . .	285
<b>Chapter Sixteen What's Ahead for Collective Bargaining in Canada . . . . .</b>	<b>287</b>
The Process . . . . .	288
The Unions . . . . .	290
The Employers . . . . .	292
Conclusion . . . . .	293
<i>Index</i> . . . . .	295