

# TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 2021

## The Cancellation of Certification Issue

### What is the Cancellation of Certification or “Decertification”

1. For a Union to be recognized as the sole bargaining agent, the majority of workers in that workplace need to support a union to be “Certified” as the sole bargaining agent.
2. There are 2 ways for certification to happen. More than 50% of the workers vote for certification, or 60% of the workers join a union and then the certification is automatic.
3. Cancellation of Certification or “Decertification” is the process for workers to either change unions or decide they wish to bargain individually rather than collectively.
4. If workers wish to cancel their union’s certification, 35% of the workers in that unit can call for a vote to cancel the certification. However, the only people who can call for this vote are workers who are members of the union or former union members.

### Legislation Compared

#### TRADE UNION ACT 1965

##### Cancellation of Certification

Section 30P (1) reads: A worker in a bargaining unit (“the existing unit”) may, at any time after the expiration of one year after a union has been certified in respect of that unit, make application in writing to the Manager for the cancellation of the certification on the ground that 35 per cent or more of the workers in that unit no longer support the union.

Section 30P (6) reads: If on such a ballot it is shown that more than 50 per cent of the workers voting in the ballot do not support the union, the Manager shall cancel the certification of the union; and, subject to subsection (7), the union shall cease to be the exclusive bargaining agent in respect of that unit in accordance with the order.

#### Trade Union and Labour Relations (Consolidation) Act (TULR Act) 2021

##### Cancellation of Certification

Section 57 (1) reads: A worker in a bargaining unit (“the existing unit”) may, at any time after the expiration of one year after a union has been certified in respect of that unit, make application in writing to the Manager for the cancellation of the certification on the ground that 35% or more of the workers in that unit no longer support the union as the exclusive bargaining agent for that unit.

Section 57 (6) reads: If on such a ballot it is shown that more than 50% of the workers voting in the ballot do not support the union as their exclusive bargaining agent, the Manager shall cancel the certification of the union; and, subject to section 58(1), the union shall cease to be the exclusive bargaining agent in respect of that unit.

### There is no change to the composition of workers who vote in a decertification ballot!

1. Any worker who falls under an Agency Shop has the right to participate in a decertification ballot, whether they are a member of a trade union or not, as they have equal contributions regularly deducted from their wages. – [this was the position under the previous legislation and the current legislation]
2. Workers who do not fall under an Agency Shop and are not members of a trade union will not be considered a part of the appropriate bargaining unit eligible to vote in a decertification ballot. – [this was the position under the previous legislation and the current legislation]
3. Although all members of the bargaining unit, whether they are union members or agency shop, shall participate in a decertification ballot, it is only persons who are members of the union or former members of the union who can trigger a decertification ballot. – [this was the position under the previous legislation and the current legislation]

## Bargaining Unit with Agency Shop

### Issue:

There is **no change** in the voting rights of members in a bargaining unit with an Agency Shop arrangement when the Trade Union Act 1965 is compared with the Trade Union and Labour Relations (Consolidation) Act 2021



Trade Union Act 1965

TULR Act 2021

#### Union Member

- Deductions from Salary are Union Dues



Vote



Vote

#### Non-Union Member

- Deductions from Salary equal to Union Dues

#### Union Member

- Deductions from Salary are Union Dues



Vote



Vote

#### Non-Union Member

- Deductions from Salary equal to Union Dues

## Bargaining Unit **without** Agency Shop

### Issue:

There is **no change** in the voting rights of members in a bargaining unit **without** an Agency Shop arrangement when the Trade Union Act 1975 is compared with the Trade Union and Labour Relations (Consolidation) Act 2021



Trade Union Act 1965

TULR Act 2021

#### Union Member

- Deductions from Salary are Union Dues



Vote



No Vote

#### Non-Union Member

- No deductions from Salary

#### Union Member

- Deductions from Salary are Union Dues



Vote



No Vote

#### Non-Union Member

- No Deductions from Salary

