



BERMUDA INDUSTRIAL UNION & BERMUDA PUBLIC SERVICES UNION

JOINT PRESS CONFERENCE

Thursday, December 10, 2020

E.F. Gordon Hall

Bermuda Industrial Union

3pm

The Presidents of the two largest Unions, the Bermuda Industrial Union (“BIU”) and the Bermuda Public Services Union (“BPSU”) thank you for your attendance at today’s press conference. The purpose of this press conference is to bring to the public’s attention our concerns pertaining to the Government’s recently tabled Trade Union and Labour Relations (Consolidation) Act 2020.

We assert that there are clauses contained in this legislation that infringe on the rights of unionised workers. More specifically, our concerns are related to the proposed amendments to the current decertification process.

As you may be aware, there are currently two processes that involve the voting of workers as it pertains to Union representation:

- (1) Certification
- (2) Decertification

1. CERTIFICATION

To commence the certification process, the Union is required to prove to the Labour Department that 35% of workers in the proposed bargaining unit have signed union membership forms. The statute specially states that these workers must be members of the Union.

Upon winning the certification ballot (50% plus 1), the Union is recognised as the sole bargaining agent. As a result, the Union gains the legal right to negotiate and represent the workers via the collective bargaining process which establishes the terms and conditions of employment and negotiated benefits.

Here is the key point: The certification process allows only dues-paying members to vote on any matter affecting the Union or the workers’ terms and conditions of employment.

Those workers who opt not to be a member of the Union are classified as agency shop. Currently, under an agency shop clause, these persons are legally required to either pay dues to the Union or the equivalent amount to a charity of their choice. **Note:** that the charity has no right to represent that worker on any work-related matter.

2. DECERTIFICATION

On the other hand, de-certification refers to the process where the labour legislation allows any worker - unionised or non-unionised - who is working in a bargaining unit to call for a special secret ballot “*to get rid of*” the union as their “exclusive bargaining representative.”

The objective of a decertification election is to terminate the union’s right to represent unionised workers employed in the bargaining unit.

Workers covered under a collective bargaining agreement must sign a petition and participate in the vote for decertification. Once the Union is removed as the recognised legal bargaining representative, the worker is no longer required to join the Union, to pay dues or fees to the Union or a charity under as agency.

The objection of the BPSU and the BIU to the proposed amendment of Section 57 of the *Trade Union and Labour Relations (Consolidation) Act* it is that it cannot be right that non-members of a Union have the right to start the decertification process. This is the reverse of process of certification that requires proof that 35% of the workers must be Union members.

This runs contrary to the general principle of democracy. For instance, a member of the public who is not a stock owner of a Company, a citizen who is not a member of that local organization/association cannot vote in any matter that determines a course of action that the officers of that body must take as a direct result of a vote.

It is both the position of both the BPSU and the BIU that only members of the Union must be allowed to participate in the decertification process.

The Act also proposes that 60% of persons in a bargaining unit would have to vote in favour of decertification to take effect. **We assert that, in keeping with Robert’s Rule of Order, this should be increased to a 2/3 (66%) majority.** Under Roberts’ Rule of Order, a 2/3 majority rule that applies to matters that affect the constitution or course of action that affects the whole body.

It is important to highlight that under Bermuda’s legislation, employers are not legally permitted to influence, coerce, or reward any worker to decertifying a union. However, the Unions are aware of cases where some employers have used either direct or indirect method to have a new worker not join a Union or entice existing unionized workers to participate in the de-certification process of the Union.

Unions continue to fight to retain rights for our members which have been fought for through blood, sweat and tears over the years.