Bill No. 73 of 1954

A BILL TO AMEND THE ALBERTA LABOUR ACT

NOTE

This Bill amends *The Alberta Labour Act*, being chapter 8 of the Statutes of Alberta, 1947.

Section 2, clauses (*g*) and (*q*) are amended. Clause (*g*) defines "employee" while clause (*q*) defines "wage". As the definition of "employee" depends in part upon the definition of "wage" both definitions are amended to remove a repetition occurring therein and thereby do define both terms more shortly.

Section 3, which relates to the applicability of this Act, is amended to clarify the extent of the application of the Act.

Section 10 is amended. This relates to the records which employers are required to keep and is amended for clarification. In addition a provision has been added whereby employers are required to keep records concerning annual holidays of employees.

Section 13, subsection (2) is amended for the purpose of granting to employers a longer period of time in which to report overtime worked in the previous month by their employees, and also to remove the necessity of recording the particulars of the overtime in detail.

Section 15, subsection (1) is amended to remove an ambiguity which mitigates against the intention of the section that an employee receive 24 hours of rest in each period of 7 consecutive days.

Section 17 is amended for the purpose of clarifying the intent. As the section presently reads an employer would be guilty of an offence if he did not give his employees 24 hours' notice that the schedule of hours of work was to be exceeded; it was intended that this provision apply to change of shift and the new subsections (1) and (3) so state.

Section 18 is repealed to remove the burdening of an employer with a duplication of records as the hours of work of an employee are required as a matter of record by section 10 and the present section 18 requires the same thing with regard to additional hours worked by an employee in certain cases.

Section 19 is amended for the purpose of clarifying the intent of the section and makes no substantive change.

Section 21 is amended to remove a latent ambiguity in the section and to restrict its provisions to the employees of an employer.

Section 24, subsections (1) and (2) are amended to remove an inconsistency between the provisions of clause (*a*) of subsection (1) and clause (*a*) of subsection (2), and the rest of the section.

Section 28 is amended for the purpose of setting out more clearly the powers of the Board with respect to the fixing of a fair wage in industries in the Province.

Section 29 is amended for the purpose of setting out more clearly the penalties prescribed for a violation of the minimum wage rate fixed by the Board under Part II of *The Alberta Labour Act.*

Section 34 is amended for the purpose of removing an ambiguity presently existing in the section and also for the purpose of adding by way of a new subsection a provision that this section when it prohibits the employment of children does not apply to a child who is securing vocational training through employment and properly excused from school for that purpose.

Section 43 is amended as to subsection (1) by rearranging clause (*b*) to show more clearly the power the Board is given under this subsection. Clause (*b*) of subsection (1) is amended to refer to a holiday with pay stamp book. The holiday with pay stamp book is further dealt with by a new subsection (1*a*) and requires that while an order requiring the issuing of a holiday with pay stamp book remains in force an employer who accepts a holiday with pay stamp book from his employee must maintain the same, and if unable to return the same to the employee one week after a demand therefor make up one and give it to his employee.

Section 45, clause (*b*) is amended for the purpose of defining "schedule" more accurately.

Section 47 is amended to substitute a defined term where that defined term is actually meant.

Section 48 is amended, firstly, to rearrange the content of the present section into three subsections for ease of reading; secondly, to strike out clause (*j*) of the present section 48 which permitted employers and employees in industries to fix a charge or price for services to the public and thirdly to place in this section as subsection (4) the present section 55, which prohibits certain wage rates and labour hours being set out in the schedule being formulated under section 48.

Section 49 is amended. The present section 49 is rearranged into subsections. Section 50 has been incorporated into section 49 as a subsection thereof as it relates to the same matters as dealt with by section 49.

Section 50 is repealed as it is incorporated into section 49.

Section 52, subsection (1) which provides for the setting up of an advisory council by the employees and employers

engaged in an industry to which a schedule relates, is amended to ensure that the advisory council will be a joint council having equal representation of employers and employees.

Section 53, subsection (1) is amended to remove an ambiguity and to make it clear that an employer shall not pay to an employee a wage less than the minimum wage fixed by a schedule.

Section 54, subsection (1), which prohibits an employee from working for less than the minimum wage fixed by the schedule or for a greater number of hours than the maximum hours fixed by the schedule, is amended for the purpose of clarifying the provision.

Section 55 is repealed as it is now incorporated in section 48.

Section 57 is amended. Clause (*a*) of subsection (1), which defines "bargain collectively" is amended to remove an ambiguity caused by a difference in terminology between the terms used in the definition and defined terms found elsewhere in this subsection. Clause (*k*) is added to define the word "unit" as it is used in Part V of the Act relating to collective bargaining. Subsection (2) is amended for the purpose of clarifying the intention of that section which is to ensure that if an employee was dismissed from his employment immediately before an application for certification of a bargaining agent or an application for an appointment of a conciliation commissioner, or before the occurrence of a legal lock-out or strike, the employee is to be deemed to be employed for the purpose of the Act until the application for certification is disposed of, or in the case of a dispute until after the dispute has proceeded through conciliation, arbitration and until the dispute is finally settled by a strike or lock-out or otherwise. The presumption is established to protect an employee in any case where a majority of his fellow employees wish to enjoy collective bargaining.

Section 59 is amended. This section presently contains eleven subsections, not all of which deal with the same subject matter. In the past this has caused some uncertainty as to the extent of provisions contained in individual subsections. Section 59 is therefore rearranged into sections 59, 59*a* to 59*n*, inclusive. Section 59 now provides that collective bargaining is lawful. This was the previous subsection (1) of section 59.

Section 59*a* provides that a bargaining agent may be elected by the employees of a unit where they have no bargaining agent.

Section 59*b* prescribes the cases in which a bargaining agent may apply to the Board for certification.

Section 59*c* makes provision for the joint application of trade unions to be certified as bargaining agents. These pro-

visions relate to two or more trade unions of the same craft or of a group exercising the same technical skills. The application would be dealt with as though it were an application by one trade union.

Section 59*d* prescribes the inquiries that the Board of Industrial Relations will make after the receipt of an application for certification of a bargaining agent.

Section 59*e* sets out the powers of the Board with respect to an inquiry upon the application for certification of a bargaining agent.

Section 59*f* prescribes the conditions upon which the Board will certify an applicant to be a bargaining agent or will refuse such an application.

Section 59*g* forbids the certification as a bargaining agent of any organization of employees dominated by the employer, and an agreement entered into between an employer and such an organization shall be deemed not to be a collective agreement.

Section 59*h* sets out the result following upon a trade union being certified as the bargaining agent of employees in a unit.

Section 59*i* relates to and permits the making of an application for the suspension of a certification of a bargaining agent.

Section 59*j* sets out the result of a suspension of a certification of a bargaining agent.

Section 59*k* relates to and permits the making of an application for the removal of a suspension of a certification of a bargaining agent.

Section 59*l* sets out the powers and duties of the Board with respect to the procedure and investigations and orders which it may make for the purpose of determining the merits of any application made to the Board for certification, for suspension of a certification or for the removal of the suspension of a certification of a bargaining agent.

Section 59*m* prescribes the employees entitled to vote under any vote taken under sections 59*l*, 80, subsection (7) or 81, subsection (4).

Section 59*n* relates to subsequent applications made after an application for certification, for suspension of a certification or for the removal of the suspension of a certification of a bargaining agent has been refused by the Board.

Section 60 is amended. Subsection (2) is amended to provide for five days' notice instead of three days' notice where notice to commence collective bargaining is given by a party. Subsection (4) is amended for clarification. Subsections (5) to (10) are struck out. Subsection (5) becomes a new section 85*a*; subsections (6) and (7) are struck

out as they provide for the intervention of the Board of Industrial Relations on the request of the Minister. These last two subsections serve no useful purpose since the Act provides for the appointment of a conciliation commissioner. Subsection (8) becomes subsection (3) of section 68. Subsections (9) and (10) relate to the case of the intervention by the Board on the request of the Minister and are struck out for the same reason as subsections (6) and (7) were removed.

Section 61, subsection (1) is amended. A new subsection (1*a*) expands the present provision with respect to the terms of a collective agreement for a term in excess of one year and provides that such an agreement shall contain or be deemed to contain a provision for termination of the agreement after the first year by mutual consent of the parties, or at the end of the second or subsequent years by at least two months' notice by either party to the agreement before the end of each year that the agreement continues in effect. It is the purpose of this amendment to encourage longer term collective agreements. Subsection (4) is amended for the purpose of making any collective agreement entered into between a bargaining agent, (whether certified or not), and an employer, binding upon the bargaining agent, the employer and all of the employees in the unit on whose behalf the bargaining agent entered into the agreement. Subsection (5) is amended to relate the provisions to the amended subsection (4). A new subsection (6) makes provision for penalties in case parties to a collective agreement or any person covered by the agreement contravene the provisions of section 61.

Section 62 is amended for the purpose of making it clear that any question involving the relations between an employer and a majority of his employees in a unit shall be determined by an expression of opinion by the majority of the employees.

Section 63 is amended. This section which prohibits employers from having certain dealings with trade unions is amended for the purpose of providing that an employer may make to a trade union donations to be used solely for the welfare of employees in the trade union and the dependants of employees.

A new section 64*b* is added. It prohibits an employer from altering any of the conditions of employment or giving effect to any change in wages or hours of work during the period of time intervening between the date of application for certification of a bargaining agent and the date the application is disposed of, and is for the purpose of preventing undue influence by an employer prior to the Board of Industrial Relations taking a vote of the employees.

Section 66, subsection (1) is amended for clarification.

Section 68 is amended. Subsection (1) is amended. By the present wording of this subsection a dispute might arise

and the parties could make application for the appointment of a conciliation commissioner even though a collective agreement was in effect and that dispute could affect only one employee. The new subsection (1) is for the purpose of making the provisions relate only to disputes arising in the course of negotiations for a collective agreement or for the revision or renewal of existing agreements. The new subsection (2) is the previous subsection (8) of section 60.

Section 71, clause (*b*) is amended for the purpose of making it clear that the conciliation commissioner's recommendations are to be submitted to the parties for their consideration.

Section 75, subsection (2) is amended for the purpose of clarifying the provisions of this subsection and to acknowledge the new status of Canadian citizenship. Subsection (7) is amended to clarify its intent.

Section 79, subsection (3) is amended to clarify the intent.

Section 80 is amended. Subsection (2) is amended to remove a reference to two subsections of section 60 which have been repealed. Subsections (7), (8) and (9) are amended to remove any uncertainty with respect to the rights of employees to vote on the question of acceptance or rejection of the award of a board of arbitration and to further provide that the results of voting supervised by the Board shall be determined upon a majority vote of the employees voting.

Section 81 is amended. Subsection (1) is amended to remove a reference to matter and subsections that have been repealed. Subsection (4) is amended for the purpose of clarification.

Section 82*a*, subsection (2) is amended to make it clear that the power of the Minister to refer the matter of a strike or lock-out to a judge of the Supreme Court for adjudication as to the legality or illegality of the strike or lock-out is not operative only in and to the period during which a strike or lock-out exists.

Section 82*b* is repealed.

Section 82*c* is amended to ensure that any amount assessed a trade union for participating in an illegal strike will be based on the actual time lost by an employee participating in the strike.

Section 82*e* is amended to provide that the amount assessed upon an employer in the case of an illegal lock-out will be based on the actual time lost by a locked out employee.

Section 85*a* is added. Subsection (5) of section 60 previously provided that no prosecution for an infraction of the provisions of the old section 60 could be commenced or carried on by any person other than the person authorized in writing by the Minister so to do. The new section 85*a* provides that no prosecution for an offence under Part V is

to be instituted without the consent in writing of the Minister. Subsection (2) sets out the sufficiency of the Minister's consent.

Section 87, subsection (3) is amended. This subsection provides that any information furnished pursuant to subsection (1) (wherein the Minister might request trade unions to give him statements of their receipts and expenditures) may be used solely by the Minister and officers of the Department of Industries and Labour for certain purposes. The amendment is to clarify the intent of the subsection that such information shall be used for certain purposes only.

Section 91, subsection (2) is amended for the purpose of removing superfluous words.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 73 of 1954

An Act to amend The Alberta Labour Act

(Assented to , 1954)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Alberta Labour Act,* being chapter 8 of the Statutes of Alberta, 1947, is hereby amended.

2. Section 2 is amended

Section 2 amended

(a) by striking out clause (*g*) and by substituting the the following:

"(*g*) 'employee' means a person engaged in an industry who is in receipt of or entitled to wages for labour or services performed wherever the labour or services are performed;",

"employee"

(b) by striking out clause (*q*) and by substituting the following:

"(*q*) 'wage' includes any reward, compensation or remuneration for labour or services whether computed on the basis of time spent or of the amount of labour or service performed or of piece work or otherwise;".

"wage"

3. Section 3 is struck out and the following is substituted:

Section 3 amended

"**3.** This Act applies to all persons who are either employees or employers within the Province other than

Application of Act

"(*a*) farm labourers or domestic servants in private houses, and

"(*b*) persons who employ only domestic servants in private houses or farm labourers, or both.".

4. Section 10 is struck out and the following is substituted:

Section 10 amended

"**10.** (1) An employer shall maintain in each place of business operated by him in the Province or, with the consent of the Board, at his principal place of business in the Province, a true and correct record in the English language of the following particulars in respect of each of his employees:

Record of employees

"(*a*) the hours worked or on duty each day,

"(*b*) the wages paid,

"(c) the name, age and residential address,

"(d) the date of commencement of present term of employment and the anniversary date thereof,

"(e) the date and particulars of each change in wage rate,

"(f) each annual holiday granted, showing

"(i) the dates of commencement and completion,

"(ii) the period of employment covered by the annual holiday, and

"(iii) the amount of holiday pay given,

"(g) the amount of money paid in lieu of holidays with pay upon a termination of employment.

Daily record of hours

"(2) The record of hours referred to in clause (a) of subsection (1) shall be recorded daily.

Retention of records

"(3) The records required under this section to be maintained by an employer shall be preserved and retained by the employer for a period of twelve months from the time when each record was made.

Requirements of Board

"(4) An employer shall

"(a) furnish to the Board the names, addresses and ages of all employees and such further information respecting wages, hours and days and conditions of labour as the Board requires,

"(b) produce any books, records, pay-rolls, contracts of employment and any such other records that the Board requires for the inspection of the Board on such date and at such place as the Board designates.

Registration of hours of work

"(5) The Board by notice in writing given to an employer may forthwith or within a time set out in the notice require the employer to make provision for the true and correct registration of the hours of work of each of his employees with respect to starting time, stopping time and rest intervals by means of time-clocks or in such other manner as the Board may direct.

"(6) An employer shall comply with and observe the requirements and directions of the Board in any notice given by the Board under subsection (5).

Offences

"(7) An employer

"(a) who contravenes or neglects to comply with or fails to comply with any of the provisions of this section, or

"(b) who falsifies any record required to be kept under this section or under a notice or direction of the Board given under this section, or

"(c) who gives any false or misleading information respecting wages, hours, days or conditions of labour to the Board, or to the chairman of the Board or to any inspector appointed pursuant to this Act,

is guilty of an offence and liable on summary conviction to a fine of not less than twenty-five dollars and not more than

five hundred dollars and in default of payment to a term of imprisonment of not less than thirty days or more than one hundred and twenty days.". Liability of employer

5. Section 13, subsection (2) is amended by striking out the words "three days following the last day of the calendar month in which the said limit is exceeded, and the report shall set out the reason for the excess, the names of the employees employed in excess of the limit and the extent of the excess in respect of each employee" and by substituting the words "fifteen days following the last day of the calendar month in which the limit of hours of work was exceeded and the report shall set out the reason for exceeding the limit, the number of employees employed in the exceeding of the hours of work limit and the extent by which the hours of work limit was exceeded". Section 13 amended

6. Section 15, subsection (1) is amended by striking out the words "consecutive period of seven days" wherever they occur and by substituting the words "period of seven consecutive days". Section 15 amended

7. Section 17 is amended Section 17 amended

(a) by striking out subsection (1) and by substituting the following:

"**17.** (1) An employer shall notify his employees Notice to employees of working hours

"(*a*) of the hours at which work begins and ends, and

"(*b*) when work is carried on by shifts, of the hours at which each shift begins and ends,

by means of the posting of notices in conspicuous places on the premises or other suitable place or by such other method as the Board may approve.",

(b) by striking out subsection (3) and by substituting the following:

"(3) When work is carried on by shifts, employees shall not be required to change from one shift to another shift without at least twenty-four hours' notice of the change of shift.". Notice of change of shift

8. Section 18 is repealed. Section 18 repealed

9. Section 19 is struck out and the following is substituted: Section 19 amended

"**19.** (1) The Board with the approval of the Lieutenant Governor in Council may as it considers necessary or advisable make orders determining Power of Board re exceptions

"(*a*) the exceptions which may be allowed to an employer or employers engaged in a work that must necessarily be carried on outside the limits laid down for the general working of an industry or for certain classes

of employees whose work is essentially seasonal or intermittent,

"(*b*) the temporary exceptions which may be allowed so that an employer or employers can deal with exceptional cases of pressure of work, and

"(*c*) the extent to which the hours of work prescribed in section 11 may be exceeded in those processes that are required by reason of the nature of the process to be carried on continuously by a succession of shifts.

"(2) All exceptions made pursuant to this section shall be published forthwith in *The Alberta Gazette* and from the date of publication have the same force and effect as if they had been incorporated in this Act.

Maximum number of additional hours

"(3) Orders made under clause (*c*) of subsection (1) shall only be made after inquiry by the Board and such orders shall fix the maximum number of additional hours that may be worked in each case.".

Section 21 amended

10. Section 21 is struck out and the following is substituted:

Penalties on employer

"**21.** An employer

"(*a*) who neglects or fails to notify his employees of the hours of work as required by section 17, or

"(*b*) who employs an employee to work hours exceeding the hours of work fixed or prescribed or permitted under this Part or Part IV,

is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars for each employee affected and in default of payment to a term of imprisonment not exceeding sixty days.".

Section 24 amended

11. Section 24 is amended

(a) as to subsection (1), clause (*a*) by striking out the words "at such rate and in such manner as the Board in its discretion considers advisable",

(b) as to subsection (2) by striking out clause (*a*) and by substituting the following:

"(*a*) apply the minimum wage fixed by the Board to all employees or to any group or class or sex of employees in any industry or all industries;".

Sections 28 and 29 amended

12. Sections 28 and 29 are struck out and the following are substituted:

Fair rate of wages

"**28.** (1) The Board by order with the approval of the Lieutenant Governor in Council may prescribe as the fair rate of wages a rate that the Board thinks proper

"(*a*) in a specified industry, or

"(*b*) in a specified area, or

"(*c*) at a specified place, or

"(*d*) in a specified work or undertaking.

"(2) The fair rate of wages fixed by the Board may apply

"(*a*) to all classes of employees engaged in the industry, or

"(*b*) to any specified classes thereof,

as the Board thinks proper and either for a specified period or until the making of a further order under this section.

"(3) Upon the publication in *The Alberta Gazette* of an order made under this section and approved by the Lieutenant Governor in Council, no employer while the order remains in effect shall employ an employee at wages less than the fair rate of wages fixed in the order.

Penalty for failure to pay minimum wage or overcharging for board

"**29.** (1) An employer who contravenes an order made under this Part by the Board

"(*a*) by failing to pay the minimum wage fixed by the Board, or

"(*b*) by charging a price for board or lodging or both that exceeds the maximum price fixed therefor by the Board,

is guilty of an offence.

"(2) If an employer is guilty of an offence under subsection (1) he is liable on summary conviction

"(*a*) on a first conviction to a fine of not less than ten dollars or more than five hundred dollars for each employee affected, and

"(*b*) on a subsequent conviction to a fine of not less than twenty-five dollars or more than five hundred dollars for each employee affected.

Additional penalty on employer

"(3) If an employee is convicted of an offence under subsection (1) he shall in addition to a fine levied pursuant to subsection (2) be ordered to pay to each employee affected the difference between the wages actually paid the employee and the minimum wage fixed by the Board for the employee.

Suspension or cancellation of employer's license

"(4) In default of payment of a fine imposed pursuant to subsection (2) and of a sum ordered to be paid pursuant to subsection (3), the employer is liable

"(*a*) if the default follows upon a first conviction, to imprisonment for a term of not less than thirty days or more than ninety days,

"(*b*) if the default follows upon a subsequent conviction

"(i) to imprisonment for a term of not less than two months or more than six months, and

"(ii) to suspension or cancellation by the Minister of any license held by the employer under *The Licensing of Trades and Businesses Act*.".

Section 34 amended

13. Section 34 is amended

(a) by renumbering the section as subsection (1),

(b) by striking out the word "employment" where it occurs in clause (b) of subsection (1) and by substituting the word "place",

(c) by adding immediately after subsection (1) the following new subsection:

"(2) Subsection (1) does not apply to a child who has been excused under Part XIV of *The School Act, 1952,* from school attendance by the Chief Attendance Officer for the purpose of securing vocational training through employment.".

Section 43 amended

14. Section 43 is amended

(a) as to subsection (1)

(i) by striking out clause (*b*) and by substituting the following:

"(*b*) may determine

"(i) the number of hours of work that will constitute a day's work or a week's work,

"(ii) the number of days worked that will constitute a month and a year, respectively,

"(iii) what will constitute a regular wage, and

"(iv) the method of computing the regular wage;",

(ii) by adding immediately after the words "shape of stamps" where they occur in subclause (ii) of clause (*d*) the words "to be affixed in a holiday with pay stamp book",

(b) by adding immediately after subsection (1) the following new subsection:

"(1*a*) Upon the publication in *The Alberta Gazette* of an order made pursuant to clause (*d*) of subsection (1)

"(*a*) an employer who while the order remains in effect accepts a holiday with pay stamp book deposited by his employee shall keep it safely and return it to the employee on demand, and

"(*b*) an employer who while the order remains in effect is by reason of loss or misplacement unable to return to an employee on demand a holiday with pay stamp book deposited with him by the employee shall, within one week after the demand for the stamp book is made, issue to the employee a new holiday with pay stamp book to which the employer shall affix holiday with pay credit stamps

"(i) equal in value to the holiday with pay credit stamps that were affixed to the stamp book at the time it was deposited with the employer, and

"(ii) in an amount equivalent to the holiday with pay credit stamps earned by the employee after the book was so deposited.".

15. Section 45 is amended by striking out clause (*b*) and by substituting the following:

Section 45 amended

"(*b*) 'schedule' means a schedule formulated for an industry pursuant to section 48 with reference to the matters referred to in that section.".

"schedule"

16. Section 47 is amended by striking out the words "for negotiating standard or uniform rates of wages, hours and days of labour and holidays with pay in each industry in the said zone or zones" and by substituting the words "for formulating a schedule".

Section 47 amended

17. Section 48 is amended

Section 48 amended

(a) by striking out all that portion preceding clause (*a*) and by substituting the following:

"**48.** (1) The employees and employers of an industry in attendance at any conference convened by the Minister pursuant to section 47 may formulate in writing a schedule for the industry with respect to that industry in any one or more zones.

Formulation of schedules

"(2) If agreed upon by a majority of the employees and employers in attendance at the conference the schedule formulated may be submitted to the Minister.

"(3) The schedule may",

(b) by striking out clause (*j*) of section 48, now renumbered as subsection (3) of section 48,

(c) by adding immediately after subsection (3) the following new subsection:

"(4) In a schedule formulated under this section

"(*a*) the wage rates for employees fixed by the schedule shall not be for lesser amounts,

"(*b*) the number of hours of labour in each day or the number of days of labour in each week fixed by the schedule shall not be greater,

"(*c*) the conditions governing holidays with pay provided in the schedule shall not be less favourable to the employees,

than is provided in or prescribed pursuant to Part I, Part II and Part III or any order or regulation made thereunder or pursuant thereto.".

18. Section 49 is struck out and the following is substituted:

Section 49 amended

"**49.** (1) Where in the opinion of the Minister a schedule for an industry has been agreed upon in writing by a sufficient and representative majority, both of the employees and of the employers engaged in that industry,

Approval of schedule

"(*a*) the Minister may approve of the schedule, and

"(*b*) the Lieutenant Governor in Council upon the recommendation of the Minister may declare the schedule to be in force.

Duration of schedule

"(2) Where a schedule has been declared in force it remains in force until such time as the Lieutenant Governor in Council declares it to be no longer in force.

"(3) While a schedule is in force it is binding upon every employee and employer in the industry in the zones to which the schedule applies.

Application to amend or revoke schedule

"(4) At any time after a schedule or an amendment to a schedule has been in force for a period of not less than ten months, a majority of the employees or employers to whom the schedule relates may apply in writing to the Minister to have the schedule amended or declared to be no longer in force.

Inquiry re schedule

"(5) When the Minister receives an application made pursuant to subsection (4) he may fix a day, time and place for inquiring into the circumstances of the application and in such manner as he thinks proper give notice of the day, time and place fixed for the inquiry to the employees and employers to whom the schedule relates.

"(6) At the day, time and place fixed for the inquiry or at any postponed date the Minister shall proceed in such manner as he may determine to make an inquiry into the circumstances.

"(7) After an inquiry, if in the opinion of the Minister it is proper to do so, the Minister shall recommend to the Lieutenant Governor in Council that the schedule be amended or declared not to be in force as the case requires.

"(8) Upon receiving the recommendation of the Minister, the Lieutenant Governor in Council by order may

"(*a*) amend the schedule in the manner recommended, or

"(*b*) declare the schedule to be no longer in force,

on or after a date which shall not be a date earlier than twelve months from the date the schedule or the last amendment of the schedule was declared in force.

"(9) No schedule, amendment to a schedule or declaration that a schedule is no longer in force becomes effective until ten days after publication of the order in council in *The Alberta Gazette.*".

Section 50 repealed

19. Section 50 is repealed.

Section 52 amended

20. Section 52, subsection (1) is amended

(a) by striking out the word "an" and by substituting the words "a joint",

(b) by adding immediately after the word "chairman," the words "the remaining members to be equally representative of employers and employees,".

Section 53 amended

21. Section 53 is amended by striking out subsection (1) and by substituting the following:

Employer to comply with schedule

"**53.** (1) No employer shall

"(*a*) pay to an employee a wage less than the minimum wage fixed by the schedule applying to the industry in which the employee and employer are engaged, or

"(*b*) cause to be paid to an employee a wage less than the minimum wage fixed by the schedule applying to the industry in which the employer and employee are engaged, or

"(*c*) require or permit an employee to work a greater number of hours in a day or in a week or a greater number of days in a week than the hours or days fixed by the schedule applying to the industry in which the employee and employer are engaged.".

22. Section 54 is amended by striking out subsection (1) and by substituting the following:

Section 54 amended

"**54.** (1) No employee shall

Employee to comply with schedule

"(*a*) agree or consent to be employed for a wage less than the minimum wage to which he is entitled by the schedule applying to the industry in which the employee and employer are engaged, or

"(*b*) work a greater number of hours in a day or in a week, or a greater number of days in a week than the hours or days fixed by the schedule applying to the industry in which the employee and employer are engaged.".

23. Section 55 is repealed.

Section 55 repealed

24. Section 57 is amended

Section 57 amended

(a) as to subsection (1)

(i) by striking out clause (*a*) and by substituting the following:

"(*a*) 'bargain collectively' means to negotiate in good faith with a view to the conclusion

"bargain collectively"

"(i) of a collective agreement, or

"(ii) of the revision or renewal of an existing collective agreement,

and 'collective bargaining' has a similar meaning;",

"collective bargaining"

(ii) by adding immediately after clause (*j*) the following new clause:

"(*k*) 'unit' means a group of employees of an employer whether or not the group is a craft group, technical group, industrial or plant group, or any other group.",

"unit"

(b) by striking out subsection (2) and by substituting the following:

"(2) A person who was an employee immediately before

Former employee deemed employee in certain cases

"(*a*) an application for the certification of a bargaining agent is made, or

"(*b*) an application for the appointment of a conciliation commissioner is made, or

"(*c*) the occurrence of a lock-out or a strike taking place after compliance with sections 68 to 81,

shall be deemed to be an employee within the meaning of and for the purposes of this Part during the period an application under clause (*a*) is being considered until the application has been disposed of or during the period following an application under clause (*b*) and until the dispute is finally settled after a strike or lock-out or otherwise, or during the procedure for settlement of the dispute until the dispute is finally settled after a strike or lock-out or otherwise, whichever is the case.".

Section 59 amended

25. Section 59 is struck out and the following are substituted:

Collective bargaining

"**59.** It is lawful for employees to bargain collectively with their employer and to conduct such bargaining through a bargaining agent.

New sections 59*a* to 59*n*

Election of bargaining agent

"**59*a*.** Where they have no bargaining agent, the employees of an employer in a unit that is appropriate for collective bargaining may elect a bargaining agent by a majority vote of the employees in the unit.

Application to be certified as bargaining agent

"**59*b*.** (1) Where no collective agreement or certification of a bargaining agent under this Part is in force, a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may, subject to section 59*n*, make application at any time to the Board to be certified as the bargaining agent of the employees in that unit.

"(2) Where no collective agreement is in force if a bargaining agent has been certified under this Part, a trade union that claims to have been selected by a majority of employees in a unit that is appropriae for collective bargaining may, at any time after and not before the expiration of ten months from the date of the certification of the bargaining agent, make application to the Board, subject to section 59*n*, to be certified as the bargaining agent of the employees in that unit.

"(3) Where a collective agreement for a term of one year is in force a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may, after and not before the expiration of ten months of the term of the collective agreement, make application subject to section 59*n* to the Board to be certified as the bargaining agent of the employees in that unit.

"(4) Where a collective agreement for a term longer than one year or a collective agreement that provides for its continuation for a term longer than one year is in force, a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining

"(*a*) after the collective agreement has been in force for ten months and before it has been in force for twelve months of the first year of its term, or

"(*b*) after the agreement has been in force for ten months of the second or any subsequent year of its term or continuation and before it has been in force twelve months of the second or any subsequent year of its term and continuation

may make application, subject to section 59*n*, to the Board to be certified as the bargaining agent of the employees in that unit.

Joint application to be certified as bargaining agent

"**59*c*.** (1) Two or more trade unions of the same craft or of a group exercising the same technical skills that claim to have as members in good standing in the trade union a majority of employees in a unit that is appropriate for collective bargaining may join in an application under section 59*b*.

"(2) Where two or more trade unions join in an application to the Board, the provisions of sections 59*b* to 59*n* apply

"(*a*) in respect of the joint application, and

"(*b*) to all matters or things arising therefrom, and

"(*c*) to the applying trade unions

as if the application had been made by one trade union.

Inquiry by Board re certification of bargaining agent

"**59*d*.** Upon receipt of an application for certification of a bargaining agent, the Board shall

"(*a*) inquire into whether the trade union that claims to have been selected by a majority of the employees in a unit is a proper bargaining agent,

"(*b*) inquire into whether the unit of employees in the circumstances is an appropriate unit for collective bargaining,

"(*c*) inquire into whether the trade union has been selected by a majority of the employees in the unit, and

"(*d*) inquire into any other question of fact that is in the opinion of the Board material in considering the application for certification of a bargaining agent.

Requirements of application for certification as bargaining agent

"**59*e*.** (1) The Board may prescribe

"(*a*) the nature of the evidence required to be submitted to the Board with or in support of an application, and

"(*b*) the manner in which the application for certification is to be made

by an applicant for certification as a bargaining agent.

"(2) Where an application for certification as a bargaining agent has been made

"(*a*) the Board before disposing of the application may

"(i) include additional employees in, or

"(ii) exclude employees from

the unit that is claimed by the applicant to be appropriate for collective bargaining, and

"(*b*) the Board shall complete its inquiries into the application

"(i) within a period of twenty-one days after it receives the application, or

"(ii) when additional time is required by the Board, within a further period of seven days,

both exclusive of holidays.

Approval or refusal of application for certification as bargaining agent

"**59*f*.** If the Board is satisfied

"(*a*) that the applicant for certification as a bargaining agent is a proper bargaining agent,

"(*b*) that the unit of employees is an appropriate unit for collective bargaining, and

"(*c*) that a majority of the employees in the unit have selected the applicant to be a bargaining agent in behalf of the unit

"(i) by membership in good standing according to the constitution and by-laws of the applicant, or

"(ii) by the result of a vote conducted or supervised by the Board,

the Board shall certify the applicant to be a bargaining agent on behalf of the employees in the unit but if the Board is not satisfied in respect of any of the matters set out in clauses (*a*) to (*c*) the Board shall refuse to certify the applicant.

Trade union dominated by employer

"**59*g*.** (1) Notwithstanding anything in this Part, an organization of employees in which the administration, management or policy thereof is, in the opinion of the Board,

"(*a*) dominated by an employer, or

"(*b*) influenced by an employer so that the organization's fitness to represent employees for the purposes of collective bargaining is impaired,

shall not be certified as a bargaining agent.

"(2) An agreement entered into between an employer and an organization of employees in which the administration, management or policy thereof is, in the opinion of the Board,

"(*a*) dominated by an employer, or

"(*b*) influenced by an employer so that the organization's fitness to represent employees for the purposes of collective bargaining is impaired,

shall be deemed not a collective agreement for the purposes of this Part.

New bargaining agent

"**59*h*.** (1) Where a trade union is certified under this Part as the bargaining agent of the employees in a unit, the trade union

"(*a*) shall immediately replace any other bargaining agent of employees in the unit, and

"(*b*) has exclusive authority to bargain collectively on behalf of the employees in the unit and to bind them by a collective agreement.

"(2) Where a trade union is certified under this Part as the bargaining agent of the employees in a unit, if another trade union had previously been certified as bargaining agent in respect of the employees, the certification of the trade union that was previously certified shall be deemed to be revoked in respect of the employees in the unit upon the certification of the newly certified bargaining agent.

"(3) Where a trade union is certified under this Part as the bargaining agent of the employees in a unit if at the time of certification a collective agreement that is binding on or that was entered into on behalf of the employees is in force, the newly certified bargaining agent

"(*a*) shall be made a party to the agreement in place of the bargaining agent that was a party to the agreement on behalf of employees in the unit, and

"(*b*) notwithstanding anything contained in the agreement, may insofar as that agreement applies to the employees in the unit for which the newly certified bargaining agent was certified, terminate the agreement,

"(i) at any time by the mutual consent of the employer and the new party, or

"(ii) when the agreement provides for the continuation of the agreement from year to year, at any time after the agreement has been in force for ten months if at least two months' notice is given, or

"(iii) when the term of the agreement is two years or more, at the end of the second or a subsequent year that the agreement has been in force if at least two months' notice is given.

Application for suspension of certification of bargaining agent

"**59*i*.** (1) At any time after and not before the expiration of ten months from the date of certification of a bargaining agent on behalf of the majority of employees in a unit, application may be made to the Board for the suspension of the certification of the bargaining agent.

"(2) When an application for the suspension of the certification of a bargaining agent is received, the Board shall determine the merits of the application in the manner provided for in section 59*l*.

Suspension of certification of bargaining agent

"(3) If after determining the merits of the application the Board is satisfied that a majority of the employees in the unit no longer desire the bargaining agent to carry on collective bargaining on their behalf the Board shall suspend the certification of the bargaining agent.

Refusal to suspend certification of bargaining agent

"(4) If after determining the merits of the application the Board is not so satisfied, it shall refuse to suspend the certification of the bargaining agent.

Certification of bargaining agent under suspension

"**59*j*.** While the certification of a bargaining agent is under suspension by the Board,

"(*a*) notwithstanding section 60, an employer is not required to bargain collectively with the suspended bargaining agent, and

"(*b*) a collective agreement in effect at the time of the suspension remains in force until terminated under the provisions of the agreement or under the provisions of subsection (3) of section 59*h*, or of the provisions of subsection (1) of section 61.

Application for removal of suspension of certification of bargaining agent

"**59*k*.** (1) Nothing in section 59*i* prevents a bargaining agent from making an application for the removal of the suspension of its certification.

"(2) If, after determining in the manner provided for in section 59*l* the merits of an application for the removal of a suspension of a bargaining agent's certification, the Board is satisfied that the majority of the employees in the unit desire the suspended bargaining agent to bargain collectively on their behalf, the Board shall remove the suspension.

"(3) If after determining the merits of the application the Board is not so satisfied, it shall refuse to remove the suspension.

Determining merits of application for certification as bargaining agent

"**59*l*.** For the purpose of determining the merits of an application for certification as a bargaining agent or for suspension of a certification of a bargaining agent or for the removal of a suspension of a bargaining agent's certification, the Board

"(*a*) shall make or cause to be made

"(i) any examination of records, or

"(ii) other inquiries including the holding of hearings,

that it deems necessary, and

"(*b*) may conduct or supervise the taking of such votes by secret ballot as it deems necessary, and

"(*c*) may give directions as to the manner of taking votes and the procedure to be followed before, during and after a vote, and

"(*d*) may fix a date from which the list of employees entitled to vote can be determined and may determine the employees who are to be shown on any such list,

"(*e*) may, in determining the employees who are entitled to vote, delete from any list of employees entitled to vote those employees who are absent from work on the day of the vote and who do not cast a vote by reason of illness, authorized leave of absence or annual holiday or weekly day of rest,

"(*f*) may designate the places of voting,

"(*g*) may require the employer to place a suitable portion of his premises at the disposal of the Board for the purpose of taking a vote, and

"(*h*) may, in any plant or industry where the employees work in two or more continuous shifts, arrange for the taking of a vote during each shift if necessary to give all the employees entitled to vote on opportunity of voting.

"**59*m*.** (1) The employees entitled to vote at a vote taken under the provisions of

Employees entitled to vote

"(*a*) section 59*l*, or

"(*b*) subsection (7) of section 80, or

"(*c*) subsection (4) of section 81,

are the employees in the unit.

"(2) If a question arises as to whether a person is an employee or not for the purposes of this Part, the matter shall be determined by the Board and the decision of the Board is final.

"**59*n*.** (1) Where an application

Subsequent application for certification as bargaining agent

"(*a*) to be certified as the bargaining agent of the employees of a unit, or

"(*b*) for the suspension of a certification of a bargaining agent, or

"(*c*) for the removal of a suspension of a bargaining agent's certification,

has been refused, the applicant shall not, except with the consent of the Board, make an application to be certified as the bargaining agent for the same or substantially the same unit or for the suspension of the same certification, or for the removal of the same suspension of certification, whichever is the case, until after the expiration of three months from the date of the previous application.

"(2) The date of making an application shall be deemed to be the date an application is received by the Board.".

26. Section 60 is amended

Section 60 amended

(a) by striking out subsection (2) and by substituting the following:

"(2) A notice to commence collective bargaining shall be served at least five clear days before the time fixed in the notice for the meeting and the employer, employer's organization, trade union, certified bargaining agent or his or their duly accredited representatives shall attend the meeting for the purpose of collective bargaining.",

Service of notice to commence collective bargaining

(b) by striking out subsection (4) and by substituting the following:

"(4) An employer, employer's organization, person, trade union or certified bargaining agent,

"(*a*) who refuses or fails to bargain collectively when so required under this Act, or

"(*b*) who refuses or fails to execute a collective agreement after the terms of an agreement have been settled,

is guilty of an offence.",

(c) by striking out subsections (5) to (10) inclusive.

27. Section 61 is amended

Section 61 amended

(a) by striking out subsection (1) and by substituting the following:

Term of collective agreement

"**61.** (1) No collective agreement shall be made for a term of less than one year.

"(1*a*) Where the term of a collective agreement is expressed to be for a specified term of more than one year, the agreement shall contain or be deemed to contain a provision for the termination of the agreement

"(*a*) after the first year by mutual consent of the parties to the agreement, or

"(*b*) at the end of the second or subsequent year that the agreement continues in effect, by at least two months' notice by either party to the agreement prior to the end of the year that the agreement continues in effect.",

(b) as to subsection (4)

(i) by striking out the words "certified bargaining" and by substituting the word "bargaining",

(ii) by striking out the words "for which the bargaining agent has been certified" where they occur in clause (*a*) and by substituting the words "on whose behalf the agreement has been entered into",

(c) as to subsection (5) by striking out the word "certified",

(d) by adding immediately after subsection (5) the following new subsection:

Penalty for offences re collective agreement

"(6) A person, trade union, bargaining agent or employer who refuses or neglects to do anything required by this section to be done by him, is guilty of an offence and liable on summary conviction

"(*a*) in the case of an individual, to a fine of not more than one hundred dollars,

"(*b*) in the case of a corporation, trade union or bargaining agent, to a fine of not more than five hundred dollars,

and in default of payment to imprisonment for a term of not more than sixty days.".

Section 62 amended

28. Section 62 is struck out and the following is substituted:

Board may direct vote

"**62.** The Board on the request of the employer or on receipt of a petition signed by not less than fifty per cent of the employees or on the direction of the Minister may direct a vote to be taken under its supervision on any question involving the relations between the employer and his employees in a unit as to which it is desirable to have an expression of opinion of the majority of the employees.".

Section 63 amended

29. Section 63 is amended

(a) by renumbering the section as subsection (1),

(b) by striking out the words "; provided that an employer may, notwithstanding anything contained in this section, permit an employee or represent-

ative of a trade union to confer with him during working hours or to attend to the business of the trade union during working hours without deduction of time so occupied in the computation of the time worked for the employer and without deduction of wages in respect of the time so occupied", where they occur in subsection (1),

(c) by adding immediately after subsection (1) the following new subsection:

"(2) Notwithstanding subsection (1), an employer may

"(*a*) make to a trade union donations to be used solely for the welfare of the members of the trade union and their dependants, and

"(*b*) permit an employee or representative of a trade union to confer with him during working hours or to attend to the business of the trade union during working hours without deduction in the computation of time worked by the employee of the time so occupied and without deduction of wages in respect of the time of the employee so occupied.".

New section 64*b*

30. The following new section is added immediately after section 64*a*:

Alteration of conditions of employment

"**64*b*.** During the period of time intervening between the date of an application for certification of a bargaining agent and the date the application is disposed of, no employer shall alter any of the conditions of employment or give effect to any change in wages or hours of work.".

Section 66 amended

31. Section 66, subsection (1) is amended

(a) by striking out the words "threat of loss of position or employment or by an actual loss of position or employment or by any other threat" and by substituting the words "by threat of loss of position or employment or by causing an actual loss of position or employment or by any other threat or act",

(b) by striking out the words "shall, in any such case, be" and by substituting the word "is".

Section 68 amended

32. Section 68 is amended

(a) by striking out subsection (1) and by substituting the following:

Application for appointment of conciliation commissioner

"**68.** (1) If during negotiations for a collective agreement or revision or renewal of an existing agreement, the parties fail to agree on the terms thereof, either of the parties may refer the dispute to the Minister and make application for the appointment of a conciliation commissioner.",

(b) by adding immediately after subsection (2) the following new subsection:

"(3) When a dispute exists or is apprehended, the Minister on his own initiative may appoint a conciliation commissioner if he thinks it expedient to do so, and may at the same time or later refer to the conciliation commissioner any other dispute of a similar kind between any other employer and his employees.".

Section 71 amended

33. Section 71, clause (*b*) is amended by adding immediately after the word "recommendations" the words ", submitted to the parties,".

Section 75 amended

34. Section 75 is amended

(a) by striking out subsection (2) and by substituting the following:

Eligibility as member of board of arbitration

"(2) No person shall be appointed or shall act as a member of a board of arbitration if

"(*a*) he is not a Canadian citizen or British subject, or

"(*b*) he has not resided in the Province for three years immediately preceding the date of his appointment to the board, or

"(*c*) he has any pecuniary interest in the issue or dispute referred to arbitration, or

"(*d*) he is the solicitor or counsel of either of the parties to the arbitration or if he has acted as such at any time within the six months immediately preceding the date of the notice served by the Minister pursuant to section 74, or

"(*e*) he has received remuneration directly from either of the parties to the arbitration at any time within six months immediately preceding the date of the notice served by the Minister pursuant to section 74.",

(b) as to subsection (7) by striking out the words "representative of the employer" and by substituting the words "employer or his representative".

Section 79 amended

35. Section 79, subsection (3) is amended by striking out the words "it is shown" and by substituting the words "they are satisfied".

Section 80 amended

36. Section 80 is amended

(a) as to subsection (2) by striking out the words and figures "or for the intervention of the Minister pursuant to subsection (6) or subsection (8) of section 60,",

(b) as to subsection (6) by striking out the word and figure "subsection (7)," and by substituting the words and figures "subsections (7), (8) and (9),",

(c) by striking out subsections (7), (8) and (9) and by substituting the following:

"(7) The employees directly affected by the award may accept or reject the award by a majority vote of the employees voting by secret ballot on such date as may be appointed by the Minister.

"(8) The employer shall notify the Minister in writing on or before the date fixed by the Minister under subsection (7) of his acceptance or rejection of the award.

"(9) The Board of Industrial Relations may supervise the taking of a vote under subsection (7) in the manner provided for in section 59*l*.

"(10) Where the award of the board of arbitration has been accepted by the employees and the employer under the provisions of subsections (7), (8) and (9), the award is binding on the parties and they shall give effect to it and include the terms of the award in a collective agreement.

"(11) Notwithstanding subsections (7), (8) and (9), if the parties to the dispute notify the Minister in writing before the board of arbitration makes its award or before the date appointed by the Minister for the taking of a vote that they will accept the award of the board of arbitration, then the award of the board of arbitration is binding on the parties and they shall give effect to it without submitting it to a vote and shall include the terms of the award in a collective agreement.".

37. Section 81 is amended

Section 81 amended

(a) as to subsection (1) by striking out the words and figures "or for the intervention of the Minister pursuant to subsection (6) or subsection (8) of section 60, as the case may be,",

(b) by striking out subsection (4) and by substituting the following:

"(4) Notwithstanding anything contained in subsection (1)

"(*a*) no trade union, no officer or representative of a trade union and no person acting or representing himself to be acting on behalf of a trade union shall authorize or call a strike, and

"(*b*) no employee shall go on strike,

until a vote has taken place under the supervision of the Board in the manner provided for in section 59*l* and a majority of the employees entitled to vote have voted in favour of the strike.".

38. Section 82*a*, subsection (2) is amended by adding immediately after the words "there is" the words "or has been".

Section 82*a* amended

39. Section 82*b* is repealed.

Section 82*b* repealed

Section 82c amended

40. Section 82*c*, subsection (1) is amended

(a) by striking out the words "In any case where" and by substituting the word "Where",

(b) by striking out the words "the strike exists" and by substituting the words "he participated in the strike".

Section 82e amended

41. Section 82*e* is amended by striking out the words "the lock-out exists" and by substituting the words "the employee is locked out".

New section 85a

42. The following new section is added immediately after section 85:

Consent of Minister to prosecution

"**85*a*.** (1) No prosecution for an offence under this Part shall be instituted except with the consent in writing of the Minister.

"(2) A consent by the Minister to the prosecution of a person named in the consent for an offence under this Part

"(*a*) alleged to have been committed on, or

"(*b*) in the case of a continuing offence, alleged to have commenced on,

a date set out in the consent, is a sufficient consent for the prosecution of the person named in the consent for any offence under this Part committed on or commencing on the date set out in the consent.".

Section 87 amended

43. Section 87, subsection (3) is amended by striking out the words "may be used solely by the Minister and officers of the Department of Trade and Industry" and by substituting the words "shall be used solely by the Minister and officers of the Department of Industries and Labour".

Section 91 amended

44. Section 91, subsection (2) is amended by striking out the words "For the purpose of carrying out the provisions of this Act without prejudice to any complainant in any case where" and by substituting the word "Where".

Coming into force

45. This Act comes into force on the day upon which it is assented to.

No. 73

SECOND SESSION

TWELFTH LEGISLATURE

3 ELIZABETH II

1954

BILL

An Act to amend The Alberta Labour Act

Received and read the

First time ....

Second time ....

Third time ....

HON. MR. WILLMORE

Title: 1954 (12th, 2nd) Bill 73, An Act to amend The Alberta Labour Act