

No. 143.

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 143

A Bill to amend The Alberta Labour Act

HON. MR. REIERSON

Explanatory Note

1. This Bill amends The Alberta Labour Act, which is chapter 167 of the Revised Statutes.

2. Section 3 gives a brief index to the Act. It is now out of date and is repealed.

3. Section 24, subsection (6) reads:

“(6) Notwithstanding any other provision of this Part, in any such order the Board may provide that an employee working on a statutory holiday as defined in the order be paid at the rate provided for overtime.”.

This is replaced by the new subsection (1a).

4. Section 29, subsection (4) provides for the suspension by the Minister and under certain circumstances of a licence held under The Licensing of Trades and Businesses Act. As the Minister of Labour does not administer the licensing Act, the incorrect reference to him is removed.

BILL

No. 143 of 1964

An Act to amend The Alberta Labour Act

(Assented to _____, 1964)

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* is hereby amended.

2. Section 3 is repealed.

3. Section 24 is amended

(a) by adding the following subsection after subsection (1):

(1a) After such inquiry as the Board considers adequate or without any inquiry, the Board may, with the approval of the Lieutenant Governor in Council, make an order

(a) fixing the basis for the computation of minimum sums of money to be paid

(i) by any employer to his employees who do not work on the holidays, except Sundays, defined in *The Interpretation Act, 1958* or on any of such holidays, and

(ii) by any employer to his employees who do work on such holidays,

or

(b) providing that an employer may pay to an employee a sum of money, in lieu of a sum of money in respect of each such holiday, computed on the basis of a per centum of the employee's ordinary wages at the time of the termination of the employee's employment or at the time the employee commences his annual vacation, whichever first occurs,

and directing that no employer affected thereby shall pay an employee a lesser sum of money than required by the order.

(b) by striking out subsection (6).

4. Section 29, subsection (4), clause (b), subclause (ii) is amended by striking out the words "by the Minister".

5. Under section 41 an employer is guilty of an offence if he does not pay any employee the wages due him within 10 days after the expiration of each period of employment.

6. Under section 43 an employer is guilty of an offence if he does not pay an employee the money due him in lieu of vacation with pay. On the conviction the magistrate may order the money paid. Subsection (10) is amended to make the wording conform with that of section 41, subsection (7) being enacted by clause 4 of this Bill.

7. Section 49, subsection (10) presently reads:

"(10) 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.

Under The Regulations Act, only the schedule is published in the Gazette. The order in council authorizing it is not.

8. Section 55, subsection (1) clause (g) presently reads:

"55. (1) In this Part,

(g) "employers' organization" means an organization of employers formed for the purpose of regulating relations between employers and employees;"

9. Self-explanatory.

10. Section 63, clause (c) presently reads:

"63. If the Board is satisfied

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

5. Section 41 is amended by adding the following subsections:

(5) The magistrate before whom any employer is convicted under this section shall in addition to imposing any other penalty authorized by this Act order the employer to pay to each employee affected an amount equal to the wages owing the employee.

(6) In default of compliance with the order made under subsection (5), the employer is guilty of an offence and liable on summary conviction to imprisonment for a term of not less than ten and not more than ninety days.

(7) Notwithstanding section 3 of *The Seizures Act*, to recover any moneys payable pursuant to the provisions of an order made under subsection (5) the employee may distrain under *The Seizures Act* upon the goods and chattels of the employer.

6. Section 43, subsection (10) is amended by striking out the words "To recover any moneys" and by substituting the words "Notwithstanding section 3 of *The Seizures Act*, to recover any moneys".

7. Section 49, subsection (10) is amended by striking out the words "publication of the order in council" and by substituting the words "its publication".

8. Section 55, subsection (1) is amended

- (a) by adding the following clause after clause (d):
 - (d1) "Court" means the Supreme Court of Alberta;
- (b) as to clause (g) by striking out the words "formed for the purpose of regulating" and by substituting the words "having as one of its purposes the regulation of".

9. Section 62 is amended by adding the following subsection:

(3) Where, in the opinion of the Board, it is desirable to more clearly define the description of the unit of employees affected by an application for certification as a bargaining agent, the Board may so amend the description of the unit of employees.

10. Section 63, clause (c) is amended by striking out subclauses (i) and (ii) and by substituting the following:

- (i) by membership in good standing according to the constitution and by-laws of the applicant or by having applied for membership and by having paid the initiation fee required by the constitution and by-laws of the applicant on or not longer than three months before the date the application for certification was made, or

11. Section 69, clauses (e) and (g) presently read:

"69. For the purpose of determining the merits of an application for certification as a bargaining agent or for the revocation of a certification of a bargaining agent, the Board

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- (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, annual vacation, day of rest or who have been laid off or whose employment has terminated,
.....
- (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,
.....".

12. Section 73 which provides a procedure for settling disputes between the parties to a collective agreement is amended to set out the procedures in greater detail.

- (ii) by the result of a vote conducted or supervised by the Board, of those who were employees in the unit on the date the application was made or such other date as may be fixed by the Board,

11. Section 69 is amended

- (a) as to clause (e) by striking out the words "or who have been laid off or whose employment has terminated" and by substituting the words "lay off or termination of employment",
- (b) as to clause (g) by adding after the word "premises" the words "or the premises where the employees are working".

12. Section 73 is amended

- (a) as to subsections (2) and (3) by adding at the end thereof the words "or to an application for the revocation of the certification of the bargaining agent",
- (b) by renumbering subsection (7) as subsection (19) and renumbering subsections (8) and (9) as subsections (22) and (23), respectively,
- (c) by striking out subsections (5) and (6) and by substituting the following:

(5) Every collective agreement entered into after this subsection comes into force shall contain a provision for final settlement by arbitration or such other method as may be agreed upon by the parties of all differences between the parties or persons bound by the collective agreement or on whose behalf it was entered into concerning its interpretation, application, operation or any alleged violation thereof including any question as to whether the differences are arbitrable without stoppage of work or refusal to perform work.

(6) Where a collective agreement, whether entered into before or after this subsection comes into force, does not contain a provision as required in subsection (5) it shall be deemed to contain the following provisions:

- (a) if any differences concerning the interpretation, application, operation, or any alleged violation of this agreement arise or any question as to whether any difference is arbitrable arises between the parties or persons bound by the collective agreement or on whose behalf it was entered into, the representatives of the employer and of the union shall meet and endeavour to resolve the difference.
- (b) if the parties are unable to resolve the difference either of the parties may
 - (i) after exhausting the procedure set out in the preceding paragraph, or

- (ii) where either party fails to follow the procedure set out in the preceding paragraph to its conclusion,

notify the other party in writing of its desire to submit the difference to arbitration and the notice shall contain a statement of the difference and the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days, exclusive of Saturdays and Sundays and other holidays, inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall within five days, exclusive of Saturdays and Sundays and other holidays, of the appointment of the second of them, appoint a third person who shall be the chairman.

If the recipient of the notice fails to appoint an arbitrator within the time limited, the appointment shall be made by the Board of Industrial Relations upon the request of either party where the Board decides the difference is arbitrable. If the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour upon the request of either party.

The arbitration board shall hear and determine the difference and shall issue an award in writing and the decision is final and binding upon the parties and upon any employee affected by it. The award of a majority is the award of the arbitration board, but if there is no majority the decision of the chairman governs and shall be deemed to be the award of the board.

Each party to the difference shall bear the expenses of its respective appointee to the grievance board and the two parties shall bear equally the expenses of the chairman.

The arbitration board by its decision shall not alter, amend or change the terms of this collective agreement.

(7) Where the provision required or prescribed under this section provides for the appointment of a board of arbitration or other body,

- (a) if either party to the collective agreement within five days, exclusive of Saturdays and Sundays and other holidays, of the written notice from the other party of the appointment of his member or members fails or neglects to appoint a member or members, the Board may upon the request of the other party, where the Board decides the difference is arbitrable, appoint a person or persons it considers fit for such purpose, and such person or persons is or are deemed to be appointed by that party,
- (b) if the appointed members within five days, exclusive of Saturdays and Sundays and other holidays, from the date of the appointment of the last appointed member, fail to agree upon a person to act as chairman, the Minister shall appoint a chairman upon the request of either party, and
- (c) if either member of the arbitration board, or

the chairman thereof, refuses to act, or is incapable of acting, or dies, a new member or chairman may be appointed in the same manner as provided for the appointment of the member or chairman,

except that with the consent of both parties the time within which any of the appointments shall be made may be extended for such time as is agreed to by the parties.

(8) Unless otherwise provided in a collective agreement,

- (a) any person is eligible to be appointed to a position, other than as chairman, on an arbitration board, but
- (b) no person shall be appointed as an arbitrator who is directly affected by the matter before the arbitration board or who has been involved in an attempt to negotiate or settle such matter.

(9) Where a difference has been submitted to arbitration under this section and one of the parties to the arbitration complains to the Board that the arbitrator or the arbitration board, as the case may be, has failed to render an award within a reasonable time, the Board may, after consulting the parties and the arbitrator or the arbitration board, issue whatever order it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay.

(10) The arbitrator or the chairman of the arbitration board, as the case may be, has power

- (a) to summon and enforce the attendance of witnesses and to compel them to give evidence in the same manner as a court of record in civil cases, and do all other things which during the proceedings the arbitrator or arbitration board may require,
- (b) to administer oaths and take affirmations of witnesses,
- (c) to enter any premises where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or it, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person under oath in the presence of the parties or their representatives respecting any such thing or any of such differences,

- (d) to authorize any person to do any thing that the arbitrator or arbitration board may do under clause (c) and to report to the arbitrator or the arbitration board thereon, and
- (e) to correct in any award any clerical mistake, error or omission.

(11) The award of an arbitrator or of an arbitration board is binding

- (a) upon the parties,
- (b) in the case of a collective agreement between a bargaining agent and an employers' organization, upon the employers covered by the agreement who are affected by the awards, and
- (c) upon the employees covered by the agreement who are affected by the award,

and those parties, employers, bargaining agents, and employees shall do or abstain from doing any thing required of them by the award.

(12) An arbitration board by its award shall not alter, amend or change the terms of a collective agreement, and shall forthwith upon making the award, file a copy thereof with the Board.

(13) Where a party, employer, bargaining agent or employee has failed to comply with any of the terms of the award of an arbitrator or arbitration board a party, employer, bargaining agent or employee affected by the award may apply to the Court at any time after the expiration of fourteen days from the date of service of the award of the arbitrator or arbitration board upon the parties affected by it or the date provided in the award for compliance, whichever is later, by way of a notice of motion upon seven clear days' notice to all parties affected by the award for either an order confirming the award and declaring that it be entered as a judgment of the Court or for an order setting the award aside.

(14) Where it appears upon an application being made for an order confirming the award that the application is unopposed the judge hearing the application shall confirm the award and declare that it be entered as a judgment of the Court.

(15) Where an application for an order confirming the award is opposed, or where an application is made to have the award set aside, the judge may set the award aside where

- (a) an arbitrator has misconducted himself or the proceedings, or the arbitration or award has been improperly procured, or

- (b) the judge is of the opinion that a question was not arbitrable, but the arbitrator, arbitration board, or Board, decided the question was arbitrable and an award was made determining such question, or
- (c) an arbitration board has made an error in law appearing on the face of the award regardless of whether the question of law was submitted to be determined by the arbitrator or arbitration board.

(16) Where an award is confirmed and entered as a judgment of the Court it is enforceable as such.

(17) Where:

- (a) an arbitrator has misconducted himself or the proceedings, the Court may remove him;
- (b) an arbitrator has misconducted himself or the proceedings, or an arbitration or award has been improperly procured, the Court may set the award aside;
- (c) an arbitrator or an arbitration board or the Board has decided that a question is arbitrable and an award was made by an arbitrator or arbitration board determining such question, the Court may set the award aside if in the opinion of the Court the question was not arbitrable;
- (d) an arbitrator or arbitration board or the Board has decided that a question is not arbitrable, the Court may if in its opinion the question was arbitrable order the question to be tried by an arbitrator or arbitration board;
- (e) an arbitrator or arbitration board so desires and where so directed by the Court he or it shall state
 - (i) any question of law arising in the course of the arbitration, or
 - (ii) an award or any part of an award, in the form of a special case for the decision of the Court.

(18) *The Arbitration Act* does not apply to arbitrations under collective agreements.

- (d) by adding the following subsections after the renumbered subsection (19):

(20) A collective agreement between an employers' organization and a bargaining agent is, subject to and for the purposes of this Act, binding upon each person who was a member of the employers' organization at the time the collective agreement was entered into and on whose behalf the employers' organization bargained collectively

13. A new provision is added to give the Board power to settle problems that arise when different groups of employers are brought together by reason of the sale or merger of the companies for which they work.

14. Prohibition against penalties for lawfully engaging in employment.

with the bargaining agent as if it were made between each of such persons and the bargaining agent, and if any such person ceases to be a member of the employers' organization during the term of operation of the collective agreement, he shall, for the remainder of the term of operation of the collective agreement, be deemed to be a party to a like collective agreement with the bargaining agent.

(21) When an employers' organization commences to bargain collectively with a bargaining agent, it shall deliver to the bargaining agent a list of the names of the employers on whose behalf it is bargaining collectively and, in default of so doing, it shall be deemed to bargain collectively for all members of the employers' organization for whose employees the bargaining agent is entitled to bargain collectively and to make a collective agreement at that time, except an employer who, either by himself or through the employers' organization, has notified the bargaining agent in writing before the expiration of fourteen days from the date of service of the notice of a meeting to be held for the purpose of collective bargaining that he will not be bound by a collective agreement between the employers' organization and the bargaining agent.

13. Section 74 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Where a business or part thereof is sold, leased or transferred or is merged with another business and the employees affected by a certification of a bargaining agent or by a collective agreement are intermingled with other employees, the Board may, upon the application of any person or trade union affected and after such inquiry as the Board considers adequate

- (a) determine whether the employees concerned constitute one or more appropriate units for collective bargaining,
- (b) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of the employees in such unit or units,
- (c) amend, to such extent as the Board considers necessary any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and
- (d) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate.

14. Section 80 is amended by adding the following subsections:

15. A procedure is provided for holding a vote when two or more employers are jointly bargaining with a trade union.

(8) No trade union or employees' organization and no officer or representative of a trade union or employees' organization shall impose a pecuniary or other penalty on any person

(a) for engaging in employment in accordance with the terms of a collective agreement between his employer and the trade union or employees' organization, or

(b) for engaging in employment with an employer who is not a party to a collective agreement with the trade union or employees' organization, when the trade union or employees' organization fails to make employment available to the person with an employer who is a party to a collective agreement with the trade union or employees' organization.

(9) Clause (b) of subsection (8) does not apply where a legal strike is in effect.

(10) A trade union or employees' organization or an officer or representative of a trade union or employees' organization who contravenes subsection (8) is guilty of an offence and the magistrate in addition to any other penalty authorized by this Act, shall order the officers or representatives of the trade union or employees' organization to refund to the member or person the amount of any pecuniary penalty levied against such member or person or to remove any other penalty imposed.

(11) In default of compliance with the order made under subsection (10) an officer or representative of the trade union or employees' organization is guilty of an offence and liable on summary conviction to imprisonment for a term of not less than ten days and not more than ninety days.

15. Section 93 is amended by adding the following subsections:

(14) Where a conciliation board makes an award respecting disputes between two or more employers and a bargaining agent, the bargaining agent and any two or more of those employers may agree

(a) that the employees of those employers affected by the award shall vote under subsection (8) as one unit, and

(b) that those employers may accept or reject the award by a majority vote of those employers voting at a vote by secret ballot supervised by the Board on the same date as the vote under clause (a),

but if the employer refrains from being a party to the agreement his employees shall vote under subsection (8) as a separate unit.

(15) Where the award of the conciliation board has been accepted by the majority of the employees voting as a unit and the majority of the employers voting under subsection

16. Section 94, subsection (1) presently reads:

"94. (1) Where a dispute exists

- (a) no employer who is a party to the dispute shall cause a lock-out,**
 - (b) no employees who are parties to the dispute shall go on strike,**
 - (c) subject to subsection (7) of section 73, none of the parties shall alter any of the conditions of employment except that the employer, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours, and**
 - (d) the relationship of employer and employee continues uninterrupted by any matter or thing arising out of the dispute,**
- until fourteen days after the date fixed for the taking of a vote under subsection (8) of section 93."**

(14), the award is binding on the parties to the agreement under subsection (14) and the employees affected thereby and they shall give effect to it and include the terms of the award in a collective agreement.

16. Section 94 is amended

- (a) as to subsection (1) by striking out the words "Where a dispute exists" and by substituting the words "Where notice of a meeting to be held for the purpose of collective bargaining has been served by either party pursuant to the provisions of section 72 or pursuant to the terms of a collective agreement,"
- (b) by striking out subsection (2) and by substituting the following:
 - (2) Subsection (1) does not apply where
 - (a) an application under section 82 is refused, or
 - (b) the Minister does not appoint a conciliation board under section 86.
- (c) by adding the following subsections:
 - (5) Where the majority of employees have voted in favour of a strike, no employee shall go on strike until the employer has been given written notice by the bargaining agent that the employees are going on strike and not less than two working days have elapsed from the time such notice was given.
 - (6) Notwithstanding subsection (1), no employer shall cause a lock-out until the bargaining agent has been given written notice by the employer that the employees will be locked out and not less than two working days have elapsed from the time such notice was given.
 - (7) Where there has been compliance with subsection (14) of section 93 and the disputes still exist,
 - (a) no employer who was a party to the agreement under clause (b) of subsection (14) of section 93 shall cause a lock-out until after a vote of such employers has been supervised by the Board and the majority of the employers have voted in favour of the lock-out, and

17. Authority is given to correct irregularities in the naming of a party to proceedings before the Board.

18. Section 105, subsection (1), clause (b) and subsection (4) presently read:

"105. (1) Each trade union and each branch or local of a trade union shall file with the Minister
.....

(b) an annual list of the names and addresses of its president, secretary, organizers and other officers as at the thirty-first day of December in each year.

(4) The list mentioned in clause (b) of subsection (1) shall be filed before the thirty-first day of January in each year."

19. A new section re posting notices is added. The present section 117 is no longer operative and is repealed.

20. Section 123 reads:

"123. No person, firm, corporation or association

(a) shall open, conduct or carry on any employment agency or office for fee or reward, or

(b) shall collect or receive directly or indirectly any fee or compensation for sending any person seeking employment, or for persuading, enticing, inducing, procuring or causing any such person to be sent,

(i) from any place within the Province to any place outside the Province,

(ii) to any place within the Province from any place outside the Province, or

(iii) from one place within the Province to another."

21. Commencement of Act.

- (b) no employee in the unit of employees voting under clause (a) of subsection (14) of section 93 shall go on strike until a vote has been supervised by the Board in the manner provided for in section 69 and a majority of such employees entitled to vote have voted in favour of the strike.

17. Section 103 is amended by adding the following subsection before subsection (2) :

103. (1) Where in any proceedings before the Board under this Part the Board is satisfied that a *bona fide* mistake has been made with the result that the proper person or trade union has not been named or has been incorrectly named, the Board may direct the proper person or trade union be substituted or added as a party to the proceedings or be correctly named upon such terms as the Board deems just.

18. Section 105 is amended

(a) as to subsection (1) by striking out clause (b) and by substituting the following:

(b) a list of the names and addresses of its president, secretary, organizers and other officers, specifying those officers authorized to execute collective agreements in behalf of the trade union.

(b) as to subsection (4) by striking out the words "before the thirty-first day of January in each year" and by substituting the words "within thirty days of the date of appointment or election of such officers".

19. Section 117 is struck out and the following is substituted:

117. The Board or any inspector appointed pursuant to this Act may require any employer to post and keep posted a copy of this Part or excerpts therefrom or any other material related thereto as is prescribed by the Board in a conspicuous place on his premises where it can readily be seen by his employees.

20. Section 123 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Subsection (1) does not apply to any person, firm, corporation or association providing a counselling and placement service for professional, scientific or executive personnel where no fee is charged directly or indirectly to the person seeking employment or to an employee.

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

No. 143

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act to amend The Alberta
Labour Act

Received and read the

First time

Second time

Third time

HON. MR. REIERSON
