

No. 123

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2nd Session, 15th Legislature, Alberta  
13 Elizabeth II

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## **BILL 123**

A Bill to amend The Public Service Act, 1962

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HON. MR. AALBORG

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## Explanatory Note

**1.** This Bill amends The Public Service Act, 1962 (chapter 72 of the Statutes of Alberta, 1962) to add a new Part establishing procedures for negotiations between the Crown and employees of the Crown. Some related amendments are also made to the Act.

**2.** The present provisions of the Act are made Part 1.

**3.** Section 3, subsection (2) provides that the Act does not apply to certain boards and agencies of the Crown. As the new Part 2 will apply to these boards and agencies the section is amended accordingly.

**4.** Section 22 provides for the review and amendment of the General Pay Schedule.

**5.** Section 44, subsection (2), clauses (a) and (c) read:

(2) The functions of the Joint Council are

(a) to consider any proposals or requests made by or on behalf of employees with respect to their salaries or pensions or other working conditions that may apply to employees generally or any class of employees and to make recommendations thereon to the Executive Council,

.....

(c) to examine and report to the Executive Council upon any regulations, rules of procedure, plans of classification, official pay plans or schedules that may be prepared under this Act or any other Act affecting employees, and

**6.** Section 49, subsections (1) and (2) presently read:

**49.** (1) Except as provided in this section, this Act does not apply to positions designated under section 13 as seasonal positions, or to the persons employed in those positions.

(2) The wage rates payable to persons employed in seasonal positions in each department and the application of such rates shall be determined and prescribed by the department head after consultation with the Commissioner and the Civil Service Association of Alberta.

**7.** Part 2 providing for negotiations is added.

**54.** Definitions.

# BILL

No. 123 of 1965

An Act to amend The Public Service Act, 1962

(Assented to \_\_\_\_\_, 1965)

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

1. *The Public Service Act, 1962* is hereby amended.
2. The heading "PART 1" is added immediately preceding section 3.
3. Section 3, subsection (2) is amended by striking out the words "This Act" and by substituting the words "This Part".
4. Section 22 is repealed.
5. Section 44, subsection (2) is amended by striking out clauses (a) and (c).
6. Section 49 is amended
  - (a) as to subsection (1) by striking out the words "this Act" and by substituting the words "this Part",
  - (b) as to subsection (2) by adding at the end thereof the words "or as required by an agreement entered into pursuant to Part 2".
7. The following heading and sections are added after section 53:

## PART 2

### NEGOTIATIONS

54. In this Part,
- (a) "agreement" means an agreement in writing
    - (i) between the Government or a board or agency of the Crown and the Association or a branch of the Association representing a group of employees,
    - (ii) containing provisions with reference to rates of pay, hours of work, or other terms or conditions of employment of the employees and signed by the parties;

**55.** Civil Service Association has sole right to negotiate.

**56.** Request for negotiations.

- (b) "Association" means the Civil Service Association of Alberta or, where authority to negotiate is delegated to it pursuant to section 55, a branch of the Association;
- (c) "employee" includes persons employed by the Government, by any board or agency of the Crown, whether appointed pursuant to Part 1 or not, but does not include
  - (i) a deputy head, a head of any agency of the Crown, a chairman or member of any board of the Crown or any other person who in the opinion of the Minister exercises a policy-making function in matters relating to personnel administration, or
  - (ii) any group of persons employed by the Government or a board or agency of the Crown who are members of a professional association and who are excluded by the Minister at the request of the majority of the persons in the group;
- (d) "mediation board" means a mediation board appointed under this Part;
- (e) "negotiate" means to negotiate in good faith with a view to the conclusion of an agreement or the revision or the renewal of an existing agreement.

**55. (1)** The Association has the sole right

- (a) to negotiate on behalf of employees appointed pursuant to Part 1, and
- (b) to negotiate on behalf of the employees of any board or agency of the Crown or any such employees in a specific field of employment where a majority of the employees or the majority of the employees in that field of employment, as the case may be, are members of the Association.

(2) Where membership in a branch of the Association is limited to the employees of a specific board or agency of the Crown or to employees in a specific field of employment, the Association may delegate its authority to negotiate in whole or in part to that branch.

**56. (1)** The Government or, subject to clause (b) of subsection (1) of section 55, any board or agency of the Crown shall, upon the request of the Association, enter into negotiations in the manner provided by this Part.

(2) The Association shall, upon the request of the Government or, subject to clause (b) of subsection (1) of section 55, of any board or agency of the Crown enter into negotiations as provided by this Part.

(3) Either party to an agreement may, not less than sixty days and not more than ninety days immediately pre-

**57. Appointment of negotiating committee.**

**58. Negotiating committee to report to both parties.**

ceding the expiry of the agreement, give notice to the other party to commence negotiations.

(4) A notice to commence negotiations shall describe the proposals or requests respecting rates of pay, hours of work or other terms or conditions of employment which may be negotiated that may apply to employees generally or to employees in a specific field of employment.

(5) Where the members of a negotiating committee established pursuant to section 57 cannot agree as to whether a specific proposal or request is negotiable the decision of the Minister thereon is final.

**57.** Where notice to negotiate has been served by either party, a negotiating committee shall be appointed consisting of the following persons:

- (a) where employees appointed to positions pursuant to Part 1 are affected, three persons appointed by the Executive Council, one of whom shall be a member of the Executive Council and three persons appointed by the Association who shall be members or employees of the Association; or
- (b) where employees of any board or agency of the Crown whose employees are excluded from Part 1 by the terms of Part 1 or of the Act under which the board or agency is established are affected, three persons appointed by the board or agency of the Crown and three persons appointed by the Association who shall be members or employees of the Association.

**58.** (1) The negotiating committee shall consider the proposals or requests contained in the notice to commence negotiations and within a period of three months from the date of the notice, or such longer period as may be agreed to by the members of the negotiating committee, shall transmit its report to the Executive Council or the board or agency of the Crown, as the case may be, and to the Association setting out

- (a) its recommendations for settlement of the proposals or requests, and
- (b) the proposals or requests respecting which the negotiating committee could not agree on a recommendation.

(2) The recommendation of a majority of the members of a negotiating committee are the recommendations of the committee.

(3) Upon receipt of the report of the negotiating committee the Executive Council or the board or agency of the Crown and the Association shall each advise the other within fourteen days from the date of receipt of the recommendations of the negotiating committee whether the

**59.** Agreement between the Executive Council and the Association.

**60.** Agreement between certain boards and agencies and the Association.



recommendations are in whole or in part accepted or rejected.

**59.** (1) This section applies only with respect to employees whose rate of remuneration is established by the Lieutenant Governor in Council.

(2) Where the recommendations of the negotiating committee covering all proposals or requests are accepted by both the Executive Council or the board or agency of the Crown and the Association, the recommendations are binding on the parties and the employees affected and the parties shall give effect to them and include the terms of the recommendations in an agreement.

(3) Where

- (a) the negotiating committee has not made recommendations respecting all proposals or requests, or
- (b) the negotiating committee has made recommendations respecting all proposals or requests but either the Executive Council or the Association rejects the recommendations in whole or in part,

the Executive Council and representatives of the Association shall meet with a view to concluding an agreement.

(4) After the meeting mentioned in subsection (3), the Government and the Association shall include in an agreement the terms of any settlement reached on any of the proposals or requests, and the agreement so made is binding upon the parties and the employees affected and the parties shall give effect to the terms thereof.

(5) After the meeting mentioned in subsection (3) and before an agreement is signed pursuant to subsection (4), the Government shall submit to the Association a statement containing the Government's decisions on those proposals and requests on which settlement was not reached, and thereupon

- (a) the decisions are binding upon the Government, the Association and the employees affected, and
- (b) the Government shall not alter, revoke or do anything inconsistent with the decisions,

during the term of the agreement signed pursuant to subsection (4).

**60.** (1) This section and sections 61 to 67 apply only with respect to employees whose rate of remuneration is established by the board or agency of the Crown with whom they are employed.

(2) Where the recommendations of the negotiating committee covering all proposals or requests are accepted by both the board or agency of the Crown and the Association, the recommendations are binding on the parties and the employees and the parties shall give effect to them and include the terms of the recommendations in an agreement.

**61. Appointment of mediation board.**

(3) Where

- (a) the negotiating committee has not made recommendations respecting all proposals or requests, or
- (b) the negotiating committee has made recommendations respecting all proposals or requests but either the board or agency of the Crown or the Association rejects the recommendations in whole or in part,

either party may by notice in writing to the other party require all proposals or requests not settled to be referred to a mediation board.

61. (1) Where proposals or requests are referred to a mediation board each party shall appoint a member to the board within seven days, exclusive of Saturdays and Sundays and other holidays, of the date of the service of the notice referring the proposals or requests to a mediation board.

(2) The two persons so appointed as members shall appoint a person to act as a third member and the third member shall be chairman of the board.

(3) If the two members fail to appoint a third member within five days, exclusive of Saturdays and Sundays and other holidays, after the day on which the last of the two members is appointed, the Attorney General shall appoint a third member who shall be chairman of the mediation board.

(4) An appointment to fill a vacancy in the membership of a mediation board shall be made in the same manner as the original appointment of the member whose ceasing to act caused the vacancy.

(5) No person shall be appointed or act as a member of a mediation board if

- (a) he is not a Canadian citizen or a British subject,
- (b) he has not resided in the Province for one year immediately preceding the date of his appointment to the board,
- (c) he has any pecuniary interest in the proposals or requests referred to the board,
- (d) he is the solicitor or counsel of either of the parties or if he has acted as such at any time within the six months immediately preceding the date of his appointment to the mediation board, or
- (e) he has received remuneration directly from either of the parties at any time within six months immediately preceding the date of his appointment to the mediation board.

(6) Before entering upon the exercise of the functions of their office the members of a mediation board shall make an oath or an affirmation in writing before a justice of

**62.** Mediation board to hold inquiry and endeavour to settle disagreements.

**63.** Procedures of mediation board.

**64.** Mediation board to make recommendations.

the peace or other person authorized to administer an oath or affirmation

- (a) that they will faithfully and impartially perform the duties of their offices, and
- (b) that, except in the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the mediation board.

(7) Subject to Part 1, the Minister may provide a mediation board with a secretary, stenographer and such other clerical assistance as to the Minister appears necessary for the efficient carrying out of the duties of the mediation board.

**62.** (1) As soon as possible after a mediation board is designated it shall, after serving sufficient notice on all parties, proceed to make full inquiry and shall endeavour to bring about agreement between the parties in relation to the proposals or requests referred to it.

(2) The sittings of a mediation board shall be held at such time and place as are fixed from time to time by the chairman after consultation with the other members of the board and the parties shall be notified by the chairman of the time and place at which sittings are to be held.

**63.** (1) A mediation board has power to determine its own procedures but shall give full opportunity to all parties to present evidence and to be heard.

(2) For the purpose of inquiry a mediation board has the power of administering oaths and any member of the mediation board may administer an oath.

(3) A mediation board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

(4) A party to proceedings before a mediation board may be represented before the board by not more than three persons designated by the party for that purpose.

(5) A party appearing by a representative is bound by the acts of his representative.

(6) If, without good cause being shown, any party to proceedings before a mediation board fails to attend or to be represented, the mediation board may proceed as if the party had attended or had been represented.

**64.** (1) After making full inquiry and without undue delay and in any event not more than fourteen days exclusive of Saturdays and Sundays and other holidays, after the date the chairman has agreed to act, the mediation board shall

- (a) make its recommendations and in its recommendations, so far as practicable, deal with each proposal or request, and

**65.** Settling questions arising out of board's recommendations.

**66.** After receiving the mediation board's recommendations the parties are to endeavour to conclude an agreement.

(b) shall state in plain terms, and avoiding as far as possible all technicalities, what in the opinion of the board ought or ought not to be done by the parties concerned.

(2) With the unanimous consent of all parties, the time within which a mediation board is to make its recommendations may be extended for such period as is agreed to by the parties.

(3) The recommendations of a majority of the members of a mediation board are the recommendations of the board.

(4) The recommendations of a mediation board may be in whole or in part retroactive.

(5) The recommendations shall be signed by those members of the mediation board who concur therein and shall be transmitted to the board or agency of the Crown and to the Association as soon as practicable after the making thereof.

**65.** Where any question arises as to the meaning of or application of or with regard to anything relating to or connected with the recommendations, either the board or agency of the Crown or the Association if they consider it expedient may request from the chairman of the mediation board an expression of the opinion of the mediation board upon the question, and the chairman shall, upon the receipt of the request, reconvene the mediation board and the mediation board shall as soon as practicable report to the parties its opinion upon the question.

**66.** (1) The board or agency of the Crown and the Association shall each advise the other within fourteen days from the date of the receipt of the recommendations of the mediation board whether the recommendations are in whole or in part accepted or rejected.

(2) Where the recommendations of a mediation board are accepted by both the board or agency of the Crown and the Association, the recommendations are binding on the parties and the employees affected and the parties shall give effect to them and include the terms of the recommendations in an agreement.

(3) Where either the board or agency of the Crown or the Association rejects the recommendations of a mediation board in whole or in part, the board or agency of the Crown and the representatives of the Association shall meet with a view to concluding an agreement.

(4) After the meeting mentioned in subsection (3), the board or agency of the Crown and the Association shall include in an agreement the terms of any settlement reached on any of the proposals or requests, and the agreement so made is binding upon the parties and the employees affected and the parties shall give effect to the terms thereof.

**67.** Responsibility for expenses of mediation board.

**68.** Agreement to contain provision for settling differences by arbitration.



(5) After the meeting mentioned in subsection (3) and before an agreement is signed pursuant to subsection (4), the board or agency of the Crown shall submit to the Association a statement containing the decisions of the board or agency of the Crown on those proposals and requests on which settlement was not reached, and thereupon

(a) the decisions are binding upon the board or agency, the Association and the employees affected, and

(b) the board or agency shall not alter, revoke or do anything inconsistent with the decisions,

during the term of the agreement signed pursuant to subsection (4).

**67.** The board or agency of the Crown and the Association shall bear the expenses of its respective appointee to a mediation board and the two parties shall bear equally the expenses of the chairman.

**68.** (1) Every agreement between a board or agency of the Crown and the Association shall contain a provision for final settlement of all differences between the parties to or persons bound by the 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.

(2) Where any agreement does not contain a provision as required in subsection (1) 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 this agreement or on whose behalf it was entered into, the representatives of the board or agency of the Crown and of the Association 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

**8. Commencement of Act.**

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 two members fail to appoint a third member within five days, exclusive of Saturdays and Sundays and other holidays, after the day on which the last of the two members is appointed, the Attorney General shall appoint a third member who shall be chairman of the arbitration board.

- (c) 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.
- (d) Each party to the difference shall bear the expenses of its respective appointee to the arbitration board and the two parties shall bear equally the expenses of the chairman.
- (e) The arbitration board by its decision shall not alter, amend or change the terms of this agreement.

8. This Act comes into force on the first day of July, 1965.

No. 123

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SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

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**BILL**

An Act to amend The Public Service  
Act, 1962

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. AALBORG

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