

1968 Bill 67

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First Session, 16th Legislature, 17 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 67**

**An Act respecting the Public Service**

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THE HONOURABLE MR. R. A. SPEAKER

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 67

1968

An Act respecting the Public Service

(Assented to \_\_\_\_\_, 1968)

WHEREAS it is desirable to maintain for the public service of the Province of Alberta a system of personnel administration which provides uniform, objective standards and which recognizes the obligation of the Crown to provide the highest standard of service to the people of Alberta; and

WHEREAS this system should also recognize the rights and aspirations of employees and the value of joint discussion of common problems in an atmosphere of mutual trust and respect;

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

1. This Act may be cited as *The Public Service Act, 1968*.

2. In this Act,

- (a) "agreement" means a contract between the Lieutenant Governor in Council and the Association containing provisions with respect to salaries, wages, fringe benefits or other terms or conditions of employment of employees;
- (b) "Association" means The Civil Service Association of Alberta;
- (c) "Commissioner" means the Public Service Commissioner appointed pursuant to this Act;
- (d) "department" in addition to its ordinary meaning includes any establishment or organizational unit designated as a department by the Lieutenant Governor in Council for the purposes of this Act;
- (e) "department head" means a member of the Executive Council charged with the administration of a department;
- (f) "deputy head" means the chief officer of a department;
- (g) "employee" means a person appointed to a position pursuant to this Act;

## **Explanatory Notes**

General. This Bill revises and replaces The Public Service Act, 1962 (chapter 72 of 1962 Statutes). The section references in the explanatory notes are to the equivalent provisions in the present Act.

### **2. Definitions.**

- (h) "Minister" means the member of the Executive Council charged with the administration of this Act;
- (i) "negotiate" means to bargain in good faith with a view to the conclusion of an agreement or the revision or the renewal of an existing agreement.

**3.** (1) This Act applies to all departments of the Government, including employees of the Executive Council and of the Legislative Assembly.

(2) The Provincial Auditor and the Ombudsman

- (a) shall be considered as employees for purposes of this Act except for their appointment, salary and tenure or any other conditions prescribed by the Act under which they are appointed, and
- (b) have the powers and authority of a department head and a deputy head for purposes of this Act in respect of the employees under their supervision.

(3) This Act does not impair nor otherwise affect

- (a) the rights and privileges of the Legislative Assembly with regard to the appointment or removal of any employee of the Assembly, or
- (b) an already established authority or control of the courts and judges over their officers.

(4) This Act does not apply to the members or employees of

- (a) The Alberta Liquor Control Board, or
- (b) The Workmen's Compensation Board, or
- (c) the Oil and Gas Conservation Board, or
- (d) The Research Council of Alberta, or
- (e) The Human Resources Research Council.

#### **Personnel Administration Office**

**4.** (1) There is hereby established within the public service of the Province a Personnel Administration Office.

(2) Subject to this Act, such employees as are required may be appointed to the staff of the Personnel Administration Office.

**5.** (1) The Lieutenant Governor in Council shall appoint a Public Service Commissioner who shall administer this Act subject to the general direction of the Minister.

(2) The Commissioner is the deputy head of the Personnel Administration Office and may delegate to any designated officer of that office any of the functions, duties and powers assigned to the Commissioner by this Act or the regulations.

**3.** Application of Act—see present sections 3 and 4. Subsection (2) is new.

**4.** Personnel Administration Office established—see present section 11.

**5.** Appointment of Public Service Commissioner—see present sections 10 and 11 (3).

**6. (1) The Commissioner shall:**

- (a) advise the Minister respecting personnel policies, regulations and procedures;
- (b) keep informed of developments in personnel administration so that they may be applied where desirable to the public service;
- (c) advise and assist departments in the conduct of departmental personnel activities;
- (d) provide upon the request of a department, management advisory services in such areas as employee training and development, manpower planning and organization studies;
- (e) advise the Minister as to how employee training programs of inter-departmental application may be co-ordinated between departments;
- (f) conduct such programs and investigations and prepare such reports, as may be required by the Minister or the Treasury Board concerning any aspect of staff utilization in the public service;
- (g) maintain such records as he considers necessary for the proper administration of this Act or as directed by the Minister;
- (h) prescribe the use of such forms as may be required for carrying out this Act and the regulations.

(2) The Commissioner shall make an annual report to the Minister on the operations of the Personnel Administration Office for the preceding calendar year which shall be laid before the Legislative Assembly at the next ensuing session of the Legislature.

**Organization and Management of Departments**

**7. (1) Subject to the general direction of the department head, the deputy head**

- (a) shall oversee and control the attendance, conduct and work performance of the employees in his department,
- (b) may, subject to any other Act relating to the organization of a department, divide the department into branches and divisions and assign duties to positions as required for the effective performance of the department's functions, and
- (c) may appoint an acting officer to have, during the absence of the incumbent, the power and authority of the office for which he is appointed to act, unless such an appointment is otherwise provided for by any other Act.

(2) For the purposes of this Act a deputy head has the powers and may perform the duties of his department head.

**6.** General duties of the Commissioner—present sections 12 and 48.

**7.** General authority of deputy ministers—see present section 5.

**8.** A department head may, subject to the regulations, delegate any of the powers and duties granted to him by this Act to designated officials of his department.

**9. (1)** Each department shall have a staff establishment consisting of those positions in the department for which salaries are authorized

- (a) by vote of the Legislature, or
- (b) under subsection (3).

(2) Where a department proposes to add a new position or change an existing position by

- (a) providing for the addition or change in its departmental estimates for the next ensuing fiscal year, or
  - (b) requesting authorization under subsection (3),
- the positions shall be allocated to a class in the classification plan pursuant to section 10 unless the position is excluded from the plan pursuant to section 11.

(3) The Lieutenant Governor in Council may

- (a) change a department's staff establishment by adding, abolishing or changing positions, and
- (b) provide for the payment of such salaries as may be required until the end of the fiscal year in which the change occurs.

#### **Classification of Positions**

**10. (1)** The Lieutenant Governor in Council shall establish and maintain a classification plan defining and designating the classes of positions in the public service

- (a) as a basis for uniform treatment of employees performing the same kind and level of work, and
- (b) to provide a systematic basis for organization and administration.

(2) Each position in the staff establishment of a department shall be allocated to a class in the classification plan by the Commissioner.

(3) Notwithstanding subsection (2), the Commissioner may in writing authorize a department head to allocate positions in his department to any specified classes, subject to such rules and principles as the Commissioner prescribes.

**11. (1)** Notwithstanding section 10, the classification plan shall not include the positions of deputy ministers and any other positions or classes of positions the Lieutenant Governor in Council excludes therefrom.

(2) Before excluding a position or class of positions from the classification plan the Lieutenant Governor in Council shall obtain a report from the Commissioner as to the desirability of that action.



**8.** Authority of Minister to delegate.

**9.** Staff establishments—see present section 14.

**10.** Classification of positions—see present section 15.

**11.** Exclusions from classification plan—see present section 15 (1) (a).

**12.** (1) The Lieutenant Governor in Council shall appoint a classification appeal board consisting of a chairman and two other members.

(2) An employee or a department head may appeal the allocation of a position to the classification appeal board in the manner prescribed by the regulations.

(3) The decisions of the classification appeal board are binding upon the Commissioner.

#### **Salary Determination**

**13.** (1) The Lieutenant Governor in Council shall establish and maintain an Official Pay Plan showing a salary range for each class in the classification plan, so that the total compensation for each class may remain comparable with that offered by private and public employers, having due regard to the relative levels of the classes.

(2) Where a position or class of positions is

(a) included in the classification plan, but

(b) excluded from negotiations pursuant to section 26, the Commissioner shall consult the head of any department concerned before recommending that the Official Pay Plan be amended.

**14.** (1) The Commissioner shall, upon request of the Minister, prepare salary recommendations in respect of positions which are excluded from the classification plan pursuant to section 11.

(2) The Lieutenant Governor in Council shall establish salary ranges for such positions.

#### **Recruitment, Selection and Appointment**

**15.** Each appointment to, and promotion within, the public service shall be predicted upon the selection of the most suitable applicant but wherever possible preference shall be given to in-service applicants in order to establish a career service and to provide incentive and reward for good work performance and self-development.

**16.** (1) The Commissioner shall designate the positions or classes of positions in the classification plan as those to be filled by

(a) in-service promotion where

(i) due to the necessity for prior experience in the public service or due to the existence of a formal in-service training plan it is unlikely that better applicants can be found outside the service, and

**12.** Classification appeals—see present section 18.

**13.** Official Pay Plan—see present section 20.

**14.** Salaries of positions excluded from classification—see present section 24.

**15.** Statement of policy governing appointments.

**16.** How positions are to be filled—see present sections 27, 28, 29, 31 and 32.

(ii) the eligible employees are sufficiently well-known that competition procedure is unnecessary,

or

- (b) departmental competitions where the type of work is such that a large number of well-qualified applicants exist within the department, or
- (c) limited competition where a large number of well-qualified applicants exist within the service, or
- (d) open competitions where sufficient in-service applicants would not normally be forthcoming to ensure a good selection.

(2) Notwithstanding subsection (1), a department head may request that any position designated to be filled by in-service promotion or departmental competition be filled by limited or open competition.

(3) The Commissioner may exempt an appointment from competition if he is satisfied that

- (a) the person to be appointed has specialized knowledge or qualifications which are unlikely to be bettered through competition, or
- (b) the urgency of the requirement is such as to render the competition procedure impracticable.

**17.** (1) Departmental competitions shall be conducted by the department head.

(2) Limited and open competitions shall be conducted by the Commissioner.

(3) Notwithstanding subsection (2), the Commissioner may authorize a department head to conduct limited or open competitions where due to the specialized nature of the work or the geographic isolation of the position the competition can be more efficiently conducted by the department.

(4) Competitions conducted by a department head shall be conducted in accordance with the rules and procedures prescribed by the Commissioner.

**18.** (1) All appointments to positions in the classification plan shall be made by the department head.

(2) Where a position

- (a) is to be filled by limited or open competition conducted by the Commissioner, or
- (b) is exempt from competition,

an appointment to the position is subject to the Commissioner's certification that the person to be appointed is qualified for the position.

**17.** Conduct of competitions.

**18.** Appointments—see present section 30.

(3) Appointments made to positions excluded from the classification plan pursuant to section 11 shall be made by order of the Lieutenant Governor in Council upon the recommendation of the department head.

**19.** (1) Upon commencing employment in the public service, each employee shall be on probationary appointment during such period as the regulations may specify.

(2) An employee may be granted permanent appointment upon satisfactory completion of a probationary period.

(3) An employee who is hired specifically for a temporary position may be granted a temporary appointment.

#### **Conditions of Service**

**20.** Every new employee shall take and subscribe an oath in the following form:

I, ....., do swear that I will execute according to law and to the best of my ability the duties required of me as an employee in the public service of Alberta and that I will not, without due authorization, disclose or make known any matter or thing which comes to my knowledge by reason of my employment in the public service.

**21.** The Lieutenant Governor in Council may make regulations governing:

- (a) the attendance and hours of work of employees;
- (b) the granting of holidays;
- (c) overtime;
- (d) annual vacation, sick leave, educational leave and any other form of leave of absence;
- (e) the application of salary ranges;
- (f) the settlement of employee grievances;
- (g) the transfer, promotion or demotion of employees;
- (h) the conduct, discipline, dismissal or suspension of employees;
- (i) any other matter falling within the scope and purpose of this Act.

**22.** Where a position is abolished

- (a) every effort shall be made to place the employee who occupied that position in any other position in the public service for which he is qualified, but
- (b) if no suitable position can be found, the employee shall be released and shall be given preference for re-employment over equally qualified applicants.

**23.** (1) The Lieutenant Governor in Council may issue a code of conduct and ethics for the public service.

**19.** Probationary appointments—see present section 34.

**20.** Oath of office—see present section 35.

**21.** Regulations—see present section 46.

**22.** Statement of policy regarding redundant employees.

**23.** Codes of conduct and ethics authorized.

(2) Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to his department.

**24.** (1) Unless authorized by general regulations or particular orders made by the Lieutenant Governor in Council,

(a) no employee

- (i) shall be a bidder at a sale of Crown lands, or
- (ii) shall acquire estate or interest in Crown lands, either directly or indirectly, in his own name or through another person or in the name of a person in trust for himself,

(b) no employee shall

- (i) be a shareholder or director of a corporation or company that has an estate or interest in Crown lands, or
- (ii) have directly or indirectly an interest in shares of a company that has an estate or interest in Crown lands in his own name or through another person or in the name of a person in trust for himself,

unless the shares of the company are regularly quoted and dealt in on a recognized stock exchange, and

(c) no employee shall take or receive for his own use a fee or emolument for negotiating or transacting any business connected with his official duties.

(2) An employee who wilfully contravenes this section is guilty of an offence and liable on summary conviction to a fine of not more than \$500, and in default of payment to a term of imprisonment for not more than three months.

(3) An interest in Crown lands acquired in contravention of this section is void.

(4) In this section, "Crown lands" means all lands, mines and minerals belonging to the Crown in right of Alberta and any estate or interest therein, including, without limitation,

- (a) an agreement or mineral claim within the meaning of *The Mines and Minerals Act, 1962*,
- (b) a disposition within the meaning of *The Public Lands Act, 1966*, and
- (c) a lease, licence or permit under *The Forests Act, 1961*.

**25.** (1) An employee may be dismissed, suspended or subjected to other disciplinary action by his department head

- (a) if he is unable to satisfactorily perform his duties, or
- (b) for misconduct, improper conduct or negligence.



**24.** This section replaces The Prohibition Against Dealing in Crown Lands Act which is chapter 244 of the Revised Statutes.

**25.** Discipline of employees—see present section 40.

(2) If the employee is on permanent appointment he may appeal against the dismissal or other disciplinary action in the manner prescribed by the regulations.

(3) Nothing in this section or the regulations impairs or otherwise affects the right of the Lieutenant Governor in Council to reinstate or dismiss any employee.

#### **Employee Relations**

**26.** The Association has the sole right to negotiate on behalf of employees other than

- (a) employees who, in the opinion of the Minister, exercise a policy development function for the purposes of this Act or who make significant decisions respecting the treatment of employees pursuant to this Act and the regulations, and
- (b) employees 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.

**27.** (1) The Government or the Association may, not less than 60 days and not more than 90 days immediately preceding the expiry of an agreement, give notice to the other party to commence negotiations.

(2) A notice to commence negotiations shall describe the proposals respecting salaries, wages, fringe benefits or other terms or conditions of employment which the party making the request wishes to negotiate.

**28.** (1) Where notice to negotiate has been served by either party, a negotiating committee consisting of

- (a) the Commisisoner and two other persons appointed by the Executive Council who shall be members of the public service, and
  - (b) three persons appointed by the Association who shall be members or employees of the Association,
- shall be appointed and shall consider the proposals contained in the notice to commence negotiations.

(2) Where the members of a negotiating committee cannot agree as to whether a specific proposal is negotiable the decision of the Minister thereon is final.

**29.** (1) The negotiating committee, 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 and to the Association setting out

- (a) its recommendations for settlement of the proposals, and

**26.** Power of Association to negotiate on behalf of employees—present section 55 and see also the Bill to enact The Crown Agencies Employee Relations Act.

**27.** Request for negotiations—see present section 56.

**28.** Negotiating committee—see present section 57.

**29.** Report of negotiating committee and agreement—see present sections 58 and 59.

(b) the proposals respecting which the negotiating committee could not make a recommendation.

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

(3) Upon receipt of the report of the negotiating committee, the Executive Council and the Association shall each advise the other, within 14 days from the date of receipt of the report

(a) whether the recommendations therein are in whole or in part accepted, and

(b) which recommendations are rejected.

(4) Where

(a) the negotiating committee has not made recommendations respecting all proposals, or

(b) either the Executive Council or the Association rejects the negotiating committee's recommendations in whole or in part,

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

(5) After the meeting held pursuant to subsection (4) and before an agreement is signed pursuant to subsection (6), the Government shall submit to the Association a statement containing the Government's decisions on those proposals 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 any thing inconsistent with the decisions,

during the term of the agreement signed pursuant to subsection (6).

(6) Where proposals are accepted by both the Executive Council and the Association pursuant to subsection (3) or (4) they shall be included in an agreement which shall be binding on the parties and the employees affected.

(7) The Lieutenant Governor in Council shall forthwith amend the Official Pay Plan and the regulations as is necessary to give effect to

(a) an agreement signed pursuant to subsection (6), or

(b) a decision of the Government made pursuant to subsection (5).

**30.** (1) There is hereby established a Joint Council consisting of

(a) the Minister who shall be the chairman,

(b) two other members of the Executive Council appointed by the Lieutenant Governor in Council, and

**30.** Joint Council—see present section 44.

(c) three persons appointed by the Association, one of whom shall be vice-chairman of the Joint Council,  
which shall hold at least 10 meetings a year.

(2) The functions of the Joint Council are

- (a) to discuss matters of mutual interest to the Government and the Association but which are
  - (i) declared not negotiable under section 29, or
  - (ii) not included in an agreement,and
- (b) to attempt to resolve any misunderstanding or disagreements as to interpretation of an existing agreement.

(3) If a majority of the Joint Council is unable to agree as to an interpretation of an existing agreement the decision of the Executive Council shall be final.

(4) The Commissioner and the Executive Secretary of the Association

- (a) may participate in the meetings of the Joint Council without voting power, and
- (b) shall constitute an agenda committee for the Joint Council.

#### **General**

**31.** (1) In this section "wage employee" means a person employed in or under any department of the Government, including the Executive Council and the Legislative Assembly, who is paid at an hourly, daily, weekly or monthly rate.

(2) Wage employment may be used

- (a) under conditions which do not permit employment throughout a day, week or month, or
- (b) where necessitated by the employment practices of competitive private employers.

(3) This Act, except section 24 and sections 26 to 31, does not apply to wage employees.

(4) The Lieutenant Governor in Council may make regulations governing the appointment, payment and conditions of service of wage employees.

**32.** The Lieutenant Governor in Council may

- (a) establish a civil service welfare fund and an employees' charity fund,
- (b) require every employee to contribute a prescribed portion of his salary to each fund,
- (c) prescribe the charitable or benevolent purposes for which the money received by each fund may be expended and conditions governing any such expenditures, and
- (d) provide for the appointment of trustees to administer each fund.

**31.** Wage employees—see present section 49.

**32.** Authorization for Welfare Fund.

**33.** Where any other Act provides that the Lieutenant Governor in Council may, subject to *The Public Service Act*, appoint employees for any purpose the employees shall be appointed in accordance with this Act.

**34.** A certificate

(a) purporting to be signed by a department head, and  
(b) stating that the person named therein holds a designated position or office in the public service,  
shall be admitted in evidence as *prima facie* proof of that fact without proof of the signature or official character of the person appearing to have signed the certificate.

**35.** This Act repeals and replaces

- (a) *The Public Service Act, 1962*, and  
(b) *The Prohibition Against Dealing in Crown Lands Act*.

**36.** This Act comes into force on July 1, 1968.



**33.** Reference to former Act—see present section 50 (1).

**34.** Certificate as evidence—see present section 50 (2).

**35.** Repeal.