

1968 Bill 91

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 91

An Act to amend The Alberta Labour Act

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

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BILL 91

1968

An Act to amend The Alberta Labour Act

(Assented to _____, 1968)

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 4 is struck out and the following section is substituted:

4. (1) This Act applies to all persons who are either employers or employees within Alberta other than:

- (a) domestic servants in private houses and persons who employ only domestic servants in private houses;
- (b) farm labourers and persons who employ only farm labourers;
- (c) municipal policemen appointed for a municipality in the manner provided by the Act applicable to the municipality.

(2) For the purposes of subsection (1), "farm labourers" does not include employees employed in an undertaking which, in the opinion of the Board, is a commercial undertaking.

3. Section 6 is amended by striking out subsection (1a) and by substituting the following:

(1a) Notwithstanding subsection (1), the Lieutenant Governor in Council may appoint a vice-chairman who shall act as Chairman of the Board at the Chairman's direction, and who shall be deemed to be a member of the Board while so acting.

4. Section 11, subsection (1) is amended

- (a) by striking out clause (c) and by substituting the following:
 - (c) the wage rate and date and particulars of each change,
- (b) by striking out the word "and" at the end of clause

Explanatory Notes

1. This Bill will amend chapter 167 of the Revised Statutes.

2. Section 4 presently reads:

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

- (a) domestic servants in private houses and farm labourers,
- (b) persons who employ only domestic servants in private houses or farm labourers, or both, and
- (c) municipal constables appointed for a municipality in the manner provided by the Act applicable to the municipality.

3. Section 6 (1a) presently reads:

(1a) Notwithstanding the provisions of subsection (1), the Lieutenant Governor in Council may appoint a vice-chairman, not being a member of the Board, who may act as Chairman of the Board during the Chairman's absence, and who shall be deemed to be a member of the Board while so acting.

4. Section 11 (1) presently reads:

11. (1) An employer shall maintain in each place of business operated by him in the Province a true and correct record in the English language of the following particulars in respect of each of his 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 vacation granted, showing
 - (i) the dates of commencement and completion,
 - (ii) the period of employment covered by the annual vacation, and
 - (iii) the amount of vacation pay given, and
- (g) the amount of money paid in lieu of vacation with pay upon the termination of employment,

except an employer may with the consent of the Board maintain such records in whole or in part, at his principal place of business in the Province.

(f) and by adding the following clauses after clause (g) :

- (h) the amount of money paid for holidays pursuant to subsection (1a) of section 24, and
- (i) the amount of each deduction from the earnings of the employee and the purpose for which deduction was made.

5. Section 33, subsection (2) is amended

- (a) as to clause (b) by striking out the word "female",
- (b) by striking out clause (c) and by substituting the following:
 - (c) establish provisions regulating and prohibiting the employment of women during and following pregnancy,

6. Section 41 is amended by striking out subsections (1), (2) and (3) and by substituting the following:

41. (1) A period of employment shall not be longer than one calendar month, or with respect to any employment shall be such period as the Board may fix.

(2) Each employer shall pay to each employee within 10 days after the expiration of each period of employment during which the employee has been engaged by him in any employment, all wages earned by the employee within that period.

(3) Where the employment of an employee is terminated by the employer, the wages earned by the employee shall be paid to him by his employer upon the termination of the employment.

7. Section 43 is struck out and the following section is substituted:

43. (1) The Board after holding such inquiry as it considers adequate may, with the approval of the Lieutenant Governor in Council, make an order or orders requiring an employer with respect to any employment or class of employment,

- (a) to give each employee an annual vacation with pay
 - (i) of not more than two weeks after each year of employment, or
 - (ii) of not more than a proportionately lesser period when his term of employment does not constitute a year's employment as fixed by the Board,

or

- (b) to pay the employee a sum of money as vacation pay in lieu of an annual vacation with pay.

(2) For the purpose of carrying out subsection (1), the Board may determine

5. Section 33 (2) (b) and (c) presently read:

(2) Without limiting the generality of subsection (1), the Board may by its order

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- (b) prohibit female employees in any employment, or in any class or description of employment from lifting or carrying in connection with their employment burdens of a greater weight than that prescribed from time to time by order of the Board,
- (c) prohibit the employment of a pregnant woman
 - (i) on day shifts for a period of six weeks before and two months after delivery, and
 - (ii) on night shifts during the whole period of the pregnancy and for two months after delivery.

6. Section 41 (1), (2) and (3) presently read:

41. (1) Each employer shall pay to each employee within ten days after the expiration of each period of employment during which the employee has been engaged by him in any employment to which this Act applies, all wages earned by such employee within that period.

(2) Such period of employment shall not be longer than one calendar month and with respect to any industry shall be such shorter period as the Board may fix.

(3) Where the employment of an employee is terminated by the employer the wages earned by the employee shall be paid to him by his employer upon the termination of the employment.

7. Section 43 presently reads:

43. (1) After holding such inquiry as the Board considers adequate the Board may, with the approval of the Lieutenant Governor in Council, make an order or orders

- (a) requiring an employer in any employment or class of employment to give one week's annual vacation with regular pay to each of his employees after each such employee has been employed for one full year,
- (b) requiring the employer to give a longer annual vacation not exceeding two weeks with regular pay,
- (c) establishing the period of employment required to entitle the employee to such longer annual vacation, and
- (d) determining
 - (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,
 - (iii) what will constitute a regular wage, and
 - (iv) the method of computing the regular wage.

(2) Where the employment of any employee is seasonal or intermittent and the time worked in any year does not constitute a year's employment as determined by the Board pursuant to clause (d) of subsection (1), the Board after making such inquiry and with such approval as aforesaid may make an order

- (a) requiring the employer to give the employee an annual vacation with regular pay for a period not exceeding two weeks, and

- (a) what constitutes the hours, days, weeks or months worked as employment that will entitle an employee to a vacation with pay or to a payment of a sum of money as vacation pay in lieu of an annual vacation with pay,
 - (b) what will constitute a wage or pay,
 - (c) the method of computing the wage or pay, and
 - (d) what will constitute a year's employment.
- (3) For the purpose of computing the annual vacation with pay or the sum of money to be paid in lieu of an annual vacation with pay, the employment of an employee shall be deemed to be continuous and uninterrupted where the business or part thereof is sold, leased or transferred.
- (4) Any employer who
- (a) fails to give an employee a vacation with pay to which he is entitled, or
 - (b) fails to pay an employee a sum of money in lieu of a vacation with pay to which he is entitled,
- is guilty of an offence and liable on summary conviction to a fine of not more than \$250 and in default of payment to imprisonment for a term of not more than 90 days.
- (5) The magistrate before whom any employer is convicted under subsection (4) shall, in addition to imposing the penalty,
- (a) order the employer to give a vacation with pay to the employee within such time as may be fixed by the court, or
 - (b) order the employer to pay into court on behalf of the employee, all moneys to which the employee is entitled in lieu of such vacation with pay.
- (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 10 and not more than 90 days.
- (7) A prosecution for an offence under this section may be commenced within 12 months from the date upon which the alleged offence occurred.
- (8) Notwithstanding section 3 of *The Seizures Act*, to recover any moneys payable pursuant to an order made under subsection (5), the employee may distrain under *The Seizures Act* upon the goods and chattels of the employer.

- (b) establishing the number of days worked in any year that will entitle the employee to receive a vacation with pay, and the number of days of vacation with pay that the days worked will entitle the employee to receive.
- (3) Notwithstanding the other provisions of this section, the Board after making such inquiry and with such approval as aforesaid may make an order
 - (a) providing that where the employment of an employee ends during the course of a working year in respect of which the employee has not received an annual vacation, the employer shall at the end of the employment pay to the employee in lieu of vacation with pay and in addition to all other amounts due to him, such portion of his regular pay as the Board may declare to be a proper portion thereof having regard to the time worked by such employee as related to the working year, or
 - (b) providing that each employer in a specified industry or industries shall give to his employees vacation credits at the end of each working day, working week or other regular pay period in the shape of stamps to be affixed in a vacation with pay book or otherwise as set out in the order, and prescribing the method of ascertaining the credits to which the employee shall be entitled and when he shall be entitled to receive payment in cash for such credits.
- (4) Upon the publication in The Alberta Gazette of an order made pursuant to subsection (3)
 - (a) an employer who while the order remains in effect accepts a vacation with pay 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 vacation with pay book deposited with him by the employee shall, within one week after demand for the vacation with pay book is made, issue to the employee a new vacation with pay book to which the employer shall affix vacation with pay stamps or other credits
 - (i) equal in value to the vacation with pay credits that were affixed to the vacation with pay book at the time it was deposited with the employer, and
 - (ii) in an amount equivalent to the vacation with pay credits earned by the employee while employed by the employer.
- (5) For the purpose of computing the vacation with pay or vacation with pay credits to which the employee is entitled where a business or part thereof is sold, leased or transferred, the employment of the employee shall be deemed to be continuous and uninterrupted by such sale, lease or transfer.
- (6) Any employer
 - (a) who contravenes any of the provisions of this section, or
 - (b) who contravenes any order of the Board made under this section
 - (i) by failing to give his employees vacation with pay,
 - (ii) by failing to pay an employee a sum in lieu of vacation with pay upon the ending of the employee's employment, or
 - (iii) by failing to place vacation with pay credits in a vacation with pay book,
 is guilty of an offence and liable on summary conviction to a fine of not less than ten dollars and not more than five hundred dollars.
- (7) The magistrate before whom any employer is convicted under subsection (6) shall, in addition to imposing the fine,
 - (a) order the employer to give a vacation with pay to the employee within such time as may be fixed by the court,
 - (b) where the employment has ended, order the employer to pay to the employee or into court on behalf of the employee all moneys to which the employee is entitled in lieu of such vacation with pay, or
 - (c) order the employer to pay to the employee an amount equivalent to the vacation with pay credits to which the employee is entitled, unless such amount has already been paid.
- (8) In default of the payment of the fine under subsection (6) or compliance with the order made under subsection (7), 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.
- (9) A prosecution for an offence under this section may be commenced within twelve months from the date upon which the alleged offence occurred.
- (10) Notwithstanding section 3 of The Seizures Act, to recover any moneys payable pursuant to the provisions of an order made under subsection (7) the employee may distrain under The Seizures Act upon the goods and chattels of the employer.

8. Section 57 is struck out and the following section is substituted:

- 57.** (1) All employees have the right
- (a) to be members of a trade union and to participate in its lawful activities, and
 - (b) to bargain collectively with their employer, through a bargaining agent.
- (2) Every employer has the right
- (a) to be a member of an employers' organization,
 - (b) to bargain collectively with his employees, and
 - (c) to conduct such bargaining through an employers' organization.

9. Section 60, subsection (1) is amended by striking out the words "of the same craft, or of a group exercising the same technical skills,".

10. The following section is added after section 60:

60a. Notwithstanding anything in this Part, a trade union shall not, except with the consent of the Board, apply to be certified as a bargaining agent until a period of 60 days has elapsed from the date of filing under section 105 of its constitution and by-laws or of the constitution of its chartering organization.

11. Sections 62 and 63 are struck out and the following sections are substituted:

62. (1) The Board, before disposing of an application for certification of a bargaining agent, may

- (a) make such inquiry, require the production of such evidence and the doing of such things or hold such votes as it considers appropriate,
- (b) include or exclude employees from the unit that is claimed by the applicant to be appropriate for collective bargaining, and
- (c) alter or amend the description of the unit of employees affected by the application for certification of a bargaining agent.

(2) The Board shall complete its inquiries into the application

- (a) within a period of 21 days after it receives the application, or
- (b) when additional time is required by the Board, within a further period of 21 days or such longer period as may be fixed by the Chairman.

63. (1) If the Board is satisfied

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

8. Section 57 presently reads:

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

9. Section 60 (1) presently reads:

60. (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 unions a majority of employees in a unit that is appropriate for collective bargaining may join in an application under section 59.

10. Self-explanatory.

11. Sections 62 and 63 presently read:

62. (1) The Board may prescribe the nature of the evidence required to be submitted to the Board with or in support of an application, and 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 include additional employees in, or may 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 twenty-one days, both periods being exclusive of Saturdays and Sundays or other holidays.

(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.

63. 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 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 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

(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,

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.

- (b) that the unit of employees in the unit is an appropriate unit for collective bargaining, and
- (c) that
 - (i) a majority of the employees in the unit have selected the applicant to be a bargaining agent on behalf of the employees in the unit by membership in good standing or by having applied for membership and by having paid on his own behalf to the applicant a sum of not less than \$2 on or not longer than three months before the date the application for certification was made, or
 - (ii) a majority of the employees in the unit entitled to vote have selected the applicant to be a bargaining agent on behalf of the employees in the unit by the result of a vote or votes conducted or supervised by the Board, of those employees who were employees in the unit on the date the application was made or on such other date or dates as may be fixed by the Board,

the Board shall certify the applicant to be the 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.

12. Section 65a is struck out and the following section is substituted:

65a. Two or more trade unions certified under this Part may apply at any time to the Board for the merging of their certificates into one consolidated certificate and the Board may,

- (a) before disposing of the application, make such inquiry, require the production of such evidence and the doing of such things or hold such votes as it considers appropriate, and
- (b) in disposing of the application, declare which collective agreements, if any, shall continue in force and to what extent they shall continue in force and which collective agreements, if any, shall terminate.

13. Section 69 is amended

- (a) by adding after the words "or for the revocation of the certification of a bargaining agent," the words "or an application under section 65a or subsection (2) of section 74,"
- (b) as to clause (d) by adding after the words "may fix a date" the words "or dates",
- (c) by striking out the word "and" at the end of clause (g), by adding the word "and" at the end of

12. Self-explanatory.

13. Section 69 (d) presently reads:

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
.....

(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.

clause (h) and by adding the following clause after clause (h) :

- (i) may direct all interested persons to refrain or desist from propaganda and electioneering for such period of time prior to the date of a vote as the Board fixes.

14. Section 70a is struck out and the following section is substituted:

70a. (1) If in any proceedings before the Board a question arises under this Part as to whether :

- (a) a person is an employer;
- (b) a person is an employee;
- (c) an organization or association is an employers' organization or a trade union is a proper bargaining agent;
- (d) a collective agreement has been entered into;
- (e) a person is or what persons are bound by a collective agreement;
- (f) a person is or what persons are parties to a collective agreement;
- (g) a collective agreement has been entered into on behalf of any person;
- (h) a collective agreement is in full force and effect;
- (i) a group of employees is a unit appropriate for collective bargaining;
- (j) a person has applied for membership in a trade union;
- (k) a person is a member in good standing of a trade union;
- (l) a person is included in or excluded from a unit;

the Board may decide the question and its decision is final and conclusive.

(2) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Part and to determine all questions that arise in any manner before it, and the action or decision of the Board thereon is final and conclusive for all purposes, but nevertheless the Board may, at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke the decision, order, direction, declaration or ruling.

(3) No decision, order, direction, declaration, ruling or proceeding of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court (whether by way of injunction, declaratory judgment, prohibition, *quo warranto* or otherwise) to question, review, prohibit or restrain the Board or any of its proceedings.

14. Section 70a presently reads:

70a. 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.

(4) Notwithstanding the generality of subsections (2) and (3), judicial supervision of a decision, order, direction, declaration, ruling or proceeding of the Board may be obtained by way of an application for *certiorari* or *mandamus*, if an application therefor is filed with the court no later than 30 days after the issuance of the Board's decision or reasons for decision, whichever is later.

15. Section 73 is amended

- (a) by striking out subsections (1) and (2) and by substituting the following:

73. (1) Where a collective agreement provides for its operation for an unspecified term or for a term of less than one year, it shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate.

(2) Notwithstanding anything in this section,

- (a) the parties may (before or after a collective agreement has ceased to operate) agree to continue its operation or any of its provisions, with or without modifications,
- (i) for any period less than one year, or
 - (ii) for an unspecified period,
- while they are bargaining for the renewal or for a new collective agreement, but the continued operation does not constitute a bar to an application for certification as bargaining agent or to an application for the revocation of the certification of the bargaining agent, and
- (b) where an employer agrees with a trade union to be bound by an existing agreement between the trade union and an employers' organization, the agreement ceases to be binding upon the employer and the trade union at the same time as the agreement between the trade union and the employers' organization ceases to be binding.
- (b) by striking out subsections (5) to (23) and by substituting the following:
- (5) A collective agreement entered into by a bargaining agent in so far as its provisions do not conflict with any provisions of this Act is binding upon
- (a) the bargaining agent and every employee in the unit of employees on whose behalf the agreement has been entered into, and
 - (b) the employer who has entered into the agreement or on whose behalf the agreement has been entered into.

15. and 16. Section 73 presently reads:

73. (1) Where a collective agreement entered into before or after the commencement of this section provides for its operation for a term of less than one year or for an unspecified term, it shall be deemed to provide for its operation for a term of one year from the date it began to operate.

(2) Notwithstanding subsection (1) the parties may, before or after a collective agreement has ceased to operate, agree to continue its operation or any of its provisions, with or without modifications, for any period less than one year or for an unspecified period while they are bargaining for the renewal or for a new collective agreement, but such continued operation does not constitute a bar to an application for certification as bargaining agent or to an application for the revocation of the certification of the bargaining agent.

(3) Where notice to commence collective bargaining has been served by either party to a collective agreement and the collective agreement contains provision for the continuation of the agreement beyond the first fixed date for the termination of the agreement, such a continuation does not constitute a bar to an application for certification as bargaining agent or to an application for the revocation of the certification of the bargaining agent.

(4) Where a collective agreement is for a term longer 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 common consent of the parties to the agreement, and

(b) at the end of the final year of the term of the agreement by not less than thirty days' and not more than sixty days' notice by either party to the agreement to the other party before the end of the final year of the term of the agreement.

(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.

(6) A collective agreement between an employers' organization and a bargaining agent is (subject to this Act and for the purposes of this Act) binding upon each person

(a) who was a member of the employers' organization at the time the collective agreement was entered into, and

(b) on whose behalf the employers' organization bargained collectively with the bargaining agent,

as if it were made between each such person 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.

(7) When an employers' organization commences to bargain collectively with a bargaining agent

(a) it shall deliver to the bargaining agent a list of the names of the employers on whose behalf it is bargaining collectively, and

(b) 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 14 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.

(8) Notwithstanding subsections (6) and (7),

(a) where an employers' organization is established by statute and is given authority by one or more of its members to represent them on their behalf, the organization may, with the consent of the bargaining agent, bargain collectively on a joint basis for those members, and

(b) where collective bargaining has been carried on under clause (a), it shall be deemed for the purposes of sections 82 to subsection (5)

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,

of section 93, that the collective bargaining has been carried on by each such member.

(9) No employee shall be required to sign a collective labour agreement that has been entered into on his behalf and executed by a bargaining agent.

16. The following section is added after section 73:

73a. (1) Every collective agreement shall contain provisions 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

(a) bound by the collective agreement, or

(b) on whose behalf it was entered into

concerning its interpretation, application or 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.

(2) Where a collective agreement does not comply in whole or in part with subsection (1), it shall be deemed to contain such of the following provisions in respect of which the collective agreement remains silent:

(a) If any difference concerning the interpretation, application, operation or any alleged violation of this agreement or any question as to whether any difference is arbitrable arises between the parties or persons bound by the collective agreement, such parties or persons shall meet and endeavour to resolve the difference;

(b) If the parties are unable to resolve the difference referred to in clause (a), either of the parties may 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;

(c) If the recipient of the notice fails to appoint an arbitrator within the time limit under clause (b), the appointment shall be made by the Minister of Labour upon the request of either party. 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;

(d) 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 decision of a majority is the award of the arbitration board, but if there is no majority, the decision of the chairman governs and it shall be deemed to be the award of the Board;

- (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 award, 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.
- (19) A collective agreement entered into by a bargaining agent in so far as its provisions do not conflict with any provisions of this Act is binding upon
- (a) the bargaining agent and every employee in the unit of employees on whose behalf the agreement has been entered into, and
 - (b) the employer who has entered into the agreement or on whose behalf the agreement has been entered into.
- (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

- (e) Each party to the difference shall bear the expense of its respective appointee to the arbitration board and the two parties shall bear equally the expenses of the chairman;
 - (f) The arbitration board by its decision shall not alter, amend or change the terms of the collective agreement.
- (3) 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 Minister shall upon the request of the other party, appoint a person or persons he considers fit for the purpose and that person or persons 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 a 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.
- (4) 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 the matter.
- (5) 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.
- (6) Every arbitration board or other body shall, immediately upon making the award, file a copy with the

and on whose behalf the employers' organization bargained collectively 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.

(22) No employee shall be required to sign a collective labour agreement that has been entered into on his behalf and executed by a bargaining agent.

(23) 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, or

(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.

Board, and failure or refusal to do so constitutes an offence under this Part.

(7) Upon receipt of the award of the arbitration board, the Board may publish the award in such a manner as it considers fit.

(8) No arbitration board shall by its award alter, amend or change the terms of a collective agreement.

(9) 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 the representatives respecting any such thing or any of such differences;
- (d) to authorize any person to do any things that the arbitrator or chairman of the arbitration board may do under clause (c) and to report to the arbitrator or arbitration board thereon;
- (e) to correct in any award any clerical mistake, error or omission.

(10) The award of an arbitrator or 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 award, 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.

(11) 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 14 days from the date of service of the award of the arbi-

trator 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 days' notice to all parties affected by the award for either an order confirming the award and declaring that it may be entered as a judgment of the Court or for an order setting the award aside.

(12) 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.

(13) 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 is not arbitrable, but the arbitrator or arbitration board decided the question was arbitrable and an award was made determining that question, or
- (c) the arbitration board had 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.

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

(15) 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 where an arbitration or award has been improperly procured the Court may set the award aside;
- (c) an arbitrator or an arbitration board has decided that a question is arbitrable and an award was made by an arbitrator or arbitration board determining that 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 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 or 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.

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

17. Section 74, subsection (2) is amended by striking out the word “and” at the end of clause (c), by adding the word “, and” at the end of clause (d) and by adding the following clause after clause (d) :

- (e) before disposing of the application under this subsection, the Board may make such inquiry, require the production of such evidence and the doing of such things or hold such votes as it considers appropriate.

18. The following section is added after section 74:

75. (1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction of a trade union it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer, the Board (in any proceedings before it or on the application of any person or trade union concerned) may declare that the successor has or has not, as the case may be, acquired the rights, privileges and duties under this Act of its predecessor, or the Board may dismiss the application.

(2) Before issuing a declaration under subsection (1), the Board may make such inquiries, require production of such evidence or hold such votes as it considers appropriate.

(3) Where the Board makes an affirmative declaration under subsection (1), the successor shall, for the purposes of this Part, be conclusively presumed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise, and the employer, the successor and the employees concerned shall recognize such status in all respects.

19. Section 79 is struck out and the following section is substituted:

79. Subject to subsection (5) of section 73, during the time intervening between the date of an application for certification of a bargaining agent and

(a) the date of its refusal, or

(b) 30 days after the date of certification,

no employer or trade union shall alter any terms or conditions of employment of an employee except that with the

17. Section 74 (2) presently reads:

(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.

18. Self-explanatory. The previous section 75 was repealed in 1957.

19. Section 79 presently reads:

79. Subject to subsection (7) of section 73, during the period of time intervening between the date of an application for certification of a bargaining agent and

- (a) the date the application is refused, or
 - (b) thirty days after the date of the certification, if the Board certifies the trade union as bargaining agent,
- the relationship of employer and employee continues uninterrupted by any matter or thing arising out of the application, and 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.

consent of the applicant trade union an employer may give effect to a change in terms or conditions of employment.

20. Section 84 is amended by striking out the words “the Board” and by substituting the words “the Minister”.

21. Section 85 is amended by striking out the word “Board,” and by substituting the words “conciliation commissioner,”.

22. Section 86 is amended by striking out subsection (1) and by substituting the following:

86. (1) The conciliation commissioner when unable to bring about any settlement or adjustment of the dispute may

- (a) recommend to the Minister the appointment of a conciliation board, or
- (b) recommend to the Minister that no conciliation board be appointed,

and if in the Minister’s opinion no conciliation board should be appointed then the recommendations of the conciliation commissioner under clause (b) of section 84 shall thereupon take the place of and have the same force and effect as an award of a conciliation board for the purposes of this Part.

23. Section 87, subsection (5) is amended by striking out the words “Lieutenant Governor in Council” and by substituting the word “Minister”.

24. Section 88, subsection (1) is amended by striking out the words “Lieutenant Governor in Council” and by substituting the word “Minister”.

25. Section 93 is amended by striking out subsection (14) and by substituting the following:

(14) Where a conciliation board makes an award respecting disputes between two or more employers and a bargaining agent under subsection (7) or (8) of section 73, 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 day as the vote under clause (a),

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

20. Section 84 reads in part:

84. The conciliation commissioner within the time, not exceeding fourteen days, exclusive of Saturdays and Sundays or other holidays, limited by the terms of his appointment or within such longer time as may be agreed to by all parties shall transmit a report to the Board setting out

21. Section 85 presently reads:

85. Upon receipt of the report from the Board, the Minister shall forthwith transmit a copy of the report to the representative of each party to the dispute, and may publish the report in such manner as he sees fit.

22. Section 86 (1) presently reads:

86. (1) Where a conciliation commissioner is unable to bring about any settlement or adjustment of the dispute the Board shall consider his report and may recommend to the Minister the appointment of a conciliation board.

23. Section 87 (5) presently reads:

(5) If the two members fail to appoint a third member within five days, exclusive of Saturdays and Sundays or other holidays, after the day on which the last of the two members is appointed, the Lieutenant Governor in Council shall appoint a third member who shall be chairman of the conciliation board.

24. Section 88 (1) presently reads:

88. (1) As soon as the three members are determined the Lieutenant Governor in Council shall designate them a conciliation board for the purposes of this Part, and the Minister shall deliver to them a statement of the dispute to be inquired into by them.

25. Section 93 (14) presently reads :

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

26. Section 94 is amended

- (a) as to subsection (1) by striking out clause (c) and by substituting the following:
 - (c) subject to subsection (5) of section 73, none of the parties shall alter any terms or conditions of employment except with the mutual consent of the employer and bargaining agent, and
- (b) by adding the following subsection after subsection (7):
 - (8) No strike or lockout shall commence after the period of one year from the date of a vote under subsection (8) of section 93.

27. The following section is added after section 94:

94a. (1) Notwithstanding anything in this Act, *The Judicature Act* or any other Act, where a lawful strike or lockout exists in a labour dispute, no injunction before trial shall be granted *ex parte* to restrain any party to the dispute or any other person from doing any act in connection with a strike or lockout.

(2) Every affidavit intended to be used in support of an application for an interim injunction to restrain any person from doing any act in connection with a strike or lockout shall be confined to such facts as the deponent is able of his own knowledge to prove, and a copy thereof shall be served with the notice of motion.

(3) Where members of a trade union are the defendants or intended defendants, the notice of motion may be served upon any officer of the trade union or any member thereof engaged in the activities proposed to be restrained or any person engaged in that activity.

(4) The notice of motion shall be served in sufficient time before the time fixed for the hearing, not being less than three hours in any event, to enable the person to attend at the hearing of the motion.

28. Section 95 is amended by striking out subsection (1) and by substituting the following:

- 95.** (1) A strike or lockout is illegal,
- (a) where the strike or lockout is in contravention of section 94, or
 - (b) where a collective agreement is in force.

29. Section 96 is amended

- (a) by striking out subsection (1),
- (b) as to subsection (3) by striking out the words "one hundred dollars" and by substituting the words "\$25 for each day or part of a day that the

26. Section 94 (1) presently reads:

94. (1) 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,

- (a) no employer who receives or gives the notice shall cause a lock-out,
 - (b) no employees of that employer 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 employees continues uninterrupted by any matter or thing arising out of the notice,
- until fourteen days after the date fixed for the taking of a vote under subsection (8) of section 93.

27. Section 24a of The Judicature Act is re-enacted in The Alberta Labour Act.

28. Section 95 (1) presently reads:

95. (1) A strike or lock-out is illegal where the parties to the dispute have not complied with the provisions of sections 82 to 94.

29. Section 96 (1) and (3) presently read:

96. (1) An employer who causes or participates in an illegal lock-out is guilty of an offence and liable on summary conviction to a fine not exceeding one dollar for each employee for each day or part of a day that the employee is locked out.

(3) Any employee who participates in an illegal strike is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars.

illegal strike exists and in default of payment to imprisonment for a term not exceeding 30 days”.

30. Section 97 is amended by adding the following subsection after subsection (1) :

(1a) An employer who causes or participates in an illegal lockout is guilty of an offence and liable on summary conviction to a fine of not more than \$1 for each employee for each day or part of a day that the employee is locked out.

31. Section 124 is struck out and the following section is substituted:

124. The Lieutenant Governor in Council may make such regulations as he considers necessary for the proper carrying out of the intent and purposes of this Act.

32. *The Judicature Act* is amended by striking out section 24a.

33. This Act comes into force on June 1, 1968.

30. Section 96 (1) is moved to a more appropriate section.

31. Section 124 presently reads:

124. (1) The Lieutenant Governor in Council may make such regulations not inconsistent with this Act as he deems necessary for carrying out the provisions of this Act and for the efficient administration hereof.

(2) Such regulations shall be published in The Alberta Gazette, and upon being so published have the same effect as if enacted by this Act.

(3) Such regulations may be repealed, altered or amended and the repeal, alteration or amendment shall be published in The Alberta Gazette and upon being so published have the same effect as if enacted by this Act.

32. See clause 27 of this Bill which re-enacts section 24a of The Judicature Act as section 94a of The Alberta Labour Act.