

1970 Bill 126

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 126

An Act to amend The Alberta Labour Act

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

BILL 126

1970

An Act to amend The Alberta Labour Act

(Assented to _____, 1970)

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 2 is amended
 - (a) by striking out clause (d),
 - (b) by adding the following clause after clause (f):
 - (f1) "director" means the director of labour standards;
 - (c) by adding the following clause after clause (i):
 - (i1) "general holiday" means those holidays, except Sundays, defined in *The Interpretation Act, 1958* and designated as general holidays by an order of the Board;
 - (d) by striking out clause (l),
 - (e) by adding the following clause after clause (n):
 - (n1) "officer" means an officer appointed under the authority of this Act and includes the director;
 - (f) as to clause (q) by adding after the word "otherwise" the words ", but does not include tips or other gratuities".
3. Section 4, subsection (1) is amended by adding after the words "all persons" the words "including Alberta Government Telephones and its employees,".
4. Section 5 is amended by striking out subsections (2) and (3) and by substituting the following:
 - (2) In accordance with *The Public Service Act, 1968* there may be appointed a director of labour standards and such officers as are required for the purpose of enforcing the provisions of this Act.

Explanatory Notes

1. This Bill will amend chapter 167 of the Revised Statutes.
2. Section 2 (d), (l) and (q) read:
 - (d) "chief inspector" means the chief inspector of the Board;
 - (l) "inspector" means an inspector appointed under the authority of this Act;
 - (q) "wage" includes any reward, compensation or remuneration for labour or services whether computed on the basis of time spent or of the amount of labour or services performed or of piece work or otherwise
3. Section 4 (1) reads in part:
 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;
4. Section 5 (2) and (3) read:
 - (2) For the purpose of enforcing the provisions of this Act the Minister may, with the approval of the Lieutenant Governor in Council, appoint such fit and proper persons as he considers necessary as inspectors.
 - (3) It is the duty of such inspectors, subject to the direction of the Minister, to enforce the provisions of this Act, and every such inspector is empowered to enter upon any premises whereon any employee is employed, and to question any employee apart from his employer, with the object of ascertaining whether the provisions of this Act, of any schedule under Part 4, or of any order or regulation made under this Act are being carried out.

5. The following section is added after section 6:

6a. (1) The Board may appoint an Executive Committee composed of the Chairman and two other officers.

(2) The Executive Committee shall exercise such powers and duties of the Board during the periods the Board is not sitting as may be designated by the Board.

6. Section 8, subsection (5), clause (b) is amended by striking out subclause (ii) and by substituting the following:

- (ii) to the suspension or cancellation of any licence held by him under *The Licensing of Trades and Businesses Act* by the Minister charged with the administration of that Act.

7. Section 9 is amended by adding the following subsection after subsection (1):

(1a) Each member of the Board and each officer has power to administer oaths and take affidavits and statutory declarations for the purposes of the administration of this Act.

8. Section 10 is amended

(a) as to subsection (1)

(i) by striking out the words "inspector appointed pursuant to this Act" and by substituting the word "officer",

(ii) by adding after the word "employer" in clause (a1) the words "or any other person in possession thereof",

(b) by striking out subsections (3) and (4).

9. The following section is added after section 10:

10a. (1) For the purposes of this Act, each officer

(a) has the powers of a peace officer, and

(b) may, in the execution of his duties under this Act,

(i) enter, inspect and examine at all reasonable times by day or night any premises or other place in which he has reasonable cause to believe that any person is employed,

(ii) make such examination and inquiry as are necessary to ascertain whether the provisions of this Act or any orders of the Board or any schedule under Part 4 or any written instructions of the Chairman or an officer have been complied with, and

5. Executive Committee of Board of Industrial Relations.

6. Section 8 (5)(b)(ii) presently reads:

(5) Every person who contravenes an order made under subsection (3) or does any act or thing prohibited by an order so made is guilty of an offence and liable

(b) on summary conviction for a second or subsequent offence

(ii) to the suspension or cancellation by the Minister of any licence held by him under The Licensing of Trades and Businesses Act.

7. Section 10(3) is moved to section 9.

8. Section 10(1)(a1) presently reads:

10. (1) The Board or the Chairman or any inspector appointed pursuant to this Act is hereby empowered

(a1) to require any employer to produce for inspection any books, records, pay-rolls, contracts of employment and any other records of employment,

Subsection (3) is being re-enacted as subsection (1a) of section 9—see the preceding clause. Subsection (4) is being re-enacted as subsection (3) of section 10a—see the following clause.

9. Powers of an officer.

(iii) question any employee apart from his employer, with the object of ascertaining whether the provisions of this Act, of any schedule under Part 4, or of any order or regulation made under this Act are being carried out.

(2) An officer in carrying out his duties under this section or when inspecting any premises or other place may be accompanied by a duly qualified medical practitioner, a medical health officer or a sanitary inspector.

(3) A person

(a) who wilfully delays or obstructs an officer in the exercise of any power given to him under this Act, or

(b) who fails to comply with any request made by an officer under this section, or

(c) who fails to produce any books, papers, documents, files, pay-rolls or records that he is required to produce, or

(d) who conceals or attempts to conceal an employee or seeks to prevent him from appearing before or being examined by an officer

is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$200, and in default of payment to imprisonment for a term not exceeding three months.

10. Section 11 is amended

(a) as to subsection (1) by adding at the end thereof the words "or at such other place as the Board may designate",

(b) as to subsection (3) by striking out the words "12 months" and by substituting the words "two years",

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

(4) An employer, when required by the Chairman or the director by notice,

(a) shall furnish to him the names, addresses and ages of all employees and such further information respecting wages, hours and days and conditions of work as the notice requires, and

(b) shall produce any books, records, pay-rolls, contracts of employment and any such other records that the notice requires for the inspection of an officer designated in the notice on the date and at the place designated in the notice.

(d) by striking out subsection (6) and by substituting the following:

10. Section 11 reads in part:

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,

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.

(3) The records required under this section to be maintained by an employer shall be preserved and retained by the employer for a period of 12 months from the time when each record was made.

(4) An employer

(a) shall when required by the Board furnish to it the names, addresses and ages of all employees and such further information respecting wages, hours and days and conditions of work as the Board requires, and

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

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

(6) An employer shall comply with and observe the requirements and directions in any notice given under this section which may be served

(a) personally, or

(b) by double registered mail, in which case the date of mailing shall be deemed the date of delivery on the person to be served or to any person receiving it on his behalf.

(e) as to subsection (7), clause (c) by striking out the words "vacation credits," and by substituting the words "pay for general holidays,".

11. Sections 12 and 13 are struck out and the following section is substituted:

12. (1) Subject to the exceptions provided by or under this Act, the working hours of an employee in any employment shall not exceed eight in a day nor 48 in a week of not more than six working days.

(2) In any employment the daily limit of working hours may be exceeded by not more than one hour on any day if the weekly limit is not exceeded.

(3) In no case shall the maximum hours of work fixed by this section or by an order of the Board or by a shift schedule approved by the Board be exceeded without the approval of the Board.

12. Section 14 is amended

(a) as to subsection (1) by striking out the words "The limit" and by substituting the words "Notwithstanding section 12, subsection (3), the limit",

(b) by striking out subsection (2).

13. Section 16 is amended

(a) as to subsection (1)

(i) by striking out the words "immediately following each period of not more than six consecutive days of work" and by substituting the words "in each consecutive period of seven days",

(ii) by striking out of clause (b) the word "consecutive" immediately following the word "seven",

(b) as to subsection (2) by striking out the words "the operations of which are ordinarily continuous," and by substituting the words "where the oper-

11. Sections 12 and 13 presently read:

12. Subject to the exceptions provided by or under this Act, the working hours of an employee in any industry shall not exceed eight in the day nor 48 in the week of not more than six working days.

13. (1) Where in any employment the hours of work on one or more days of the week are fewer than the daily limit, the daily limit may be exceeded on any of the remaining days of the week provided the weekly limit is not exceeded thereby.

(2) In no case shall the daily limit be exceeded under the provisions of subsection (1) by more than one hour without the approval of the Board.

12. Section 14 reads:

14. (1) The limit upon hours of work prescribed in section 12 may be exceeded in case of

(a) accident, or

(b) urgent work to be done to machinery or plant, or

(c) unforeseeable or unpreventable circumstances, but only so far as is necessary to avoid serious interference with the ordinary working of the undertaking.

(2) Where the limit of hours of work is exceeded under this section an employer shall send by mail to the Board, not later than 15 days following the last day of the calendar month in which the limit of hours of work was exceeded, a report setting out

(a) the reason for exceeding the limit,

(b) the number of employees employed in the exceeding of the limit, and

(c) the extent by which the limit was exceeded, during the calendar month.

13. Section 16 (1) and (2) presently read:

16. (1) An employer shall allow an employee not less than 24 consecutive hours of rest immediately following each period of not more than six consecutive days of work unless the Board orders

(a) that the said hours of rest may be allowed in two periods, or

(b) that a period of rest in excess of 24 hours in each consecutive period of seven consecutive days shall be allowed.

(2) Upon the application of an employer, the Board may inquire into the conditions of employment the operations of which are ordinarily continuous, and

(a) may except or make an order excepting that employment wholly or in part from the provisions of subsection (1), and

(b) may make such other provision as it deems necessary with regard to the days of rest that are to be allowed to the employees in such employment.

ations of the employer ordinarily necessitate the working of at least one shift on each day of the week,".

14. Section 17 is amended by adding after the words "and may" the words "with the approval of the Lieutenant Governor in Council".

15. Section 18 is struck out.

16. Section 19 is amended by striking out subsection (2).

17. The following section is added after section 20:

20a. (1) An employer shall notify his employees

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

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

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

(2) The hours of work shall be so fixed that the duration of the work shall not exceed the limits prescribed by or under this Part or Part 4.

(3) When work is carried on by shifts, employees shall not be required to change from one shift to another shift without at least 24 hours' notice of the change of shift, except in case of accident or in case of urgent work to be done to machinery or plant or in case of unforeseeable or unpreventable circumstances.

18. Section 23, clause (c) is amended by striking out the words "which is ordinarily continuous" and by substituting the words "ordinarily necessitating the working of at least one shift on each day of the week".

19. Section 24 is amended

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

24. (1) After such inquiry as the Board considers adequate the Board may with the approval of the Lieutenant Governor in Council make orders

(a) fixing minimum wages for employees, and

(b) directing that no employer affected thereby shall employ any employee at a rate of wages less than the minimum wage so fixed.

14. Section 17 reads in part:

17. The Board may hold an inquiry as to the conditions prevailing in any employment and may by order

- (a) prescribe that the maximum hours of work of an employee in the employment shall be less than the maximum provided by section 12, and such order is general in its application unless it is made applicable by its terms to any designated part or parts of the Province in which case it is applicable only to such designated part or parts of the Province,

15. Section 18 is being re-enacted.

16. Section 19(1)(a) and (2) read:

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

- (a) the exceptions that may be allowed to an employer or employers engaged in a work that must necessarily be carried on outside the limits laid down for the general working of an industry or for certain classes of employees whose work is essentially seasonal or intermittent,
- (2) All exceptions made pursuant to this section shall be published forthwith in The Alberta Gazette and from the date of publication have the same effect as if they had been incorporated in this Act.

17. Section 18 is re-enacted without change in a different location in the Act.

18. Section 23 (c) presently reads:

23. In this Part "overtime" means any time worked by an employee

- (c) in excess of the hours of work fixed by a shift schedule of work in an operation which is ordinarily continuous approved by the Board under the provisions of section 16.

19. Section 24 (1), (1a)(a), (2)(a), (4) and (7)(a) read:

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

- (a) fixing
 - (i) a minimum wage for male employees, female employees, or both, or
 - (ii) different minimum wages for male employees, female employees, or both, in different employments and in different classes or descriptions of any employment,

and

- (b) directing that no employer affected thereby shall employ any employee at a rate of wages less than the minimum wage so fixed.

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

- (a) fixing the basis for the computation of minimum sums of money to be paid
 - (i) by any employer to his employees who do not work on the holidays, except Sundays, defined in The Interpretation Act, 1958 or on any of such holidays, and
 - (ii) by any employer to his employees who do work on such holidays,

or

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

- (a) apply the minimum wage fixed by the Board to all employees, or to any group or class or sex of employees in any industry or all industries,

(4) Every such order or further or other order of the Board may provide for making or prohibiting deductions from the minimum wage.

(7) Any such order or further or other order of the Board

- (a) may fix a series of minimum wages to come into operation successively on the expiration of specified periods, and

- (b) as to subsection (1a)
 - (i) by striking out the words "or without any inquiry",
 - (ii) by striking out the words "an order" and by substituting the word "orders",
 - (iii) by striking out subclauses (i) and (ii) of clause (a) and by substituting the following:
 - (i) by an employer to his employees who do not work on a general holiday, and
 - (ii) by an employer to his employees who do work on a general holiday,
- (c) as to subsection (2), clause (a) by striking out the words "or sex",
- (d) as to subsection (4) by striking out the words "Every such order or further or other order" and by substituting the words "any such order",
- (e) as to subsection (7) by striking out the words "or further or other order".

20. Section 25 is struck out and the following is substituted:

25. (1) Any agreement by an employee to work for less than

(a) the minimum wage, or

(b) the minimum wage for overtime

fixed by the Board to which he is entitled shall unless the agreement is approved by the Board, have effect as if that minimum wage were stipulated therein.

(2) Where an agreement has been approved by the Board under subsection (1) the Board may exempt the employer from the provisions of section 11, subsection (1), clause (a) in respect of the employee affected.

21. Section 26 is amended

(a) as to subsection (1)

(i) by striking out after the words "less than" the word "the" and by substituting the word "any",

(ii) by striking out after the words "if paid" the word "the" and by substituting the word "such",

(b) by striking out subsections (2) and (3) and by substituting the following:

(2) An action under subsection (1) may be commenced within 12 months from the date upon which the cause of action arose but not thereafter.

20. Section 25 presently reads:

25. Any agreement by an employee to work for less than the minimum wage fixed by the Board with respect to the trade or occupation in which he is engaged shall, unless the agreement is approved by the Board, have effect as if the minimum wage were stipulated therein.

21. Section 26 presently reads:

26. (1) If an employee is paid less than the minimum wage to which he is entitled under this Part he is entitled to recover from his employer in a civil action the difference between the amount paid and the amount he would have received if paid the minimum wage together with costs of action.

(2) If no action has been commenced under the provisions of section 29, an action may be brought under subsection (1) within 12 months after the termination of the employee's employment but not thereafter.

(3) The right to recover under subsection (1) applies only to the wages of an employee during the period of six months last preceding the termination of his services or the taking of civil action by him pursuant to that subsection, whichever first occurs.

(3) Subsection (1) applies only to the wages of an employee during the period of 12 months last preceding the termination of his services or the taking of civil action by him pursuant to that subsection, whichever first occurs.

(4) Where an action has been commenced under subsection (1), no action may be commenced under section 29, and where an action has been commenced under section 29 no action may be commenced under subsection (1).

22. Section 27 is struck out.

23. Section 28 is amended

- (a) as to subsection (1)
 - (i) by adding after the words "The Board" the words "after such inquiry as it considers adequate",
 - (ii) by striking out the words "rate of",
- (b) as to subsection (2) by striking out the words "rate of",
- (c) by striking out subsection (3) and by substituting the following:

(3) No employer while an order under subsection (1) is in force shall employ an employee at wages less than the fair wage prescribed in the order.

24. Section 29 is amended

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

29. (1) An employer is guilty of an offence who contravenes an order made under this Part by the Board

- (a) by failing to pay the minimum wage fixed by the Board, or
- (b) by failing to pay the minimum wage for overtime fixed by the Board, or
- (c) by charging a price for board or lodging or both that exceeds the maximum price fixed by the Board, or
- (d) by making a deduction from the minimum wage fixed by the Board prohibited under the provisions of the order, or
- (e) by failing to pay the fair wage prescribed by the Board, or

22. Section 27 is being re-enacted as section 29b.

23. Section 28 (1) to (3) presently read:

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

- (a) in a specified industry, or
- (b) in a specified area, or
- (c) at a specified place, or
- (d) in a specified work or undertaking.

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

- (a) to all classes of employees engaged in the industry, or
- (b) to any specified classes thereof,

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

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

24. Section 29 (1), (3) and (4)(b) presently read:

29. (1) An employer is guilty of an offence who contravenes an order made under this Part by the Board

- (a) by failing to pay the minimum wage fixed by the Board, or
- (b) by charging a price for board or lodging or both that exceeds the maximum price fixed therefor by the Board, or
- (c) by making a deduction from the minimum wage fixed by the Board prohibited under the provisions of the order.

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

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

- (b) if the default follows upon a subsequent conviction
 - (i) to imprisonment for a term of not less than two months nor more than six months, and
 - (ii) to suspension or cancellation of any licence held by the employer under The Licensing of Trades and Businesses Act.

- (f) by failing to pay general holiday pay fixed by the Board.
- (b) by striking out subsection (3) and by substituting the following:
 - (3) Where an employer is convicted of an offence under subsection (1) he shall, in addition to a fine levied pursuant to subsection (2) be ordered to pay to the Board on behalf of each employee affected, within such time as may be fixed by the court, the difference between,
 - (a) the amount actually paid, and
 - (b) the amount to which he was entitled,
 for the period of six months preceding the commencement of the prosecution or the termination of employment, whichever first occurred.
 - (3a) The Board or an employee named in the order may file a copy of an order made under subsection (3) with the Clerk of the Supreme Court in the judicial district in which the order was made and thereupon the order is enforceable as a judgment or order of that Court.
- (c) as to subsection (4)
 - (i) by striking out after the words "subsection (2)" the word "and" and by substituting the word "or",
 - (ii) as to clause (b) by striking out subclause (ii) and by substituting the following:
 - (ii) to the suspension or cancellation of any licence held by him under *The Licensing of Trades and Businesses Act* by the Minister charged with the administration of that Act.
- (d) by adding the following subsections:
 - (5) A prosecution for an offence under this section may be commenced within 12 months from the date on which the alleged offence occurred.
 - (6) Where an employee
 - (a) works for less than the minimum wage or the minimum wage for overtime or the fair wage to which he is entitled, or
 - (b) directly or indirectly returns to his employer any part of his wages thereby effecting a reduction of the wages actually received and retained by the employee to an amount less than the minimum wage or the minimum wage for overtime or the fair wage to which he is entitled,

the employee and the employer are each guilty of an offence and liable on summary conviction to a fine of not more than \$100 in addition to any other penalties to which they are liable under this Part.

25. The following sections are added after section 29:

29a. (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.

(4) Where an employer issues a cheque in the payment of wages that is not honoured by the drawee on which it is drawn it shall be deemed the employer has not paid the wages.

(5) The magistrate before whom any employer is convicted for contravening this section shall, in addition to imposing the penalty, order the employer to pay to the Board on behalf of the employee, within such time as may be fixed by the court, an amount equal to the wages owing to the employee for the period of six months preceding the commencement of the prosecution or the termination of employment, whichever first occurred.

(6) A prosecution for an offence under this section may be commenced within 12 months from the date the alleged offence occurred.

(7) The Board or an employee named in the order may file a copy of an order made under subsection (5) with the Clerk of the Supreme Court in the judicial district in which the order was made and thereupon the order is enforceable as a judgment or order of that Court.

(8) 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.

29b. Where a person is an employee entitled to wages, his employer shall not receive any payment by way of premium directly or indirectly from him or on his behalf or on his account.

25. Section 41 is re-enacted in a new location in the Act. Section 29b is new.

26. The following section is added after section 29b.

29c. (1) An employer shall at the end of each pay period give to each employee a statement in writing setting out, for that period,

- (a) the hours worked by the employee,
- (b) the amount of wages paid at a straight-time rate,
- (c) the amount of wages paid at an overtime rate,
- (d) the amount of any bonus or living allowance paid, and
- (e) the amount of each deduction from the earnings of the employee and the purposes for which each deduction was made.

(2) An employer shall upon request give to an employee a detailed statement as to the computation of the amount of wages and bonus set out in the statement referred to in subsection (1).

(3) An employer shall upon request give to an employee after termination of his employment a written statement showing the period of time during which he was employed.

27. The following sections are added after section 29c:

29d. (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 two weeks after each year of employment, or
 - (ii) of 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

- (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.

26. Section 41a reads:

41a. (1) An employer who employs 11 or more employees shall at the end of each pay period give to each employee a statement in writing setting out, for that pay period,

- (a) the hours worked by the employee,
- (b) the amount of wages paid at a straight-time rate,
- (c) the amount of wages paid at an overtime rate,
- (d) the amount of any bonus or living allowance paid, and
- (e) the amount of each deduction from the earnings of the employee and the purpose for which each deduction was made.

(2) An employer who employs less than 11 employees shall upon request give to an employee a statement showing the information required under subsection (1).

(3) An employer shall upon request give to an employee a detailed statement as to the computation of the amount of wages and bonus set out in the statement referred to in subsection (1).

(4) An employer shall upon request give to an employee after termination of his employment a written statement showing the period of time during which he was employed.

27. Section 43 reads:

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

- (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.

(3) For the purposes 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 not exceeding 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, or

(b) order the employer to pay to the Board on behalf of the employee, all moneys to which the employee is entitled in lieu of vacation with pay within such time as may be fixed by the court.

(6) The Board or an employee named in the order may file a copy of an order made under subsection (5) with the Clerk of the Supreme Court in the judicial district in which the order was made and thereupon the order is enforceable as a judgment or order of that Court.

(7) 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.

(8) A prosecution for an offence under this section may be commenced within 12 months from the date upon which the alleged offence occurred.

29e. (1) Where an employer

(a) fails to give an employee any vacation with pay to which the employee is entitled under section 29*d* or any order of the Board, or

(b) fails to pay an employee a sum in lieu of vacation with pay upon the termination of the employee's employment in accordance with section 29*d* or any order of the Board,

the employee may by action recover from the employer any amounts to which the employee is entitled under section 29*d*.

(2) Subsection (1) applies only to amounts accruing to the employee over a period of two years preceding the termination of his services or the taking of the action pursuant to that subsection, whichever first occurs.

(3) If no action has been commenced under section 29*d*, subsection (4), an action may be brought under this section at any time before the termination of the employee's employment or within 12 months thereafter, but not later.

28. Section 30 is struck out.

29. Section 32 is struck out.

30. Section 34 is amended

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

34. (1) No person under the age of 15 years shall be employed in any employment without the written consent of his parent or guardian and the approval of the Board.

(2) Subsection (1) does not apply to a person under the age of 15 years

(a) who has been excused under *The School Act* from school attendance for the purpose of securing vocational training through employment, or

(b) who is enrolled in a work experience program approved by the Minister of Education and the Board.

(b) as to subsection (3), clause (a) by striking out the word "children" and by substituting the words "persons under the age of 15 years".

31. Section 36 is struck out and the following is substituted:

36. (1) In any premises

(a) if an officer so directs in writing the employer shall not allow any person to eat in any room in which any manufacturing process is being carried on, and

(b) after being directed by an officer in writing to do so the employer shall at his own expense provide

(i) a suitable room or place in the premises or in connection therewith for the purposes of a dining and eating room for the use of employees, and

(ii) a suitable rest room for the use of employees in the premises.

28. Section 30 is re-enacted with some changes in wording as subsection (6) of section 29.

29. Definitions contained in section 32 are no longer required.

30. Section 34 (1), (2) and (3)(a) read:

34. (1) No child shall be employed

(a) in any employment in or about the premises of any factory, shop or office building, or

(b) in any other employment without the written consent of his parent or guardian and the approval of the Board.

(2) Subsection (1) does not apply to a child who has been excused under Part 14 of The School Act from school attendance by the Chief Attendance Officer for the purpose of securing vocational training through employment.

(3) Notwithstanding subsection (1), the Lieutenant Governor in Council may by regulation

(a) permit the employment of children in specific occupations and impose such conditions with respect to employment of children in any such occupation as he considers proper,

31. Section 36 presently reads:

36. (1) In any factory or shop

(a) if an inspector so directs in writing the employer shall not allow any person to take meals in any room in which any manufacturing process is being carried on, and

(b) after being directed by an inspector in writing to do so the employer shall at his own expense provide

(i) a suitable room or place in the factory or shop or in connection therewith for the purposes of a dining and eating room, and

(ii) a suitable rest room for persons employed in the factory or shop.

(2) No part of the expense incurred by the employer in complying with the directions of the inspector mentioned in clause (b) of subsection (1) shall be payable by or chargeable to the wages of the employees.

(2) No part of the expense incurred by the employer in complying with the directions of the officer mentioned in subsection (1), clause (b) shall be payable by or chargeable to any moneys due the employees.

32. Section 37 is amended

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

(2) At any construction project the prime contractor shall provide suitable and adequate toilet facilities which are reasonably accessible for all employees engaged by the contractor or any subcontractor.

(b) as to subsection (3) by striking out the words "factory or shop" and by substituting the word "premises",

(c) as to subsection (4) by striking out the words "factory or shop" and by substituting the word "premises".

33. Sections 41, 42, 43 and 44 are struck out.

34. Section 41a is struck out.

35. Section 48 is amended as to subsection (3) by striking out the word "and" at the end of clause (j) and by adding the word "and" at the end of clause (k) and by adding the following clause after clause (k):

(l) establish a plan for general holidays.

36. Section 59 is amended by adding the following subsection:

(5) Where a legal strike or lockout is in effect no application under subsections (1) to (4) shall be made without the consent of the Board.

37. Section 69, clause (e) is amended by adding after the words "leave of absence," the words "absence from his usual place of work on the direction of his employer, not being scheduled to work".

38. Section 70a is amended

(a) as to subsection (2)

(i) by adding after the words "all questions" the words "of fact or law",

32. Section 37 (2) to (4) presently read:

(2) In every factory or shop

(a) where any process is carried on by which dust is generated and is inhaled by the workers to an injurious extent, and

(b) where such inhalation can be prevented or partially prevented, the inspector may direct that adequate measures be taken by the employer within a reasonable time for the prevention of inhalation, and the employer shall comply with the direction so given.

(3) No employer shall knowingly permit or suffer any person who is affected with pulmonary tuberculosis, scrofula, any venereal disease, or any communicable skin disease, to work in a factory or shop in which food or food products or materials are manufactured, stored or kept for sale or sold.

(4) No person affected with any of the diseases mentioned in subsection (3) shall work in any such factory or shop as is therein referred to.

33. See clauses 9, 25 and 27 of this Bill.

34. See clause 26 of this Bill.

35. Section 48 (3) (k) reads:

(3) The schedule may

(k) establish a plan for vacation with pay.

36. Section 59 relates to applications for certification as bargaining agents.

37. Section 69 (e) 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, or an application under section 65a or subsection (2) of section 74, the Board

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

38. Section 70a (2) and (4) presently read:

(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.

(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.

- (ii) by striking out the word "manner" and by substituting the word "matter",
- (b) as to subsection (4)
 - (i) by striking out the words "the generality of",
 - (ii) by striking out the words "judicial supervision of",
 - (iii) by striking out the word "obtained" and by substituting the words "questioned or reviewed".

39. Section 72, subsection (3) is amended by striking out the words "Either party" and by substituting the words "Unless otherwise provided in a collective agreement, either party".

40. Section 73, subsection (7) is amended by striking out clauses (a) and (b) and by substituting the following:

- (a) it shall deliver to the bargaining agent and the Board a list of the names of the employers on whose behalf it is authorized to bargain collectively, and
- (b) it shall be deemed to bargain collectively for all such employers.

41. (1) Section 73a is renumbered as section 73d.

(2) Section 73d is amended

- (a) as to subsection (2) by adding the following clause after clause (f) :
 - (g) Where an employee has been suspended or dismissed the arbitration board
 - (i) may direct the employer to reinstate the employee and pay to the employee a sum equal to his wage loss by reason of his suspension or dismissal or such lesser sum as, in the opinion of the arbitration board, is fair and reasonable, or
 - (ii) may make such other directive varying the penalty as it considers fair and reasonable having regard to the terms of the collective agreement.
- (b) by adding the following subsection after subsection (6) :
 - (6a) The award of an arbitrator or arbitration board shall be served upon the parties to the difference by double registered mail or personally and the arbitrator or the chairman of the arbitration board shall, at the request of any of the parties to the difference, prove such service by affidavit.
- (c) as to subsection (15) by adding after clause (e) the following clause:

39. Section 72 (3) presently reads:

(3) Either party to a collective agreement, whether entered into before or after the coming into force of this Act, may not less than 30 days and not more than 60 days immediately preceding the date of expiry of the agreement require, by notice, the other party to the agreement to commence collective bargaining.

40. Section 73 (7) presently reads:

(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.

41. Section 73a (2)(f) reads:

(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:

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

- (f) the Court has removed an arbitrator, it may, notwithstanding the expiration of any time limits contained in this Act or in a collective agreement, order that another person be appointed in the same manner as provided for the appointment of the arbitrator and direct that the person or arbitration board hear and determine the difference and issue an award.
- (d) by adding the following subsection after subsection (15) :

(15a) Where the Court has set aside the award of an arbitrator or arbitration board pursuant to subsection (13), clause (a) or subsection (15), clause (b), it may, notwithstanding the expiration of any time limits contained in this Act or in a collective agreement order that another person or persons be appointed as the arbitrator or arbitration board in the same manner as provided for the appointment of the arbitrator or arbitration board to hear and determine the difference and to issue an award.

42. The following sections are added after section 73:

73a. (1) Notwithstanding section 73, subsection (7), where an organization of employers engaged in the construction industry has as members the majority of the employers in a territory in respect of whom a trade union has or trade union members of a trades council have established the right of collective bargaining the employers' organization may apply to the Board to be registered as the agent for collective bargaining on behalf of all such employers.

(2) Upon receipt of an application under subsection (1) the Board shall inquire

- (a) into whether the employers' organization is a proper organization to be so registered,
- (b) into whether the employers' organization has as members the majority of the employers with whom a trade union has or trade union members of a trades council have established the right of collective bargaining,
- (c) into the trade jurisdiction for which the employers' organization should be registered,
- (d) into the territory for which the employers' organization should be registered to carry on collective bargaining, and
- (e) into any other question of fact that is in the opinion of the Board material to the application.

42. Collective bargaining in construction industry.

(3) If the Board is satisfied that the employers' organization should be registered as requested in the application the Board shall register the employers' organization to act on behalf of those employers affected setting out

- (a) the trade union or trade unions with which the employers' organization may bargain collectively,
- (b) the trade jurisdiction respecting which the parties may bargain collectively, and
- (c) the territory to which collective bargaining may apply.

(4) Notwithstanding section 57, subsection (1) and subject to subsection (6), where an employers' organization is registered under subsection (3)

- (a) the employers' organization has exclusive authority to bargain collectively with the trade union or trade unions named in the registration on behalf of the employers named in the registration and on behalf of any other employer engaged in the construction industry in the territory set out in the registration with whom the trade union or trade unions may establish the right of collective bargaining, and
- (b) all rights, duties and obligations of individual employers under this Part apply *mutatis mutandis* to the employers' organization as well as to the individual employers,

and any collective agreement or settlement concluded or entered into by any employer affected by the registration and the trade union or trade unions is void and of no effect.

(5) Where a registered employers' organization bargains collectively with a trade union or trade union members of a trades council

- (a) the terms of any collective agreement (in so far as its provisions do not conflict with this Act) are binding upon
 - (i) all employers on whose behalf the employers' organization has exclusive authority to bargain collectively under subsection (4), clause (a),
 - (ii) all employers engaged in the construction industry in the territory set out in the registration with whom the trade union or trade unions may during the term of the collective agreement establish the right of collective bargaining,
 - (iii) all employees of the employers referred to in subclauses (i) and (ii) who are employed within the scope of the collective agreement, and
 - (iv) the trade union or trade unions,

- (b) any such employer has the right to cast a ballot at any vote supervised by the Board having a bearing on collective bargaining or on the question of lock-out, and
- (c) any employee of employers referred to in clause (b) has the right to cast a ballot at any vote supervised by the Board having a bearing on collective bargaining or on the question of strike action.

(6) Where a strike or lockout is in effect, no parties to the dispute, other than the registered employers' organization and the trade union or trade union members of a trades council, shall for a period of 60 days from the date the strike or lockout commenced conclude any collective agreement or enter into any form of settlement and any such other agreement or settlement is void and of no effect.

73b. (1) Where an employers' organization has been registered under section 73a, subsection (3) an application may be made for the cancellation of the registration of the employers' organization

- (a) where 10 months has elapsed since notice to bargain collectively was served by either party and no collective agreement has been concluded, or
- (b) where a collective agreement between the employers' organization and the trade union or trade unions is in force at any time within two months prior to the end of the term of the agreement, or
- (c) after a strike or lockout has been in effect for a period of 60 days.

(2) When an application is received under subsection (1) the Board shall determine the wish of the majority of the employers affected.

(3) If the Board is satisfied that the majority of the employers affected no longer desire the employers' organization to carry on collective bargaining on their behalf with the trade union or trade unions set out in the registration, the Board shall cancel the registration.

(4) Where a registration is cancelled under subsection (3),

- (a) the trade union or trade unions shall retain all rights of collective bargaining existing in respect of individual employers, and
- (b) any collective agreement in effect between the trade union or trade unions and the employers' organization shall be binding on the trade union or trade unions and each of the employers who were bound by the collective agreement under section 73a, subsection (5), clause (a).

43. The following section is added after section 73b:

73c. (1) The employers and trade unions engaged in the construction industry may appoint a representative committee to be known as the jurisdictional committee.

(2) The jurisdictional committee shall determine its own procedures but shall give full opportunity to all parties to present evidence and to be heard.

(3) Where a difference arises following the assignment of work to members of a particular trade union or to workmen of a particular trade, craft or class, any of the parties affected may refer the question to the jurisdictional committee.

(4) The jurisdictional committee shall make full inquiry and not later than 14 days after the reference of the difference to it or such longer period as the jurisdictional committee shall determine make its award setting out its decision respecting the assignment of the work.

(5) The decision of the jurisdictional committee is final and binding on all parties to and all persons affected by the difference.

(6) Where a difference arises as to the assignment of work and a jurisdictional committee has not been appointed under subsection (1), any of the parties affected may refer the difference to the Board.

(7) Where a difference has been referred to the Board under subsection (6) the decision of the Board is final and binding on all parties to and all persons affected by the difference.

(8) If after service on the parties to the difference of the decision of the jurisdictional committee or of the Board the decision is not complied with forthwith the Board may file a copy of the decision with the Clerk of the Court in the judicial district in which the difference arose and thereupon the decision is enforceable as a judgment or order of that Court.

44. Section 74 is amended by striking out subsection (1) and by substituting the following:

74. (1) Where a business or part thereof is sold, leased or transferred,

(a) the purchaser, lessee or transferee is bound by all proceedings where there have been proceedings under this Part,

(b) if a bargaining agent was certified, the certification remains in effect and applies to the purchaser, lessee or transferee, and

43. Jurisdictional committee for construction industry.

44. Section 74 (1) reads:

74. (1) Where a business or part thereof is sold, leased or transferred the purchaser, lessee or transferee is bound by all the proceedings under this Part before the date of sale, lease or transfer, and the proceedings continue as if no such change had occurred, and

(a) if a bargaining agent was certified the certification remains in effect, and

(b) if a collective agreement was in force that agreement continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him and no changes shall be made in the agreement during its term without approval of the Board.

- (c) if a collective agreement was in force that agreement continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him and no changes shall be made in the agreement during its term without approval of the Board,

and the Board may, upon application of any employer or trade union affected, and after such inquiry as the Board considers adequate, make a determination of all questions arising under this subsection, and that determination is final and binding on all parties affected.

45. Section 80 is amended

- (a) by adding the following subsections after subsection (2) :

(2a) Where an employee is required by the terms of a collective agreement to be a member of a specified trade union, the employee's membership or application for membership shall not be affected by any terms and conditions not applicable to other members.

(2b) Any employee who as a condition of employment must be a member of a specified trade union and whose membership is suspended or revoked shall not be denied employment during any appeal and provided such appeal is instigated within 90 days.

(2c) An employee shall be entitled to be represented by counsel at any appeal referred to in subsection (2b).

- (b) by adding the following subsection after subsection (4) :

(4a) No person or group of persons shall for any reason whatsoever refuse to take delivery of goods from a carrier or refuse to assist in the loading of a carrier of goods for shipment except where the carrier and his employees are parties to a legal strike or lockout.

- (c) by adding the following subsection after subsection (8) :

(8a) No member of any trade union may be fined, suspended, expelled or otherwise disciplined for other than non-payment of initiation fees, assessments and dues by the trade union or by any officer thereof unless that member has been

- (a) served with written specific charges,
- (b) given a reasonable time to prepare his defence,

45. Membership in a trade union.

- (c) afforded a full and fair hearing including the right to be represented by counsel, and
- (d) afforded reasonable time to pay fines, if any, imposed by the union.

46. The following section is added after section 81:

81a. (1) If there is a complaint in writing to the Board that an employer or a trade union or any other person is committing an act prohibited by sections 76 to 80, the secretary may serve or cause to be served a notice of the complaint on the person against whom the complaint is made.

(2) The chairman may appoint an officer to inquire into the complaint and endeavour to effect a settlement of the matter complained of, and the officer shall report the results of his inquiry and endeavours to the chairman.

(3) If no appointment is made under subsection (2) or if the officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint.

(4) If on inquiry the Board is satisfied that an employer, trade union or other person is doing or has done any of the acts prohibited by sections 76 to 80, the Board

- (a) shall issue a directive directing the employer, trade union or other person to cease doing the act,
- (b) may in the same directive or in a subsequent directive order the employer, trade union or other person to rectify the act, and
- (c) may include a direction to pay to an employee a sum equal to the wages lost by reason of his discharge contrary to section 80, subsection (1) within such time as may be fixed by the Board.

(5) If, after service of the directive under subsection (4) the directive is not complied with on the day fixed for compliance the Board may on the request of the employer, trade union or other person affected by the directive file a copy of the directive with the Clerk of the Court in the judicial district in which the complaint arose and thereupon the directive is enforceable as a judgment or order of that Court.

(6) If in the opinion of the Board the complaint is without merit, the Board may reject the complaint at any time.

47. Section 84 is amended

- (a) by adding after the words "by all parties" the words "or as may be fixed by the Minister",
- (b) as to clause (b) by adding after the word "recommendations" the words ", if any,".

46. Inquiry into complaints of breaches of sections 76 to 80.

47. Section 84 (b) reads:

84. The conciliation commissioner within the time, not exceeding 14 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 Minister setting out

(b) the matters upon which the parties cannot agree and his recommendations submitted to the parties with respect thereto, and

48. Section 86, subsection (1) is amended by striking out the words "recommendations of the conciliation commissioner under clause (b) of section 84" and by substituting the words "conciliation commissioner shall make recommendations with respect to the matters upon which the parties cannot agree which".

49. Section 93 is amended

- (a) as to subsection (9) by striking out the words "notify the Minister" and by substituting the words "notify the officer conducting the vote",
- (b) 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 who bargained collectively under section 73, subsection (7) or (8) or section 73a, subsections (4) and (5),

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

50. Section 94 is amended

- (a) by adding the following subsections after subsection (5):

(5a) Where a vote has been held under section 93, subsection (14),

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

(b) no employee shall go on strike, until a vote has taken place under the supervision of the Board in the manner provided for in section 69 and a majority of the employees of the employers who are parties to the dispute entitled to vote voting as one unit have voted in favour of the strike.

(5b) Where a vote has been held under section 93, subsection (14), no employer shall cause a lock-out until the majority of the employers who are parties to the dispute have voted in favour of lock-out by secret ballot supervised by the Board.

48. Section 86 (1) reads:

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.

49. Section 93 (9) reads:

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

50. Strikes and lockouts.

(5c) Where

- (a) the majority of the employees have voted in favour of strike action and a strike takes place the strike shall be in respect of all employers who were eligible to vote at the vote held under section 93, subsection (14), and
 - (b) the majority of the employers have voted in favour of lockout and a lockout takes place all employers who were entitled to vote at the vote held under section 93, subsection (14) shall participate in the lockout.
- (b) by adding the following subsection after subsection (8):
- (9) Where a strike or lockout is prohibited under subsection (8) it shall be deemed that the dispute no longer exists.

51. Section 94a is amended by striking out subsection (1) and by substituting the following:

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

- (a) a party to the dispute, or
 - (b) any other person or party,
- to restrain any party to the dispute from doing any act in connection with the strike or lockout.

52. The following section is added after section 94a:

94b. (1) Where there is a lawful strike or lockout, a trade union, members of which are on strike or locked out, and anyone authorized by the trade union may, at the striking or locked out employees' place of employment and without acts that are otherwise unlawful, persuade or endeavour to persuade anyone not to

- (a) enter the employer's place of business, operations or employment, or
 - (b) deal in or handle the products of the employer, or
 - (c) do business with the employer.
- (2) In respect of matters to which this Part applies, except as provided in subsection (1), no trade union or other person shall persuade or endeavour to persuade anyone not to
- (a) enter an employer's place of business, operations or employment, or
 - (b) deal in or handle the products of any person, or
 - (c) do business with any person.

51. Section 94a (1) reads:

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 the strike or lockout.

52. Picketing.

53. The following section is added after section 95:

95a. (1) Where a strike or lockout occurs and either of the parties alleges it is illegal, the matter may be referred to the Board.

(2) The Board shall upon receipt of a reference under subsection (1) make such inquiry as the Board considers necessary as to the facts.

(3) Where the Board decides that the strike or lockout is illegal the Board shall issue a declaration to that effect and in the declaration may direct any person, employee, employer, employer's organization, trade union and their officers and representatives to cease and desist from doing anything to continue the strike or lockout.

(4) If, after service of the directive under subsection (3), the directive is not complied with on the day fixed for compliance, the Board may file a copy of the directive with the Clerk of the Court in the judicial district in which the strike or lockout occurs and thereupon the directive is enforceable as a judgment or order of that Court.

54. The following section is added after section 98:

98a. (1) An employers' organization registered under section 73a is a legal entity for purposes of prosecuting and being prosecuted for violations of this Act and for purposes of suing and being sued under this Act.

(2) A trade union is a legal entity for purposes of prosecuting and being prosecuted for violations of this Act and for purposes of suing and being sued under this Act.

55. Section 99, subsection (1) is amended

(a) by striking out the words "life or property" and by substituting the words "life, property or the vital needs of the public",

(b) by adding the word "or" at the end of clause (b) and by adding the following clause after clause (b):

(c) a stoppage or impending stoppage of vital services or work vital to the needs of the public.

56. The following section is added after section 99:

100. (1) A procedure established under section 99, subsection (3) may be the reference of the dispute to a Public Emergency Tribunal.

(2) Where a dispute is to be referred to a Public Emergency Tribunal the Minister shall appoint three or more members of the Tribunal, one of whom shall be chairman.

53. Illegal strikes and lockouts.

54. Self-explanatory.

55. Section 99 (1) reads:

99. (1) Where at any time in the opinion of the Lieutenant Governor in Council a state of emergency exists in the Province in such circumstances that life or property would be in serious jeopardy by reason of

(a) any breakdown or stoppage or impending breakdown or stoppage of any system, plant or equipment for furnishing or supplying water, heat, electricity or gas to the public or any part of the public, or

(b) a stoppage or impending stoppage of hospital services in any area of the Province,

if the state of emergency arises from a labour dispute, the Lieutenant Governor in Council may by proclamation declare that from and after a date fixed in the proclamation all further action and procedures in the dispute are to be replaced by the emergency procedures under this section.

56. Public Emergency Tribunals.

(3) Subject to the requirements of *The Public Service Act, 1968* the Minister may provide the Tribunal with secretarial, stenographic and such other assistance as to the Minister appears necessary for the efficient carrying out of the provisions of this section.

(4) A Tribunal

(a) shall forthwith upon appointment make an inquiry into the dispute and shall endeavour to bring about agreement between the parties in relation to the matter referred to it, and

(b) its members have the power of commissioners under *The Public Inquiries Act*.

(5) After making full inquiry and within the time fixed by the Minister in the appointment of the Tribunal and where the dispute has not been settled the Tribunal

(a) shall make its award and in its award shall deal with each item in dispute, and

(b) shall forward a copy of the award to both parties to the dispute and to the Minister.

(6) The award of a Tribunal is binding on

(a) the employer,

(b) the bargaining agent, and

(c) every employee affected.

57. Section 101 is amended by striking out subsection (3) and by substituting the following:

(3) The employer shall by the 15th day of each month remit to the trade union named in the order

(a) the dues deducted for the preceding month, and

(b) a written statement of the name of the employee for whom the deduction was made and of the amount of each deduction,

until the order is revoked in writing signed by the employee and delivered to the employer.

58. Section 105 is amended

(a) as to subsection (1) by striking out the word "Minister" and by substituting the word "Board",

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

(1a) Each employers' organization applying for registration or registered under section 73a shall file with the Board

57. Section 101 (3) reads:

- (3) The employer at least once each month shall remit to the trade union named in the order
- (a) the dues deducted, and
 - (b) a written statement of the name of the employee for whom the deduction was made, and of the amount of each deduction, until the order is revoked in writing signed by the employee and delivered to the employer.

58. Section 105 (1) reads:

105. (1) Each trade union and each branch or local of a trade union shall file with the Minister
- (a) a copy, duly certified by its proper officers to be true and correct, of the constitution, rules and by-laws of the trade union, branch or local, and
 - (b) a list of the names and addresses of its president, secretary, organizers and other officers, specifying those officers authorized to execute collective agreements in behalf of the trade union.

- (a) a copy, duly certified by its proper officers to be true and correct, of the constitution, rules and by-laws of the employers' organization, and
 - (b) a list of the names and addresses of its president, secretary, organizers and other officers, specifying those officers authorized to execute collective agreements in behalf of the employers' organization.
- (c) as to subsection (2)
- (i) by striking out the words "clause (a) of subsection (1)" and by substituting the words "subsection (1), clause (a) and subsection (1a), clause (a)",
 - (ii) by adding after the word "local" the words "or employers' organization",
- (d) as to subsection (3) by striking out the word "Minister" and by substituting the word "Board",
- (e) as to subsection (4) by striking out the words "clause (b) of subsection (1)" and by substituting the words "subsection (1), clause (b) and subsection (1a), clause (b)".

59. Section 106 is amended by striking out the word "Minister" and by substituting the word "Board".

60. The following section is added after section 108:

108a. (1) Notwithstanding any provision of *The Trustee Act*, in any proceeding affecting a trust having trustees representative of each of employers and trade unions in equal numbers which is or has been authorized or sanctioned by a collective agreement and the trust involves health and welfare, pension or other similar benefits and the trust agreement or instrument has been filed with the Minister, a trustee is not personally liable for his actions or decisions as trustee whether taken or made before or after the coming into force of this section, nor shall any such actions or decisions be varied or set aside unless it can be shown to the satisfaction of the Court that the trustee failed to act honestly or in accordance with the purpose and intent of the trust agreement or instrument.

(2) In a trust described in subsection (1), the Court may on the application of the trustees or any of them, and upon the applicant giving such notice as the Court directs, order an amendment of the trust agreement or instrument which established the trust

- (a) if, in the opinion of the majority of the trustees, it is difficult or impractical to otherwise validly amend the agreement or instrument and the majority has approved the proposed amendment, and

59. Section 106 reads:

106. Each of the parties to a collective agreement shall upon its execution forthwith file one copy with the Minister.

60. Health, welfare and pension trusts.

- (b) the Court is satisfied that the proposed amendment is in the interests of the management or administration of the trust and is fair and reasonable.

61. Part 6 is struck out and the following is substituted:

PART 6

EQUAL PAY

109. (1) No employer shall employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work.

(2) Work for which a female employee is employed and work for which a male employee is employed shall be deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar.

(3) A difference in the rate of pay between a female and male employee based on any factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would normally justify such a difference.

110. No employer shall reduce the rate of pay of an employee in order to comply with this Part.

111. (1) A female employee or her representative may make a complaint in writing to the director that the employee has been paid a lesser rate of pay than that to which she was entitled under section 109.

(2) The director

(a) may on his own initiative, or

(b) shall upon a complaint,

designate an officer to inquire into the matter of the application of section 109.

(3) The officer shall inquire into the matter and if in his opinion there has been a violation of section 109 shall endeavour to effect a settlement.

(4) If in the opinion of the officer

(a) there has not been a violation of section 109, or

(b) there is a violation of section 109 and he has been unable to effect a settlement,

the officer shall refer his report to the Board.

61. Provisions on equal pay revised.

112. (1) When the Board receives a report from an officer under section 111, subsection (4), the Board may, if it considers it advisable, fix a time for a hearing regarding the matter and shall give such notice as it considers proper to the interested parties.

(2) The employer and the employee may be represented at the hearing and may present evidence and make submissions.

(3) If any party properly served with notice of the hearing fails to attend or to be represented, the Board may proceed as if the party had attended or had been represented.

113. The Board, after completing its inquiry and determining the merits of the matter, may issue to the parties directly affected, whatever directive it considers necessary under this Part and the directive is final and shall be complied with in accordance with its terms.

114. A directive issued under section 113 applies only to wages owing for a period of six months preceding the date of complaint or the termination of employment, whichever first occurs.

115. If, after service of its directive and after the expiration of 14 days from the date of the directive or the date provided in the directive for compliance, whichever is the later, an employee affected by the directive requests the Board to file a copy of the directive with the Clerk of the Supreme Court, the Board shall file a copy of the directive in the judicial district in which the violation arose and thereupon the directive is enforceable as a judgment or order of that Court.

116. (1) Where an employee is paid less than the rate of pay to which she is entitled under this Part, she is entitled to recover from her employer, in a civil action, the difference between the amount paid and the amount to which she was entitled, together with costs of action.

(2) An action under subsection (1) may be commenced within 12 months from the date upon which the cause of action arose but not thereafter.

(3) Subsection (1) applies only to the wages of an employee during the period of 12 months last preceding the termination of her services or the taking of civil action by her pursuant to that subsection, whichever first occurs.

(4) Where an action has been commenced under subsection (1) no complaint may be made under section 111, and where a complaint has been made under section 111 no action may be commenced under subsection (1).

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

62. The following section is added after section 118:

118a. A copy of any decision or directive of the Board made under sections 73c, 81a, 95a or 112 having endorsed thereon a certificate purporting to be signed by the secretary stating that the copy is a true copy of the directive shall be received in evidence in any court as *prima facie* proof of the decision or directive and the contents thereof without proof of the appointment or signature of the secretary.

63. The following section is added after section 121:

121a. Where

- (a) a corporate employer is guilty of an offence under section 29, 29a or 29d, and
- (b) a judgment or order requiring the corporate employer to pay moneys to its employees remains unsatisfied for a period of 10 or more days,

then, notwithstanding the provisions of *The Companies Act*, the directors and officers of the corporate employer are jointly and severally liable to the employees of the corporate employer for all wages, minimum wages, overtime pay, general holiday pay and vacation pay, due or accruing due to the employees and which accrued due while those directors and officers were acting as such and an employee may commence an action or actions against those directors and officers to recover any or all such moneys.

64. The following section is added after section 124:

124a. A complaint, information, directive or order under Part 2, 3, 4 or 6 may relate to one or more offences by one employer with regard to one or more of his employees.

65. Section 125 is amended by adding the following subsection:

(3) A consent under this section shall be received in any court as *prima facie* proof, without proof of the appointment or signature of the Minister, of the consent and the contents thereof.

62. Admissibility in evidence of decisions and directives of Board.

63. Liability for wages.

64. Self-explanatory.

65. Section 125 (1) reads:

125. (1) No prosecution for an offence under Part 2, 5 c. 6 shall be instituted except with the consent in writing of the Minister.

66. The words "inspector" and "chief inspector" are struck out wherever they occur in the Act and the words "officer" and "director" are substituted, respectively.

67. (1) This Act, except sections 26, 34 and 43, comes into force on July 1, 1970.

(2) Sections 26, 34 and 43 come into force on November 1, 1970.

66. Alteration of wording.