

1972 Bill 79

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 79

The Alberta Labour Amendment Act, 1972

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

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BILL 79

1972

THE ALBERTA LABOUR AMENDMENT ACT, 1972

(Assented to _____, 1972)

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

1. *The Alberta Labour Act is hereby amended.*
2. *Section 5 is amended by striking out subsections (2), (3), (4), (5) and (6) and by substituting the following:*
 - (2) Notwithstanding subsection (1), the Lieutenant Governor in Council
 - (a) may appoint one or more vice-chairmen, any of whom at the direction of the Chairman
 - (i) shall act as Chairman of the Board, and
 - (ii) shall act as Chairman of a division of the Board when the Board sits in two or more divisions, and who shall be deemed to be a member of the Board while so acting, and
 - (b) may appoint two additional persons as alternate members of the Board who shall act as members of the Board at the direction of the Chairman
 - (i) in the absence of members appointed under subsection (1), or
 - (ii) when the Board sits in two or more divisions.
 - (3) The Chairman or a vice-chairman and two members of the Board constitute
 - (a) a quorum of the Board, and
 - (b) when a division of the Board is sitting, a quorum of the division.
 - (4) Where a quorum of the Board or quorum of a division of the Board is sitting, the Board or the division may exercise the powers, duties and functions of the Board.
 - (5) The Board may sit in two or more divisions simultaneously or at different times if there is a quorum for each division.

Explanatory Notes

1. This Bill will amend chapter 196 of the Revised Statutes of Alberta 1970.

2. Section 5, subsections (2), (3), (4), (5) and (6) presently read:

(2) 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.

(3) A majority of the Board constitute a quorum.

(4) Notwithstanding any vacancy in the membership of the Board the existing or continuing members thereof have and may exercise all the powers, duties and functions of the Board.

(5) The members of the Board hold office during pleasure and shall be paid such allowance as remuneration for their services and for the expenses necessarily incurred in the performance of their duties as may be fixed by the Lieutenant Governor in Council.

(6) Subject to the provisions of The Public Service Act, the Minister

(a) may appoint a secretary, a chief executive officer and such other officers and servants as are required from time to time by the Board, and

(b) may prescribe their duties and fix their remuneration.

The amendments will permit an expansion of the Board of Industrial Relations by permitting it to sit in two or more divisions. Applications can then be dealt with more expeditiously.

(6) A decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board but, if there is no majority, the decision of the Chairman or vice-chairman governs.

(7) A decision of the majority of the members of a division of the Board present and constituting a quorum, is a decision of the Board, but if there is no majority the decision of the Chairman or vice-chairman governs.

(8) Notwithstanding any vacancy in the membership of the Board the remaining members thereof, if at least three members remain in office, have and may exercise the powers, duties and functions of the Board.

(9) Each of the members and alternate members of the Board, except the Chairman and vice-chairmen, hold office for a term fixed by the Lieutenant Governor in Council which shall not exceed seven years and shall be paid such allowance as remuneration for their services and for the expenses necessarily incurred in the performance of their duties as may be fixed by the Lieutenant Governor in Council.

(10) In accordance with *The Public Service Act*, there may be appointed a secretary, a chief executive officer and such other employees as are required by the Board.

3. Section 9, subsection (2) is amended by striking out the word and figures "4 or 6" and by substituting the word and figures "4, 6 or 7".

4. Section 12, subsection (1) is amended

(a) as to clause (h) by striking out the word "and" at the end thereof,

(b) by adding the following clauses after clause (i):

(j) the amount of money paid an employee under section 127.3, subsection (5), and

(k) a copy of notice of termination of employment given an employee under section 127.3, subsection (1) or under an order of the Board.

5. Section 13, subsection (2) is amended by adding after the words "working hours" the words "fixed by subsection (1) or by an order of the Board".

3. Section 9, subsection (2) presently reads:

(2) In particular and without limiting the generality of the foregoing the Board may arbitrate between employers and employees in any case where, in the opinion of the Board, there has been a violation of any provision of Part 1, 2, 3, 4 or 6 or of any order, regulation, direction or schedule made pursuant to any of these Parts, and may

- (a) compromise and settle such cases,
- (b) require any employer to pay to the Board or to the employee the moneys agreed upon in settlement of the liability of the employer to the employee,
- (c) collect on behalf of any employee or employees any arrears of wages or any payment due for overtime or otherwise,
- (d) accept such moneys so collected in full or partial settlement of the liability of any employer to any employee, and
- (e) do such other matters and things as are necessary for the performance of the duties assigned to the Board by this Act.

Part 7 is new and is contained later in this Bill.

4. Section 12, subsection (1) presently reads:

12. (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 the present term of employment and the anniversary date thereof,
- (e) the wage rate and date and particulars of each change,
- (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,
- (g) the amount of money paid in lieu of vacation with pay upon the termination of employment,
- (h) the amount of money paid for holidays pursuant to section 24, subsection (2), and
- (i) the amount of each deduction from the earnings of the employee and the purpose for which deduction was made,

except that 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 or at such other place as the Board may designate.

The amendment ties in to new section 127.3.

5. Section 13 presently reads:

13. (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.

6. *The following section is added after section 16:*

16.1 Notwithstanding section 13, subsection (1), for the purpose of confining hours of work within a period of less than five days in any week, the Board, after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, by order prescribe

- (a) the extent to which the hours of work in a day fixed by section 13 or by an order of the Board may be exceeded, and
- (b) the conditions under which the order may apply.

7. *Section 23 is amended by adding the word “or” at the end of clause (c) and by adding the following clause after clause (c):*

- (d) in excess of the hours of work prescribed by an order of the Board under section 16.1.

8. *The following section is added after section 34:*

34.1 Notwithstanding the provisions of any other Act, a person to whom unpaid wages, vacation pay and general holiday pay (or any one or more of them) are due and owing by an employer shall have first priority over the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer, to the extent of \$2500.

9. *Section 59 is amended*

- (a) *as to subsection (1) by adding after the words “subject to” the words “section 71, subsection (5) and”,*
- (b) *as to subsection (2) by adding after the words “subject to” the words “section 71, subsection (5) and”,*
- (c) *as to subsection (3) by adding after the words “subject to” the words “section 71, subsection (5) and”,*
- (d) *as to subsection (4) by adding after the words “subject to” the words “section 71, subsection (5) and”.*

10. *Section 67, subsection (1) is amended by striking out the words “certification of the bargaining agent” and by substituting the words “certification of the bargaining agent, subject to section 71, subsection (5),”.*

6. See note to section 7.

7. Section 23, clause (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 ordinarily necessitating the working of at least one shift on each day of the week and approved by the Board under the provisions of section 16.

The amendments to sections 13 and 23, and the new section 16.1 will provide the Board of Industrial Relations with the authority to establish, with prior approval of the Lieutenant Governor in Council, general criteria for accommodating longer work days within the confines of weekly limits the result of which could permit three or four day work weeks.

8. Claim for unpaid wages has priority.

9. Section 59, subsections (1), (2), (3) and (4) presently read:

59. (1) Where no collective agreement or certification of a bargaining agent under this Part is in force, a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may, subject to section 72, make application at any time to the Board to be certified as the bargaining agent of the employees in that unit.

(2) Where no collective agreement is in force and a bargaining agent has been certified under this Part, a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may, at any time after and not before the expiration of 10 months from the date of the certification of the bargaining agent, make application to the Board, subject to section 72, to be certified as the bargaining agent of the employees in that unit.

(3) Where a collective agreement for a term of one year is in force a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may, after and not before the expiration of 10 months of the term of the collective agreement, make application, subject to section 72, to the Board to be certified as the bargaining agent of the employees in that unit.

(4) Where a collective agreement for a term longer than one year or a collective agreement that provides for its continuation for a term longer than one year is in force, a trade union that claims to have been selected by a majority of employees in a unit that is appropriate for collective bargaining may

(a) after the collective agreement has been in force for 10 months and before it has been in force for 12 months of the first year of its term, or

(b) at any time within the two months prior to the end of the term of the collective agreement when the term of the collective agreement is expressed in terms other than complete years, or

(c) after the agreement has been in force for 10 months of the second or any subsequent year of its term or continuation and before it has been in force 12 months of the second or any subsequent year of its term and continuation,

make application, subject to section 72, to the Board to be certified as the bargaining agent of the employees in that unit.

10. Section 67, subsection (1) presently reads:

67. (1) Where a trade union has been certified as bargaining agent on behalf of employees in a unit application may be made for the revocation of the certification of the bargaining agent at any time after and not before 10 months from the date of certification, except that

(a) where a collective agreement for a term of one year is in force the application may be made after and not before the expiration of 10 months of the term of the collective agreement, and

(b) where a collective agreement for a term longer than one year or a collective agreement that provides for its continuation for a term longer than one year is in force the application may be made

(i) after the collective agreement has been in force for 10 months and before it has been in force for 12 months of the first year of its term, or

(ii) at any time within the two months prior to the end of the term of the collective agreement if the term of the collective agreement is expressed in terms other than complete years, or

(iii) after the agreement has been in force for 10 months of the second or any subsequent year of its term or continuation and before it has been in force 12 months of the second or any subsequent year of its term and continuation.

11. *Section 71 is amended*

(a) as to subsection (1)

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

(h1) the parties to a dispute have settled, in writing, the terms to be included in a collective agreement;

(ii) by adding the following clause after clause (l):

(m) an employer is within the scope of a registration of an employers' organization.

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

(5) Where the Board has certified a trade union to be the bargaining agent on behalf of employees in a unit under section 63 and the decision of the Board is questioned or reviewed as a result of an application to a court, an application to the Board under section 59 or under section 67, subsection (1) may be made only after 10 months from the date of the final disposition of the application to the court, except where the final disposition of the application to the court results in the decision of the Board being quashed.

11. Section 71, subsection (1) presently reads:

71. (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.

The new clause (h1) gives additional authority to the Board to decide a question concerning whether parties to a dispute have in fact settled the terms to be included in a collective agreement.

New clause (m) gives authority for the Board to identify an employer falling within the scope of registration in the construction industry.

As to the proposed subsection (5), the Act presently provides that where a trade union is certified as bargaining agent for a group of employees, another union may not make an application for the same group for a period of 10 months, nor can an application for the revocation of the certificate be made for the same period.

12. *Section 75 is amended*

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

(1.1) An application may be made under subsection (1) at any time except when the majority of the employers within the territory and trade jurisdiction set out in the application are bargaining collectively with the trade union or trade unions named in the application in respect of the territory and trade jurisdiction.

- (b) *by adding the following subsection after subsection (2):*

(2.1) The Board, before disposing of an application by an employers' organization to be registered as an agent for collective bargaining, may

- (a) determine whether the work relating to the trade jurisdiction described in the application in whole or in part is part of the construction industry,
- (b) approve, alter or amend the territory or trade jurisdiction described in the application, and
- (c) determine what employers come within, or should be excluded from, the trade jurisdiction described in the application.

- (c) *by striking out subsections (4) and (5) and by substituting the following subsections:*

(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
 - (i) the employers named in the registration,
 - (ii) any other employer engaged in the construction industry in the territory and trade jurisdiction set out in the registration with whom the trade union or trade unions has established or may subsequently establish the right of collective bargaining as a result of either certification as bargaining agent or being a party to a collective agreement between the employer and the trade union or trade unions, and
 - (iii) any other employer engaged in the construction industry who is party to an agreement which provides that he shall comply with any of the terms of a collective agreement entered into by the trade

12. The majority of the amendments in these sections are directed to improving the operation of the sections relating to the registration of employers' organizations as agents for employers in the construction industry in collective bargaining. Many of the amendments are for clarification only.

Subsection (1.1) An application for registration may be made only at a time when a majority of the employers affected are not bargaining with the trade union or trade unions.

Subsection (2.1) The authority of the Board in processing an application for registration is set out.

Subsection (4) The bargaining rights vested in a registered employers' organization will include an employer who is not party to a collective agreement with the trade union but who has agreed to comply with any of the terms of the collective agreement, in addition to employers previously affected. An individual employer and a trade union concluding an individual agreement where an employers' organization has bargaining rights will be guilty of an offence.

Subsection (5) As a result of the amendment to subsection (4) a collective agreement concluded between a registered employers' organization and a trade union will be binding in its entirety on an employer who is a party to an agreement to comply with any of its terms.

Subsection (5.1) When an employers' organization is registered and then commences collective bargaining with the trade union, any existing collective agreements between individual employers affected and the trade union will terminate, when a collective agreement is concluded or a strike or lockout takes place.

Subsection (5.2) When an employers' organization has been registered, but has not concluded a collective agreement with the trade union, existing collective agreements between individual employers affected and the trade union will continue beyond the normal termination until either the organization concludes an agreement or a strike or lockout takes place.

Subsection (5.3) When an employers' organization has been registered, but has not concluded a collective agreement with the trade union and a collective agreement between an individual employer affected and the trade union expires, the organization and the trade union may negotiate an interim agreement for that employer which shall continue until either the organization concludes an agreement or a strike or lockout takes place.

Subsection (7) Where following registration the employers' organization and the trade union are involved in a strike or lockout and an individual employer concludes a collective agreement with the trade union after 60 days (section 75(6)) such agreement terminates if the organization and union later conclude an agreement.

Subsection (8) defines employer for the purpose of an application under subsection (1).

union or trade unions in respect of work in the territory and trade jurisdiction set out in the registration,

and when bargaining collectively with the trade union or trade unions shall be deemed to be bargaining collectively on behalf of all such employers, 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 subject to subsection (6), any collective agreement or settlement of a dispute in respect of work in the territory and trade jurisdiction set out in the registration concluded or entered into between an employer affected by the registration and the trade union or trade unions subsequent to the date the application to be registered was received by the Board is void and of no effect and the trade union or trade unions and the employer are each guilty of an offence.

(5) Notwithstanding section 74, subsections (5) and (6) and section 83, but subject to subsection (5.3) of this section, where a registered employers' organization bargains collectively with the trade union or trade unions named in the registration

- (a) the terms of any collective agreement entered into (insofar 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 and trade jurisdiction 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 employer referred to in subsection (4), clause (a) 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 a lockout, and

(c) any employee of employers referred to in subsection (4), clause (a) who is directly affected by the dispute has the right to cast a ballot at any vote supervised by the Board in the manner provided for in section 69 having a bearing on collective bargaining or on the question of strike action.

(d) *by adding the following subsections after subsection (5):*

(5.1) Notwithstanding section 74, subsection (5), where at the time a registered employer's organization commences collective bargaining with the trade union or trade unions named in the registration, a collective agreement between an employer referred to in subsection (4), clause (a) and the trade union or trade unions (whether entered into before or after the commencement of this subsection) is in force, that collective agreement terminates and is no longer in force

(a) where a collective agreement is concluded between the employers' organization and the trade union or trade unions, on the date of signing or the date on which the collective agreement comes into force, whichever is later, or

(b) where written notice is given

(i) by the employers of a lockout, or

(ii) by the bargaining agent of a strike,

on the day such notice is served.

(5.2) Subject to subsection (5.3), where a registration has been granted and a collective agreement has not been concluded between the registered employers' organization and the trade union or trade unions named in the registration and the first fixed date for the termination of a collective agreement binding upon an employer referred to in subsection (4), clause (a) and the trade union or trade unions occurs, the collective agreement remains in force

(a) until a collective agreement is concluded between the employers' organization and the trade union or trade unions, or

(b) where a strike or lockout occurs following collective bargaining between the employers' organization and the trade union or trade unions, until the commencement of the strike or lockout,

whichever first occurs.

(5.3) Notwithstanding section 74, subsection (1), where registration has been granted and collective bargaining has not commenced under subsection (4)

and notice requiring collective bargaining between an employer referred to in subsection (4), clause (a) and the trade union or trade unions is given under the terms of the collective agreement or under section 73, subsection (3), the employers' organization shall bargain collectively with the trade union or trade unions on behalf of that employer and may enter into a collective agreement with the trade union or trade unions on behalf of the employer and such collective agreement shall continue in force

- (a) until a collective agreement has been entered into between the employers' organization and the trade union or trade unions, or
- (b) where a strike or lockout occurs following collective bargaining between the employers' organization and the trade union or trade unions, until the commencement of the strike or lockout,

whichever first occurs.

(e) *by adding the following subsections after subsection (6):*

(7) Where a collective agreement is concluded or other form of settlement is entered into by an employer and the trade union or trade unions as permitted under subsection (6) and while such collective agreement or settlement is in force the registered employers' organization and the trade union or trade unions conclude a collective agreement, the collective agreement or settlement between the employer and trade union or trade unions becomes void and of no effect and the collective agreement between the employers' organization and the trade union or trade unions becomes binding upon the employer and the trade union or trade unions on the date it comes into force.

(8) For the purpose of an application under subsection (1) by an employers' organization, "employer" means an employer who engages in work in the trade jurisdiction affected and who has been so engaged and employed employees in the trade jurisdiction at any time during the six months preceding the date of the application.

13. The following section is added after section 75:

75.1 Where a registered employers' organization

- (a) is merged or amalgamated into another employers' organization, or
- (b) agrees to transfer its rights under registration to another employers' organization,

13. Where a registered employers' organization merges or amalgamates into another employers' organization the Board may declare that the succeeding organization inherits the registration.

the Board, on the application of either employers' organization, the trade union or trade unions or any person directly affected may declare, after such inquiry as the Board considers adequate, that the other employers' association has or has not acquired the rights, privileges and duties under this Act of the employers' organization named in the registration or the Board may dismiss the application, and the decision of the Board is final and binding on all parties affected.

14. Section 76 is amended

- (a) as to subsection (2) by adding after the words "employers affected" the words "by a vote supervised by the Board or in such other manner as the Board considers adequate",*
- (b) as to subsection (4) by striking out clause (b) and by substituting the following:*
 - (b) any collective agreement in effect between the trade union or trade unions and the employers' organization continues to be binding upon*
 - (i) every employer who was bound by the collective agreement under section 75, subsection (5), clause (a) at the time of cancellation, and*
 - (ii) the trade union or trade unions and every employee employed within the scope of the collective agreement.*

15. Section 78 is amended

- (a) as to subsection (2), clause (f) by striking out the word "The" and by substituting the words "Subject to clause (g), the",*
- (b) as to subsection (2), clause (g) by adding after the words "suspended or dismissed the arbitration board" the words "after finding that there was insufficient cause for the suspension or dismissal or finding that the penalty was unfair or unreasonable",*
- (c) by adding the following subsection after subsection (8):*

(8.1) Where an employee has been suspended or dismissed, the arbitrator or the arbitration board after finding that there was insufficient cause for the suspension or dismissal or finding the penalty unfair or unreasonable

- (a) 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 arbitrator or the arbitration board, is fair and reasonable, or*

14. Subsection (2) gives the Board the authority to conduct a vote of employers to determine the majority's wishes with respect to an application for cancellation of a registration in the construction industry.

Subsection (4), clause (b) qualification of which parties are bound by a collective agreement which may be in effect at the time a registration is cancelled.

15. The right of an arbitration (grievance) board established under a collective agreement to vary the penalty where the board finds there was not just cause for a dismissal or suspension or the penalty was unreasonable.

Subsection (12) An award by an arbitration (grievance) board denying a grievance will be subject to a review by a court, previously only an award granting some relief could be reviewed.

- (b) may make such other directive varying the penalty as it considers fair and reasonable having regard to the terms of the collective agreement.
- (d) *as to subsection (9) by striking out the word "No" and by substituting the words "Subject to subsection (8.1), no",*
- (e) *by striking out subsection (12) and by substituting the following:*
 - (12) A party, employer, bargaining agent or employee affected by an award of an arbitrator or an arbitration board may apply to the Court after the expiration of 14 days but not later than 30 days from
 - (a) if there is a date set in the award for compliance, that date, or
 - (b) if there is no date specified in the award for compliance, the date of service of the award upon the parties affected by it,
 by way of 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.

16. *Section 87 is amended*

- (a) *as to subsection (1) by adding after the words "sections 81 to 84" the words "or section 98, subsection (1)",*
- (b) *as to subsection (4) by adding after the words "sections 81 to 84" the words "or section 98, subsection (1)".*

17. *Section 101 is amended by adding the following subsection after subsection (1):*

(1.1) Subsection (1), clause (b) does not apply where the collective agreement provides for its continuation beyond the first fixed date for the termination of the agreement and the strike or lockout is not in contravention of section 98.

18. *Part 7 is renumbered as Part 8.*

19. *The following Part is added after section 127:*

PART 7

TERMINATION OF EMPLOYMENT

127.1 This Part does not apply to the contractual relationship relating to termination of employment of an employee by an employer which is governed or controlled by any other Act or regulation of the Province.

16. A complaint under section 98, subsection (1) that the conditions of employment have been altered after notice to negotiate has been served, etc. can now be heard as an unfair labour practice by the Board which will be able to issue a cease and desist order.

17. A collective agreement containing a continuation clause providing that it will continue in force beyond its specific term will not be a bar to a strike if other conditions established by section 98 are satisfied.

18. Renumbering of Part.

19. New provisions respecting security of employment and respecting the notice to which employees are entitled, and the wages they are due to be paid on termination of a contract of employment.

127.2 Subject to section 127.3, where an industry or part of an industry is sold, leased or transferred, the period of employment of an employee by the owner of the industry or an employee employed by the owner in respect of the part of the industry shall be deemed for the purposes of this Part to have been employment with the purchaser, lessee or transferee of the industry.

127.3 (1) Unless otherwise provided by an order of the Board, no employer shall terminate the employment of a person who has been employed for three months or more unless he gives

- (a) one week's notice in writing to the person, if his period of employment is less than two years, or
- (b) two weeks' notice in writing to the person, if his period of employment is two years or more but less than five years, or
- (c) four weeks' notice in writing to the person, if his period of employment is five years or more but less than 10 years, or
- (d) eight weeks' notice in writing to the person, if his period of employment is 10 years or more,

and such notice has expired.

(2) Subsection (1) does not apply to

- (a) a person employed in the construction industry for a specific project;
- (b) a person employed for a definite term or task;
- (c) a person who is temporarily laid off;
- (d) a person who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;
- (e) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance;
- (f) a person employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by an order of the Board.

(3) Subject to a prior agreement to the contrary, where the notice referred to in subsection (1) has been given, no employer shall alter the rates of wages or any other term or condition of employment of any person to whom notice has been given.

(4) Upon the expiry of a notice referred to in subsection (1), the employer shall pay to the person to whom notice was given the wages and any unpaid vacation pay to which he is entitled.

(5) Notwithstanding subsection (1), the employment of a person may be terminated forthwith where the employer gives to the person notice in writing to that effect, and

- (a) pays to the person an amount equal to the wages to which the person would have been entitled for work that would have been performed by him at the regular rate for a normal non-overtime work week for the period of notice prescribed under subsection (1) or an order of the Board, as the case may be, and
 - (b) pays to the person any unpaid vacation pay to which the person is entitled.
- (6) Any amount payable under subsection (5), clause (a) shall be deemed to be unpaid wages for the purposes of this Act.
- (7) Where an employer
- (a) fails to give the notice in writing prescribed in subsection (1) or an order of the Board, as the case may be, or
 - (b) fails to pay wages or any vacation pay to which an employee is entitled under subsection (3), clause (b), or
 - (c) fails to pay the moneys to which an employee is entitled under subsection (5),

the Board may determine the amount or amounts to which the employee is entitled and shall take appropriate action in accordance with the powers given to it by this Act.

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

- (a) prescribing the length of notice of termination of employment to be given by an employer or class of employers to a class or classes of employees;
- (b) prescribing the length of notice of termination of employment to be given by an employee or class of employees to an employer or class of employers;
- (c) prescribing the manner of giving notice of termination of employment and the form and contents of such notice;
- (d) defining "temporarily laid off", "termination of employment" and "employment for a definite term or task" for the purposes of this Part;
- (e) prescribing what constitutes a period of employment;
- (f) exempting any activity, business, work, trade, occupation or profession, or any part thereof, from the application of this Part.

20. Section 131 is amended

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

20. It is an offence to discharge an employee because he has requested his entitlements under the Act. It is also an offence to attempt to restrict the employment of a person for specific reasons or to discharge, lay off or suspend an employee because he is subject to garnishee proceedings.

131. (1) An employer or any other person who discharges, attempts to restrict employment of any person or who in any other manner discriminates against a person

(a) because

- (i) the person has made a complaint under this Act, or
- (ii) the person has testified or is about to testify at any inquiry or in any proceedings in connection with the enforcement of this Act, or the employer believes that the person may so testify, or
- (iii) the person questions, requests or demands any thing to which he is entitled under this Act or the orders or schedules thereunder,

or

(b) because the person had made or is about to make any such disclosures as may be required of him by virtue of the provisions of this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and in default of payment to imprisonment for a term of not more than six months.

(b) *by adding the following subsection after subsection (2):*

(3) No employer shall dismiss, lay off or suspend an employee for the sole reason that garnishment proceedings are being or may be taken against the employee.

21. Section 136 is amended by striking out the word and figures "4 or 6" and by substituting the word and figures "4, 6 or 7".

22. Section 137 is amended

- (a) *as to subsection (1) by striking out the word and figures "5 or 6" and by substituting the word and figures "5, 6 or 7",*
- (b) *as to subsection (2) by striking out the word and figures "5 or 6" and by substituting the word and figures "5, 6 or 7",*

wherever they occur.

23. Section 138 is amended by adding after the words "provided by this Act is" the words "guilty of an offence and".

24. (1) This Act, except sections 3, 4, 18, 19, 21 and 22, comes into force on the day upon which it is assented to.

(2) Sections 3, 4, 18, 19, 21 and 22 come into force on July 1, 1972.

21. Revision of general provisions to enable enforcement of new termination provisions.

22. See Note 21.

23. Section 138 presently reads:

138. Any person who contravenes any provision of
- (a) this Act, or
 - (b) the regulations, or
 - (c) a schedule adopted under the provisions of Part 4, or
 - (d) any order of the Board, or
 - (e) any written direction of the Chairman, director or an officer authorized by this Act,

for the contravention of which no penalty is otherwise provided by this Act is 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

For clarification.