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Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 35

The Alberta Labour Act, 1973

THE MINISTER OF MANPOWER AND LABOUR

First Reading

Second Reading

Third Reading

THE ALBERTA LABOUR ACT, 1973

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BILL 35

1973

THE ALBERTA LABOUR ACT, 1973

(Assented to _____, 1973)

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

1. In this Act

- (a) "Board" means the Board of Industrial Relations;
- (b) "Chairman" means the Chairman of the Board;
- (c) "Director" means the Director of Labour Standards;
- (d) "employee" means a person employed by an employer to do work or provide services of any nature who is in receipt of or entitled to wages;
- (e) "employer" means a person, corporation, partnership or group of persons who
 - (i) has control and direction over an employee, or
 - (ii) has control over the manner in which work or services are provided or done by an employee, or
 - (iii) is responsible directly or indirectly for the employment of an employee, or
 - (iv) is responsible for the payment of wages to an employee;
- (f) "Minister" means the member of the Executive Council charged with the administration of this Act;
- (g) "officer" means the Director, the secretary of the Board and any other person appointed pursuant to *The Public Service Act* as an officer of the Board for the purposes of this Act;
- (h) "wages" includes any salary, pay, overtime pay and any other remuneration for work or services however computed, but does not include tips or other gratuities.

2. (1) Subject to subsection (2), this Act applies to

- (a) employers and employees, and

Explanatory Notes

1. Definitions.

2. Application of the Act.

- (b) agents of the Crown in right of Alberta and their employees.
- (2) This Act does not apply to
 - (a) the Crown in right of Alberta and its employees;
 - (b) employers (as defined in *The Crown Agencies Employee Relations Act*) and their employees;
 - (c) employees employed in domestic work in a private dwelling and their employers while acting in the capacity of their employer;
 - (d) employees employed as farm labourers and their employers while acting in the capacity of their employer;
 - (e) employees who are policemen of a municipal police force appointed pursuant to *The Police Act, 1971*.
- (3) For the purposes of subsection (2), “farm labourers” does not include employees employed in an undertaking which, in the opinion of the Board, is a commercial undertaking.

PART 1

GENERAL

3. The Minister is charged with the administration of this Act.

4. In accordance with *The Public Service Act* there may be appointed a secretary of the Board, a Director of Labour Standards and such other officers and employees as are necessary.

Board of Industrial Relations

5. The Board of Industrial Relations previously established is continued.

(2) The Board shall be composed of those persons appointed by the Lieutenant Governor in Council as members of the Board.

(3) The Lieutenant Governor in Council may designate one member of the Board as Chairman and any other members as vice-chairmen.

(4) The members of the Board not designated as Chairman or vice-chairmen hold office for terms fixed by the Lieutenant Governor in Council but not exceeding seven years in any case.

(5) The members of the Board designated as Chairman or vice-chairmen hold office during pleasure.

(6) The members of the Board shall receive such expenses, allowances and remuneration for their services as the Lieutenant Governor in Council determines.

6. (1) The members of the Board shall meet at the times and places specified by the Chairman.

(2) At the direction of the Chairman, a vice-chairman shall

- (a) act as Chairman of the Board, and
- (b) act as Chairman of a division of the Board.

7. (1) The members of the Board shall, at the direction of the Chairman meet as

- (a) the Board, or
- (b) a division of the Board, or
- (c) two or more divisions of the Board.

(2) A quorum of the Board or where the Board meets as a division of the Board, a quorum of a division of the Board, is the Chairman or vice-chairman and two members.

(3) The Board may meet in two or more divisions simultaneously or at different times.

3. Self-explanatory.

4. Appointment of staff.

5. Board of Industrial Relations.

6. Meetings of the Board.

7. Meetings and decisions of the Board.

(4) A decision of a division of the Board is a decision of the Board.

(5) A decision of a majority of the members of the Board or a division of the Board present and constituting a quorum is the decision of the Board, but if there is a tie vote, the Chairman or vice-chairman may cast a second vote.

(6) 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 and perform the powers, duties and functions of the Board.

8. (1) The Board may exercise all the powers, duties and functions imposed or conferred upon it by this Act and the regulations and without restricting the generality of the foregoing, the Board is empowered

- (a) to make or issue such orders, decisions, permits, approvals, notices, directives, declarations, or certificates as it considers necessary;
- (b) to receive and investigate complaints;
- (c) to make such rules of procedure for the conduct of its business and for hearing and conducting inquiries and for any other matters as it considers necessary.

(2) In addition to the matters specified or referred to in subsection (1), the Board has all necessary jurisdiction and power to perform such duties as may be assigned to it by the Lieutenant Governor in Council.

9. (1) The Board, the Chairman, a vice-chairman or any officer is empowered to

- (a) inspect and examine all books, payrolls and other records of an employer, employee or any other person that in any way relate to the wages, hours of work or terms or conditions of employment affecting any employee;
- (b) require an employer, employee or any other person in possession of books, records, documents, papers, payrolls, contracts of employment and any other record relating to employment to produce them for inspection;
- (c) take extracts from or make copies of books, records, documents, papers, payrolls, contracts of employment and any other records relating to employment;
- (d) require an employer, employee or any other person to make, furnish or produce full and correct statements either orally or in writing respecting wages, hours of work and terms and conditions of employ-

8. General powers of the Board.

9. Powers of investigation and inspection.

ment and may require the statements to be made on oath or to be verified by statutory declaration.

(2) An employer, any person acting on his behalf and any employee shall give all necessary assistance to an officer to enable him to make an entry, inspection, examination or inquiry in relation to any matter being investigated by him.

10. For the purposes of this Act, each officer may, in the execution of his duties,

- (a) enter, inspect and examine at all reasonable times any premises or other place in which he has reason to believe that a person is employed,
- (b) make such examination and inquiry as are necessary to ascertain whether the provisions of this Act or any order, decision, permit, approval, directive, declaration or notice of the Board or a regulation made under this Act or any written instructions of the Chairman, a vice-chairman or an officer have been complied with, and
- (c) question any employee apart from his employer, during the employee's regular hours of employment or otherwise, to ascertain whether the provisions of this Act or of any order, decision, permit approval, directive, declaration, notice or regulation made under this Act is being carried out.

11. For the purposes of this Act

- (a) the Board and each member thereof has all the powers of a commissioner appointed under *The Public Inquiries Act*, and
- (b) each member of the Board and each officer has power to administer oaths and take affidavits and statutory declarations.

12. (1) An order that the Board makes may be issued on its behalf by the Chairman or vice-chairman and the secretary of the Board.

(2) An order, purporting to be signed by the Chairman or a vice-chairman and secretary of the Board on behalf of the Board shall be admitted in evidence as prima facie proof

- (a) of the order, and
- (b) that the persons signing the order were duly authorized to do so,

without proof of the appointment or signature of the Chairman, vice-chairman or secretary.

10. Powers of officers.

**11. Powers of a commissioner under The Public Inquiries Act
are given to the Board.**

12. Board orders.

(3) A copy of an order, having endorsed thereon a certificate purporting to be signed by the secretary of the Board stating that the copy is a true copy, shall be received in any court as prima facie proof of the order and the contents thereof, without proof of the appointment or signature of the secretary.

(4) An employer shall post and keep posted in a conspicuous place on his premises a copy of each order of the Board affecting his employees.

13. (1) *The Regulations Act* applies to an order of the Board.

(2) *The Regulations Act* does not apply to a decision, permit, approval, notice, directive, declaration, or certificate issued or made by the Board.

14. Any money required for the administration of this Act or for carrying out any of the provisions of this Act shall, in the absence of any moneys appropriated by the Legislature for that purpose, be paid out of the General Revenue Fund.

13. Application of The Regulations Act.

14. Money required for which there is no appropriation.

PART 2
PAYROLL RECORDS

15. An employer shall maintain in each place of business operated by him in Alberta a true and correct record 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) his 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 general holidays;
- (i) the amount of each deduction from the earnings of the employee and the purpose for which the deduction was made;
- (j) a copy of any notice of termination of employment;
- (k) the amount of money paid in lieu of notice of termination of employment;

but an employer may, with the consent of the Board, maintain the records in whole or in part at his principal place of business in Alberta or at such other place in Alberta as the Board may designate.

(2) The record of hours referred to in subsection (1), clause (a) shall be made daily.

(3) The records required to be maintained under subsection (1) shall be preserved and retained by the employer for a period of at least three years from the time each record was made.

(4) The Chairman, a vice-chairman or Director, by notice in writing, may require an employer or any other person to

- (a) furnish him with the names, addresses and ages of all employees and such further information respecting wages, hours, days and terms and conditions of employment as the notice requires, and
- (b) produce any books, records, documents, papers, payrolls, contracts of employment and any other

15. Records to be kept.

record that the notice requires for the inspection by an officer named in the notice on the date and at a place designated in the notice.

(5) The Chairman, a vice-chairman or the Director may require an employer by notice in writing to record the hours of work of each of his employees with respect to starting time, stopping time and rest intervals in such manner as may be directed.

(6) A notice issued under this section 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, or

(c) by leaving it with a person actually or apparently 18 years of age or over at the place to which the notice is addressed.

16. (1) An employer shall, at the end of each period of time in respect of which wages are paid, give to each employee for retention, a statement in writing setting out for that period in respect of the employee

(a) the hours worked;

(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;

(e) the amount of any vacation pay paid;

(f) the amount of any general holiday pay paid;

(g) the amount of any sum of money paid in lieu of termination of employment;

(h) the amount of each deduction from the earnings of the employee and the purpose 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 any bonus or living allowance set out in the statement referred to in subsection (1).

(3) Upon the termination of employment of an employee, an employer shall, upon request, give to the employee a written statement of the dates during which time the employee was employed by him.

16. Statement of wages and deductions.

PART 3

LABOUR STANDARDS

17. In this Part

- (a) "general holiday" means those days except Sundays, specified in section 21, subsection (1), clause 11, subclauses (i) to (v) of *The Interpretation Act* that are designated as general holidays by the Board;
- (b) "hours of work" means the hours during which an employee works or performs a service for his employer.

18. (1) The Board or any officer may arbitrate between employers and employees where in the opinion of the Board or any officer a provision of this Part or of any order, decision, permit, approval, notice, directive or declaration of the Board has been contravened or not complied with.

(2) Where the Board or any officer arbitrates in any matter, the Board or the officer is empowered to

- (a) compromise and settle cases;
- (b) require any employer to pay to the Board on behalf of the employee or to the employee the moneys agreed upon in settlement of the liability of the employer to the employee;
- (c) collect from an employer on behalf of any employee any moneys to which he is entitled;
- (d) accept on behalf of an employee moneys collected in full or partial settlement of the liability of any employer to the employee;
- (e) do such other matters and things as are necessary for the performance of the duties of the Board under this Part.

(3) Any compromise or settlement made under subsection (2) is binding upon the employer and employee concerned, and the Board or any officer is under no liability to any of them with respect to the compromise or settlement other than for the payment to the employees or their nominees of the moneys collected under subsection (2).

19. (1) The Board may hold an inquiry to investigate any matter respecting any employer, employee or other person who is

- (a) a member or alleged member of any partnership or other association, or

17. Definitions.

18. Power of Board and officers to arbitrate.

19. Special inquiry by Board for the purpose of investigating any arrangement designed to defeat the operation of this Part of the Act.

- (b) engaged in the execution of any agreement or scheme of profit sharing, co-operation or joint contract,

and in any such inquiry may investigate the contractual and other relations of the employer, employee or other person engaged or working as between themselves or as between them and their employer.

(2) At an inquiry any employee, employer or other person who, in the opinion of the Board, may be affected by the inquiry is entitled to appear before the Board.

(3) If after the holding of such an inquiry as the Board considers adequate the Board is of the opinion that the partnership, association, agreement or scheme and the engagement or working of persons has the effect of either directly or indirectly defeating the due and equitable application of this Part in any respect, the Board may issue a directive

- (a) prohibiting the employer, employee or other person to whom it is directed from continuing the partnership, association, agreement or scheme in whole or in part, or
- (b) prohibiting the doing by any employer, employee or other person of any act or thing set out in the directive,

or both of them.

(4) The directive shall be served on the employer, employee or other person to whom it is directed and thereupon takes effect and is binding on that person.

(5) A directive issued under this section 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, or
- (c) by leaving it with a person actually or apparently 18 years of age or over at the place to which the notice is addressed.

20. Where associated businesses, undertakings or any other activities are carried on by or through more than one employer or other person, the Board may determine and issue a declaration that all or one or more employers or persons are a single employer for the purposes of this Part and those employers or persons determined to be a single employer shall thereupon be liable, or if more than one jointly and severally liable, for the payment of all wages and other entitlements due to an employee.

21. For the purpose of Part 2 and this Part, the employment of an employee shall be deemed to be continuous and

20. Special declaration by the Board.

21. Effect of sale, lease or transfer of business on employees.

uninterrupted where a business, undertaking or other activity or part thereof, is sold, leased or transferred.

22. No employer or any other person shall discharge, restrict the employment of, or in any manner discriminate against any other person because

- (a) a person has filed a complaint under Part 1 or 2 or this Part, or
- (b) a person has testified or is about to testify at any inquiry or in any proceedings in connection with this Act, or believes that such a person may so testify, or
- (c) a person questions, requests or demands anything to which he is entitled under Part 1 or 2 or this Part, or
- (d) a person has made or is about to make any statement or disclosure as may be required of him by Part 1 or 2 or this Part.

Division 1

Hours of Work

23. (1) Subject to subsection (2) and other provisions to the contrary in or made pursuant to this Part, the hours of work of an employee shall not exceed

- (a) eight hours in a day, or
- (b) 44 hours in a period of seven consecutive days of which not more than six days shall be working days.

(2) The hours of work of an employee permitted under subsection (1) may be exceeded where

- (a) an accident occurs, or
- (b) urgent work is necessary to a plant or machinery, or
- (c) other unforeseeable or unpreventable circumstances occur,

but only as necessary to avoid serious interference with the ordinary working of an undertaking.

24. (1) The Board after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, by order,

- (a) prescribe a maximum number of hours of work less than that prescribed under section 23;
- (b) prescribe a maximum number of hours of work greater than that prescribed under section 23;

22. Discrimination prohibited.

23. Hours of work.

24. Board orders concerning hours of work.

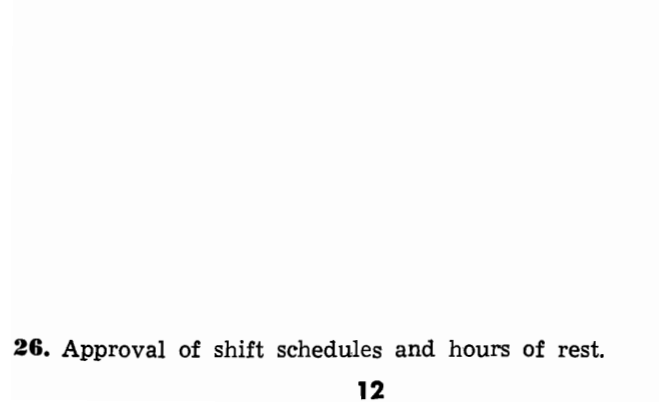
- (c) reduce days of work in a week by permitting greater hours of work in a day than that prescribed under section 23;
 - (d) prescribe the periods of time which shall be allowed to employees for meal or rest periods;
 - (e) define what is and what is not a meal or rest period;
 - (f) specify that the hours of work be confined within hours immediately following commencement of work;
 - (g) prescribe the hours of the day at which work shall begin and end either
 - (i) generally, or
 - (ii) with respect to any employers or any employees in any type of employment, and prohibit the employment of those employees or any class or type of employees other than during the hours prescribed.
- (2) Any order made under subsection (1) may
- (a) name an employer, employee or the nature, class or type of employment to which the order applies;
 - (b) be particular or general in its application;
 - (c) specify the part of Alberta to which the order applies if it is not to apply throughout Alberta;
 - (d) specify the times of the year during which the order applies;
 - (e) exempt an employer or employees or a nature, class or type of employment from the order or from section 23;
 - (f) specify conditions under which the order applies;
 - (g) make such other provision in the order as it considers necessary.

25. Where an order has not been made under section 24, subsection (1), clause (c), the Board upon application of employees or an employer and after such inquiry as it considers necessary may by permit

- (a) reduce days of work in a week by permitting greater hours of work in a day than that prescribed under section 23, in respect of those employees, and
- (b) specify the conditions under which the permit applies.

26. (1) An employer shall allow an employee at least 24 consecutive hours of rest in each period of seven consecutive days unless, with respect to any particular em-

25. Board orders permitting a compressed work week.



26. Approval of shift schedules and hours of rest.

ployer or employees, after such inquiry as it considers necessary, the Board issues an approval stating

- (a) that the hours of rest may be allowed in two periods, or
 - (b) that a period of rest in excess of 24 hours in each period of seven consecutive days shall be allowed.
- (2) Where the operations of an employer ordinarily require the working of employees every day, the employer may apply to the Board for approval of a shift schedule.
- (3) The Board may approve an application under subsection (2) and thereby
- (a) permit the hours of work established under section 23 or by order of the Board under section 24 or the hours of rest under this section to be varied, and
 - (b) specify conditions under which the approval is given.

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

(2) Where work is carried on by shifts, an employee shall not be required to change from one shift to another shift without

- (a) at least 24 hours' notice in writing of the change of shift, and
 - (b) at least eight hours of rest between shifts,
- except in the case of urgent work to be done to machinery or plant or in case of unforeseeable or unpreventable circumstances.

28. (1) Where an employee is employed entirely in one or more of the following capacities:

- (a) in a supervisory capacity;
- (b) in a managerial capacity;
- (c) in a capacity concerning matters of a confidential nature;

and his employment does not comprise work performed by other employees, section 23 does not apply and a record of the hours worked is not required to be kept under section 15.

(2) In any dispute as to whether an employee is employed in a capacity specified in subsection (1), the matter may be referred to the Board for its decision.

27. Notification of hours of work.

28. Certain persons exempt from hours of work provisions.

29. Where there is any conflict between the provisions of this Division or of orders of the Board under this Division and sections 96 and 97 of *The Coal Mines Regulation Act*, the provisions of *The Coal Mines Regulation Act* prevail.

Division 2

Wages, Vacation Pay, Holidays, Termination, Garnishment and Employment of Children Provisions

30. (1) The Board, after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, make orders

- (a) fixing the minimum wage to be paid by employers to employees, and
 - (b) fixing the minimum wage to be paid by employers to employees for overtime.
- (2) Without limiting the generality of subsection (1), the Board may
- (a) apply the minimum wage to all employees or to any class or type of employees;
 - (b) fix a different minimum wage to be paid to employees in the same class or type of employment but in different parts of Alberta;
 - (c) fix a minimum wage payable in the part or parts of Alberta designated in the order;
 - (d) fix the minimum wage upon an hourly, daily, weekly, monthly or any other basis that the Board in its discretion thinks fit;
 - (e) exempt from the operation of this Division or any order made under this section any class or type of employees.

31. An order of the Board fixing a minimum wage may

- (a) provide for making or prohibiting deductions from the minimum wage;
- (b) where board or lodging or both are provided by an employer to an employee to whom a minimum wage applies, fix a maximum to be charged for the board or lodging or both provided
 - (i) to that employee, or
 - (ii) to any employees or group of employees;
- (c) fix a series of minimum wages to come into operation successively on the expiration of specified periods;
- (d) make a series of minimum wages applicable in respect of periods of learning or apprenticeship.

29. The Coal Mines Regulation Act, sections 96 and 97 presently read:

Hours of Employment

96. (1) Except under circumstances specifically authorized by this Act, no person on a shift shall be, or be allowed to be, below ground in a mine in the course of his employment for more than eight hours during any period of twenty-four consecutive hours.

(2) Each person on a shift shall be deemed to have complied with subsection (1) if the period between

(a) the time the first workman on the shift leaves the surface and the first workman returns to the surface, and

(b) the time at which the last workman on the shift leaves the surface and the last workman returns to the surface

does not exceed the permitted periods.

(3) Notwithstanding subsection (1) a person employed at the mine may remain below ground

(a) for the purpose of rendering assistance in the event of accident, or

(b) for meeting any danger, or

(c) for dealing with an emergency or exceptional work that is required to be done without interruption in order to avoid serious interference with the ordinary work at the mine.

(4) Notwithstanding subsection (1) a repairing shift may, for the purpose of avoiding work on Saturday or Sunday, commence a period of work on Friday or Saturday,

(a) before twenty-four hours have elapsed since the commencement of its last period of work, and

(b) at least eight hours after the end of the last period of work.

(5) No person shall be deemed to have contravened subsection (1) if he has taken all reasonable means to prevent a contravention thereof.

97. The owner, agent or manager

(a) shall fix the times at which a shift will enter and leave the mine,

(b) shall fix times so that

(i) each person on the shift will have the opportunity of returning to the surface within the time prescribed by the Act, and

(ii) the time during which lowering or raising is done does not exceed that reasonably required,

(c) shall make all arrangements necessary for the observance of the times posted for the lowering and raising of shifts, and

(d) shall station a person at the pit head

(i) to direct the lowering and raising of persons to and from the mine,

(ii) to record the times at which persons are lowered into and raised from the mine, and

(iii) to record the name or number of each person going below ground and returning from below ground on each shift.

30. Minimum wage orders.

31. Additional powers of the Board concerning minimum wage orders.

32. (1) Subject to this section, an employer affected by an order of the Board fixing a minimum wage or a minimum wage for overtime shall pay his employees not less than the minimum wage fixed by the order.

(2) Where an employee is a part-time employee, apprentice or learner, the Board may

- (a) permit the payment of a wage less than the minimum wage, and
- (b) limit and define the number of part-time employees, apprentices or learners to whom the lesser wage fixed under this subsection is payable by an employer.

(3) Where an employee is handicapped, the Board upon the written request of the employee may

- (a) permit the payment of a wage less than the minimum wage, and
- (b) limit and define the number of handicapped employees to whom the wage fixed under this subsection may be payable by an employer.

33. Any order of the Board fixing the minimum wage for overtime applies to all hours of work

- (a) in a day, in excess of eight hours or in excess of the hours of work in a day prescribed by an order of the Board for the nature, type or class of employment in which the employee is employed, or
- (b) in each period of seven consecutive days, in excess of 44 hours or in excess of the hours of work prescribed by an order of the Board for the nature, type or class of employment in which the employee is employed, or
- (c) in excess of the hours of work fixed by a shift schedule approved by the Board, or
- (d) in excess of the hours of work permitted by the Board under section 25.

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

- (a) the minimum wage, or
- (b) the minimum wage for overtime,

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

(2) Where an agreement has been approved by the Board under subsection (1), the Board may exempt the employer in whole or in part from recording hours of work under section 15 in respect of the employee affected.

32. Special orders for part-time apprentice, learner and handicapped employees.

33. Application of orders for overtime minimum wage orders.

34. Minimum wage applies to agreements which provide for payment of less than the minimum wage.

35. (1) A period of employment for computation of wages earned shall not be longer than one calendar month, or such other 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 established for computation of wages earned during which the employee has been employed, all wages earned by the employee within that period.

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

36. (1) The Board, after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, make orders

- (a) requiring an employer with respect to any employment or class or type of employment 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 for periods of employment of less than a full year;
- (b) requiring an employer to pay the employee a sum of money as vacation pay in lieu of an annual vacation with pay.

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

- (a) what constitutes the hours, days, weeks or months worked as employment that will entitle an employee to an annual 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 constitutes vacation pay;
- (c) the method of computing vacation pay;
- (d) what constitutes a year's employment.

37. The Board, after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, make orders

- (a) designating days as general holidays;
- (b) fixing the basis for the computation of minimum sums of money to be paid
 - (i) by an employer to his employees who do not work on a general holiday, and

35. Wage periods.

36. Vacation pay.

37. Board orders concerning payment of money to employees for general holidays.

- (ii) by an employer to his employees who do work on a general holiday;
- (c) specifying the circumstances under which an employer may pay to an employee a sum of money in lieu of a holiday;
- (d) specifying the circumstances under which an employer may give an employee a holiday with pay where an employee works on a general holiday.

38. (1) The Board, after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, make orders

- (a) requiring employers to give employees notice of termination of employment of at least
 - (i) seven days, if an employee's period of employment is greater than three months but less than two years, or
 - (ii) 14 days, if an employee's period of employment is two years or more;
- (b) requiring employers to pay employees a sum of money in lieu of notice of termination of employment;
- (c) specifying the circumstances under which notice of termination of employment is not required to be given;
- (d) exempting any class of employers or employees from the application of orders made under this section;
- (e) prescribing the manner in which an employer shall give notice of termination of employment and the form and content of the notice;
- (f) defining for the purposes of this section and any order of the Board made under this section, the expressions
 - (i) "termination of employment", and
 - (ii) "period of employment";
- (g) respecting any other matter necessary for carrying out the intent and purpose of this section.

(2) An order under subsection (1) does not apply to an employer and his employees where there is a custom, practice or agreement providing for

- (a) a longer notice of termination of employment, or
- (b) the payment of a greater sum of money in lieu of notice of termination of employment,

than that provided in the order.

33. Termination.

39. Nothing in section 38 or in any order of the Board made thereunder affects the right of an employee at common law to be paid, or the duty imposed on an employer to provide,

- (a) longer notice of termination of employment, or
- (b) a greater sum of money in lieu of termination of employment,

than that specified in the order of the Board.

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

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

(2) No person shall during normal school hours

- (a) employ, or
- (b) permit to work on his premises,

a child that is required to attend school pursuant to *The School Act*.

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

- (a) permit the employment of persons under the age of 15 years in specific occupations and impose such conditions with respect to employment of persons under the age of 15 years in any such occupation as he considers proper;
- (b) prohibit the employment of persons of 15 to 18 years of age in any occupation that he considers likely to be injurious to life, health, education or morals;
- (c) establish such conditions with respect to the employment of persons of 15 to 18 years of age in any specific occupation as he considers proper.

(4) Subsections (1) and (2) do not apply to a person under the age of 15 years

- (a) who has been excused from school attendance under *The School Act* 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.

39. Common law not affected.

40. Self-explanatory.

41. Employment of children.

Division 3

Offences and Penalties

- 42.** (1) Any employer, employee or other person who
- (a) contravenes or fails to comply with an order, decision, permit, approval, notice, declaration or directive of the Board under Part 1 or 2 or this Part, or
 - (b) contravenes or fails to comply with any request or notice of the Board, the Chairman, vice-chairman, Director or any other officer under Part 1 or 2 or this Part, or
 - (c) wilfully delays or obstructs an officer in the exercise of any power or duty given to him under this Act, or
 - (d) fails to produce any books, records, documents, papers, payrolls, contracts of employment or other record of employment that he is required to produce, or
 - (e) conceals or attempts to conceal an employee or seeks to prevent him from appearing before or being examined by an officer, or
 - (f) falsifies any record required to be kept under section 15, or
 - (g) gives any false or misleading information in respect of the records required to be kept under section 15, or
 - (h) makes a complaint to the Board knowing it to be untrue, or
 - (i) fails to maintain or retain any of the records required to be kept under section 15, or
 - (j) requires an employee to work hours in excess of the hours of work permitted under Part 3,
- is guilty of an offence.
- (2) Any employer who
- (a) fails to pay the minimum wage, or
 - (b) fails to pay the minimum wage for overtime, or
 - (c) fails to pay wages, or
 - (d) fails to give his employees a vacation with pay or a sum of money in lieu of vacation with pay, or
 - (e) fails to give his employees a sum of money
 - (i) for working on a general holiday, or
 - (ii) not working on a general holiday, or
 - (iii) in lieu of a general holiday,or
 - (f) fails to give notice of termination of employment or a sum of money in lieu of notice of termination, to which an employee is entitled, is guilty of an offence.

42. Specific offences.

- (3) Where an employee
 - (a) works for less than
 - (i) the minimum wage, or
 - (ii) the minimum wage for overtime 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 to which the employee is entitled,the employee and the employer are each guilty of an offence.

(4) Any employer who receives any payment by way of premium directly or indirectly from a person for the purpose of employing that person is guilty of an offence.

43. Any employer, employee or other person who contravenes or fails to comply with any of the provisions of Part 1 or 2 or this Part for which no offence is specifically provided, is guilty of an offence.

44. Where a corporation is guilty of an offence under section 42 or 43, every director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of an offence.

45. (1) Any employer, employee, director, officer or other person who is guilty of an offence under section 42, 43 or 44 is liable on summary conviction

- (a) in the case of a corporation to a fine of not more than \$10,000, and
 - (b) in the case of a person who is not a corporation, to a fine of not more than \$5,000 and in default of payment to imprisonment for a term not exceeding six months.
- (2) In addition to the penalty under subsection (1), the judge of the court shall, where applicable, make one or more of the following orders:
- (a) requiring the payment within such time as may be fixed by the judge, to the Board on behalf of each employee affected the difference between
 - (i) any minimum wage actually paid and the minimum wage that should have been paid, or
 - (ii) any minimum wage for overtime actually paid and the minimum wage for overtime that should have been paid, or
 - (iii) any wages actually paid and the wages that should have been paid, or

43. General offence.

44. Directors and officers of corporations may also be guilty of offences.

45. Penalties.

- (iv) any sum of money paid in lieu of notice of termination and the sum of money in lieu of notice of termination that should have been paid,
for the six months preceding the date of the commencement of a prosecution or the date of termination of employment, whichever first occurred;
- (b) requiring within such time as may be fixed by the judge
 - (i) an employer to give an employee a vacation with pay to which the employee is entitled, or
 - (ii) the payment to the Board on behalf of each employee the amount to which the employee is entitled in lieu of vacation with pay, or
 - (iii) the payment to an employee of a sum of money for working or not working on a general holiday to which the employee is entitled, or
 - (iv) the payment to the Board on behalf of each employee the amount to which the employee is entitled in lieu of a general holiday,
for the two years preceding the date of the commencement of the prosecution or the date of termination of the employment, whichever first occurred.

(3) The Board or an employee named in an order of the court under subsection (2) may file the order with the clerk of the Supreme Court of Alberta in the judicial district in which the order was made and thereupon the order is enforceable as a judgment or order of the Supreme Court.

46. A prosecution for an offence may be commenced within 12 months from the date the alleged offence occurred.

47. An information and complaint laid in respect of an offence may relate to one or more offences of an employer respecting one or more of his employees.

48. Notwithstanding any other act or any agreement an employee has a priority over the claims and rights of

- (a) preferred, ordinary or general creditors,
- (b) the Crown or any agent of the Crown,
- (c) any other person, firm, corporation or partnership having a claim against the employer,

for an amount of wages, vacation pay, general holiday pay or money in lieu of notice of termination of employment due and owing the employee by an employer in an amount not to exceed \$5,000.

46. Self-explanatory.

47. Information and complaint.

48. Priority of claims of employees. See also section 194 of this Bill.

PART 4
LABOUR RELATIONS

49. (1) In this Part

- (a) “bargain collectively” and “collective bargaining” mean to negotiate with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;
- (b) “bargaining agent” means a trade union acting on behalf of employees in collective bargaining or as a party to a collective agreement with an employer or employers’ organization, whether or not the bargaining agent is a certified bargaining agent;
- (c) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (d) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent, containing terms or conditions of employment;
- (e) “conciliation commissioner” means a person appointed as a conciliation commissioner pursuant to this Part;
- (f) “Court” means the Supreme Court of Alberta;
- (g) “dispute” means a dispute arising in connection with the entering into, renewing or revising of a collective agreement;
- (h) “employee” does not include
 - (i) a person who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations, or
 - (ii) a person who is a member of the medical, dental, architectural, engineering or legal profession qualified to practice under the laws of Alberta and employed in his professional capacity;
- (i) “employers’ organization” means an organization of employers acting on behalf of an employer or employers, having as one of its objects the regulation of relations between employers and employees, whether or not the employers’ organization is a registered employers’ organization;
- (j) “lockout” includes
 - (i) the closing of a place of employment by an employer, or
 - (ii) the suspension of work by an employer, or
 - (iii) a refusal by an employer to continue to employ employees,

49. Definitions in Part 4.

for the purpose of compelling his employees or to aid another employer in compelling his employees to accept terms or conditions of employment;

- (k) "registered employers' organization" means an employers' organization registered as an agent for collective bargaining by the Board and in respect of whom the Board has issued a registration certificate;
- (l) "strike" includes
 - (i) a cessation of work, or
 - (ii) a refusal to work, or
 - (iii) a refusal to continue to work, by two or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers' organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers' organization to accept terms or conditions of employment;
- (m) "trade union" means an organization of employees which has a written constitution, rules or by-laws and has as one of its objects the regulation of relations between employers and employees;
- (n) "unit" means any group of employees of an employer.

(2) No person ceases to be an employee within the meaning of this Part by reason only of his ceasing to work as a result of a lockout or strike or by reason only of his dismissal contrary to this Part.

Division 1

General

50. (1) The Board is empowered to decide for the purposes of this Part whether:

- (a) a person is an employer;
- (b) a person is an employee;
- (c) an organization or association is an employers' organization;
- (d) an organization of employees is a trade union;
- (e) a trade union is a proper bargaining agent;
- (f) an employer has given an employers' organization authority to bargain collectively on his behalf;
- (g) a collective agreement has been entered into;
- (h) a person is bound by a collective agreement;
- (i) a person is a party to a collective agreement;

50. General powers of the Board under this Part.

- (j) a collective agreement has been entered into on behalf of any person;
 - (k) a collective agreement is in effect;
 - (l) the parties to a dispute have settled the terms to be included in a collective agreement;
 - (m) a group of employees is a unit appropriate for collective bargaining;
 - (n) a person has applied for membership in a trade union;
 - (o) a person is a member in good standing of a trade union;
 - (p) a person is included in or excluded from a unit;
 - (q) an employer is affected by the registration certificate of a registered employers' organization;
- and the Board's decision is final and binding.

(2) For the purpose of deciding any question arising under subsection (1) or to determine any other matter referred to it pursuant to an application made to it or arising under this Part, the Board may

- (a) make or authorize an officer to make
 - (i) any examination of books, payrolls, records, papers, contracts of employment, collective agreements, or
 - (ii) any inquiry, that it considers necessary;
- (b) hold any hearing that it considers necessary;
- (c) require, conduct or supervise votes by secret ballot, including votes of employers and employees or either of them to determine whether employers wish to lockout or employees wish to strike;
- (d) make rules with respect to any vote required, conducted or supervised including
 - (i) the manner of taking or casting votes;
 - (ii) the procedure to be followed before, during and after a vote;
 - (iii) the fixing of the date, place and time of voting;
 - (iv) the manner in which and the time at which a voters' list is to be prepared;
 - (v) the disposal of ballots;
- (e) appoint persons to act as returning officers for any vote required, supervised or conducted and vest in them such authority as it considers necessary to ensure that the vote is properly conducted and that its rules are complied with;

- (f) where it is required or permitted to do so under this Part, determine who is eligible to vote on any matter;
- (g) investigate any complaint made to it concerning any vote taken pursuant to this Part;
- (h) require an employer to place a suitable portion of his premises or the premises where employees are working at the disposal of the Board for the purpose of taking a vote;
- (i) in any employment where employees work in continuous shifts, arrange for the taking of a vote during each shift if necessary to give all the employees entitled to vote an opportunity of voting;
- (j) direct all interested persons to refrain or desist from electioneering and from issuing any propaganda for such period of time prior to the date of a vote as the Board fixes.

51. (1) The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Part and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Board thereon is final and conclusive for all purposes, but the Board may, at any time, reconsider any decision, order, directive, declaration or ruling made by it and vary or revoke the decision, order, directive, declaration or ruling.

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

(3) Notwithstanding subsections (1) and (2), a decision, order, directive, declaration, ruling or proceeding of the Board may be questioned or reviewed by way of an application for certiorari or mandamus if an application therefor is filed with the Court and served on the Board no later than 30 days after the issue of the Board's decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

52. (1) Where the Board is satisfied in any proceedings under this Part that a bona fide mistake has been made in naming or not naming a person, trade union, employer or employers' organization, the Board may direct that the name of the person, trade union, employer or employers' organization be substituted or added as a party to the proceedings.

(2) No proceedings under this Part shall be deemed to be invalid by reason of any defect of form or any technical irregularity.

51. Jurisdiction of the Board.

52. Bona fide mistakes in proceedings.

53. The Board

(a) may on the request of an employer, employers' organization or on receipt of a petition signed by not less than 50 per cent of the employees in a unit, or

(b) shall on the direction of the Minister, direct a vote to be taken under its supervision on any question involving the relations between an employer and his employees in a unit where it is desirable to have an expression of opinion of the majority of the employees.

54. (1) Where a difference exists between an employer, employers' organization or trade union concerning the application or operation of the provisions of this Part, any of the parties to the difference may refer the difference to the Board.

(2) Upon reference of the difference to the Board pursuant to subsection (1) the Board may, if it considers it desirable, cause an investigation to be made as to the facts and in the course of the investigation call the parties concerned before it.

(3) The Board shall make full inquiry and endeavour to effect an agreement between the parties in relation to the difference.

(4) Where the Board is unable to effect an agreement between the parties, the Board may make recommendations as to what in its opinion ought to be done by the parties concerned.

(5) If agreement between the parties is not effected, the Board has power to institute whatever action it considers necessary to ensure compliance with and enforcement of the provisions of this Part.

Division 2

Trade Unions

55. (1) A trade union shall file with the Board

- (a) a true copy of its constitution if it has not otherwise been filed with the Board,
- (b) a true copy of its rules or by-laws,
- (c) the names and addresses of its president, secretary, officers and other organizers, and
- (d) the names of its officers who are authorized to sign collective agreements.

(2) The copy of the constitution, rules or by-laws filed with the Board under subsection (1) shall contain a full and complete statement of the purposes and objects of the trade union.

53. Board supervised vote for an expression of opinion.

54. Board may settle differences arising under this Part.

55. Constitution, rules or by-laws (and changes thereto) of trade unions to be sent to the Board.

(3) Any changes to the information supplied under subsection (1) shall

- (a) with respect to changes to the matters filed pursuant to subsection (1), clauses (a) and (b), be sent to the Board as soon as possible after the change is made, and
- (b) with respect to changes to the names filed pursuant to subsection (1), clauses (c) and (d), be sent to the Board within 30 days of the date the change is made.

56. The information sent to the Board under section 55 shall be used only for the purposes of this Part and shall not be open to inspection by the public.

57. The Board is not required to divulge to any employer, employers' organization, employee, trade union or other person any information as to whether a person is or is not a member of a trade union.

58. (1) For the purposes of this Act a trade union is capable of

- (a) prosecuting and of being prosecuted, and
- (b) suing and being sued.

(2) A trade union and its acts shall not be deemed to be unlawful by reason only that one or more of its objects or purposes are in restraint of trade.

59. No trade union shall expel or suspend any of its members or take disciplinary action against or impose any form of penalty on any person for any reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union unless that person has been

- (a) served with specific charges in writing,
- (b) given a reasonable time to prepare his defence,
- (c) afforded a full and fair hearing, including the right to be represented by counsel, and
- (d) found guilty of the charge or charges and where a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.

60. (1) An employee may authorize his employer in writing to apply any part of wages due to him to the payment of any amount payable by that employee to a trade union

- (a) for union dues, and
- (b) initiation fees not exceeding an amount equivalent to one month's union dues.

56. Confidentiality of information.

57. Board disclosures of trade union memberships.

58. Capacity of trade unions.

59. Limited right of trade union to suspend or expel members.

60. Union dues deducted by employer.

(2) The employer shall, from wages due to the employee, make the payments authorized by the employee and the authorization

(a) is effective only for the amount specified therein, and

(b) continues in force for at least three months and thereafter until revoked in writing by the employee.

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

(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 authorization is revoked in writing by the employee and delivered to the employer.

(4) Upon receipt of a revocation of an authorization to deduct union dues, the employer shall immediately give a copy of the revocation to the trade union concerned.

61. Where a trade union issues a temporary card to a person who is not a member of the trade union, the fee charged by the trade union for the temporary card for each month shall not exceed an amount equivalent to the dues payable by a member of the trade union for the same period.

Division 3

Registered Employers' Organizations

62. (1) An employers' organization that intends to apply to the Board to become a registered employers' organization in the construction industry shall file with the Board

(a) a true copy of its constitution, rules or by-laws,

(b) the names and addresses of its president, secretary, officers and other organizers, and

(c) the names of its officers who are authorized to sign collective agreements.

(2) The copy of the constitution, rules and by-laws filed with the Board under subsection (1) shall contain a full and complete statement of the purposes and objects of the employers' organization.

(3) Any changes to the information filed under subsection (1) shall

(a) with respect to changes to the matters filed pursuant to subsection (1), clause (a), be sent to the Board as soon as possible after the change is made, and

(b) with respect to changes to the names filed under subsection (1), clauses (b) and (c), be sent to the Board within 30 days of the date the change is made.

61. Fee for temporary card.

62. Constitution, rules or by-laws (and changes thereto) of employers' organizations that intend to apply to become a registered employers' organization in the construction industry must be sent to the Board.

63. The information sent to the Board pursuant to section 62 shall be used only for the purpose of this Part and shall not be open for inspection by the public.

64. For the purposes of this Act a registered employers' organization is capable of

- (a) prosecuting and of being prosecuted, and
- (b) suing and being sued.

65. No registered employers' organization shall expel or suspend any of its members or take disciplinary action against or impose any form of penalty on any person for a reason other than a failure to pay periodic dues, assessments and initiation fees uniformly required to be paid by all members of the registered employers' organization as a condition of acquiring or retaining membership in the registered employers' organization, unless that person has been

- (a) served with specific charges in writing,
- (b) given a reasonable time to prepare his defence,
- (c) afforded a full and fair hearing, including the right to be represented by counsel, and
- (d) found guilty of the charge or charges and where a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.

Division 4

Rights of Employees and Employers

66. (1) An employee has the right

- (a) to be a member of a trade union and to participate in its lawful activities, and
- (b) to bargain collectively with his employer through a bargaining agent.

(2) An employer has the right

- (a) to be a member of an employers' organization and to participate in its lawful activities,
- (b) to bargain collectively with his employees, and
- (c) to conduct collective bargaining through an employers' organization.

(3) Subject to the provisions of this Part, an employer has the right to voluntarily bargain collectively with a bargaining agent acting on behalf of his employees or a unit thereof.

63. Confidentiality of information.

64. Capacity of a registered employers' organization.

65. Expulsion or suspension of membership in employers' organization restricted.

66. Rights of employees and employers.

Division 5

Certification

67. Unless the Board otherwise consents, no trade union shall apply to the Board to be certified as a bargaining agent until at least 60 days after the date it complied with section 55, subsection (1).

68. (1) A trade union that claims to have been selected by a majority of employees in a unit that the trade union considers appropriate for collective bargaining, may apply to the Board to be certified as the bargaining agent of the employees in the unit.

(2) An application by a trade union to be certified as the bargaining agent of employees in a unit may be made

- (a) where no collective agreement or certification of a bargaining agent is in effect in respect of any of the employees in the unit, at any time;
- (b) where no collective agreement is in force and a bargaining agent has been certified in respect of any of the employees in the unit, at any time after the expiration of 10 months from the date of the certification of the bargaining agent;
- (c) where the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent;
- (d) where a collective agreement for a term of two years or less is in force in respect of any of the employees in the unit, at any time in the two months prior to the end of the term of the collective agreement;
- (e) where a collective agreement for a term of more than two years is in force in respect of any of the employees in the unit, at any time
 - (i) in the eleventh or twelfth month of the second or any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term.

(3) Where a strike or lockout is in effect, no application under subsection (1) shall be made without the consent of the Board.

69. (1) Two or more trade unions that claim to have been selected by a majority of employees in a unit that the trade unions consider appropriate for collective bargaining may join in an application for certification as a bargaining agent.

67. Self-explanatory.

68. Application for certification as a bargaining agent.

69. Joint application for certification.

(2) Where two or more trade unions join in an application for certification as a bargaining agent, the provisions of this Part apply to the trade unions

(a) in respect of the joint application, and

(b) to all matters arising therefrom,

as if the application had been made by one trade union.

70. A person may be deemed by the Board to be an employee for the purposes of this Part from the date an application for the certification of a bargaining agent is made and until it is disposed of, if he was an employee immediately before the date the application was made.

71. (1) Upon receipt of an application by a trade union for certification as a bargaining agent, the Board shall inquire into

(a) whether the trade union is a proper bargaining agent;

(b) whether the unit of employees is an appropriate unit for collective bargaining;

(c) whether the trade union has been selected by a majority of the employees in the unit;

(d) any other question that is, in the opinion of the Board, material in considering the application.

(2) In any inquiry under subsection (1), the Board may

(a) include or exclude employees from the unit that is claimed by the trade union to be appropriate for collective bargaining,

(b) alter or amend the description of the unit that is claimed by the trade union to be appropriate for collective bargaining, and

(c) do such other things as it considers appropriate.

72. (1) The Board shall complete its inquiries and consideration into an application for certification as soon as possible.

(2) Where the Board is satisfied

(a) that the trade union applying for certification is a proper bargaining agent,

(b) that the unit on behalf of which the trade union is applying for certification is an appropriate unit for collective bargaining, and

(c) that

(i) a majority of the employees in the unit by

(A) membership in good standing in the trade union, or

70. Persons deemed to be employees for the purpose of an application for certification.

71. Inquiry by the Board into application for certification.

72. Certification of trade union as bargaining agent.

(B) having applied for membership in the trade union and having paid on their own behalf a sum of not less than \$2 on or not longer than three months before the date the application for certification was made,

or both of them, have selected the trade union to be a bargaining agent on their behalf, or

(ii) a majority of those employees in the unit on the date the application for certification was made (or on such other date or dates fixed by the Board) who voted at a vote conducted by the Board, voted for the trade union to be the bargaining agent on their behalf,

the Board shall certify the trade union to be the bargaining agent of the employees.

(3) Where a trade union is certified under subsection (2) as a bargaining agent, the certificate issued by the Board shall

- (a) name the certified bargaining agent,
- (b) name the employer in respect of which the trade union is certified as bargaining agent, and
- (c) describe the unit in respect of which the trade union is certified as bargaining agent.

73. (1) A trade union shall not be certified as a bargaining agent if the administration, management or policy thereof is, in the opinion of the Board,

- (a) dominated by an employer, or
- (b) influenced by an employer so that the organization's fitness to represent employees for the purposes of collective bargaining is impaired.

(2) A trade union shall not be certified as a bargaining agent where, in the opinion of the Board, application for membership or membership in the trade union directly resulted from picketing of the place of employment of the employees affected or elsewhere.

74. (1) Where a trade union becomes a certified bargaining agent, it

- (a) has exclusive authority to bargain collectively on behalf of the employees in the unit for which it is certified and to bind them by a collective agreement, and
- (b) immediately replaces any other bargaining agent of employees in the unit for which it is certified.

(2) Where a trade union becomes a certified bargaining agent of employees in a unit, the certification of any trade

73. Overriding provision.

74. Effect of certification of a bargaining agent.

union previously certified as the bargaining agent for any employees in the unit is revoked to the extent that the certification relates to those employees.

(3) Where a trade union becomes a certified bargaining agent of employees in a unit and where at the time of certification a collective agreement is in force respecting those employees, the trade union

- (a) becomes a party to the collective agreement in place of the bargaining agent that was a party to the collective agreement in respect of the employees in the unit;
- (b) may, insofar as the collective agreement applies to the employees and notwithstanding anything contained in the collective agreement, terminate the agreement at any time by giving the employer at least two months' notice in writing.

75. (1) An employer or one or more certified bargaining agents may apply to the Board for the consolidation of certificates of one or more bargaining agents into a consolidated certificate.

(2) Where the Board, after such inquiry as it considers necessary, is satisfied that the certificates of the bargaining agents should be consolidated, the Board shall issue a consolidated certificate

- (a) naming the trade union or trade unions as the certified bargaining agent,
- (b) naming the employer in respect of which the trade union or trade unions is certified as bargaining agent, and
- (c) describing the unit in respect of which the trade union or trade unions are certified as bargaining agent.

(3) Where a consolidated certificate is issued, the Board may declare which collective agreements, if any, shall continue in force and which collective agreements, if any, shall terminate.

Revocation of Certification of a Bargaining Agent

76. (1) Where a trade union is a certified bargaining agent, employees in the unit in respect of which the trade union is certified may apply to the Board to revoke the certification of the bargaining agent.

(2) An application under subsection (1) may be made,

- (a) where no collective agreement is in force, at any time after the expiration of 10 months from the date of certification of the bargaining agent;

75. Consolidated certificate.

76. Application for revocation of certification.

- (b) where the certification of a bargaining agent is questioned or reviewed by the Court, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent;
 - (c) where a collective agreement for a term of two years or less is in force, at any time in the two months prior to the end of the term of the collective agreement;
 - (d) where a collective agreement for a term of more than two years is in force, at any time
 - (i) in the eleventh or twelfth month of the second or any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term.
- (3) An employer may apply to the Board to revoke the certification of a bargaining agent but only where the employer and the certified bargaining agent have not bargained collectively for a period of three years
- (a) from the date the trade union became the certified bargaining agent, where no collective agreement has been entered into affecting the employer and the certified bargaining agent, or
 - (b) from the first fixed date for the termination of the collective agreement, where a collective agreement has been entered into affecting the employer and the certified bargaining agent.
- (4) Where a strike or lockout is in effect, no application under subsection (1) shall be made without the consent of the Board.

77. (1) Where, after considering an application to revoke the certification of a bargaining agent, the Board is satisfied

- (a) that the trade union certified as bargaining agent on behalf of the employees in the unit has ceased to be a proper bargaining agent, or
- (b) that the majority of the employees in the unit no longer desire the bargaining agent to carry on collective bargaining on their behalf,

the Board shall revoke the certification of the bargaining agent.

(2) Where the certification of a bargaining agent is revoked

- (a) an employer is not required to bargain collectively with the bargaining agent, and

77. Revocation of certification of bargaining agent.

- (b) a collective agreement in effect at the time of the revocation of the certification of the bargaining agent becomes void and of no effect as it affects that employer and his employees.

**Revocation of Rights of Bargaining Agent
Voluntarily Recognized**

78. (1) Where a collective agreement is in force and the bargaining agent is not a certified bargaining agent, employees in the unit bound by the collective agreement may apply to the Board for a declaration that the bargaining agent is no longer entitled to bargain collectively on behalf of the employees in the unit.

(2) An application under subsection (1) may be made

- (a) where a collective agreement for a term of two years or less is in force, at any time in the two months prior to the end of the term of the collective agreement;
- (b) where a collective agreement for a term of more than two years is in force at any time
 - (i) in the eleventh or twelfth month of the second or any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term.

(3) Where a strike or lockout is in effect, no application under subsection (1) shall be made without the consent of the Board.

79. (1) Where, after considering an application for a declaration that the bargaining agent is no longer entitled to bargain collectively, the Board is satisfied

- (a) that the bargaining agent is not a proper bargaining agent, or
- (b) that a majority of the employees in the unit in respect of which the bargaining agent collectively bargained no longer desire the bargaining agent to carry on collective bargaining on their behalf,

the Board shall issue a declaration that the bargaining agent is no longer entitled to bargain collectively on behalf of the employees in the unit.

(2) Where the Board issues a declaration that a bargaining agent is no longer entitled to bargain collectively on behalf of employees in a unit,

- (a) the employer of the employees in the unit is not required to bargain collectively with the bargaining agent, and
- (b) a collective agreement in effect at the time the declaration is issued becomes void and of no effect as it affects that employer and his employees.

78. Application for revocation of bargaining rights of voluntary bargaining agent.

79. Declaration that voluntarily recognized bargaining agent is no longer entitled to bargain collectively and the effect of the declaration.

General Provisions Concerning Applications

80. Where notice to commence collective bargaining has been served by either party to a collective agreement and the collective agreement contains provision for the continuation of the agreement beyond a date fixed for the termination of the agreement, a continuation is not a bar to an application for

- (a) certification as a bargaining agent, or
- (b) the revocation of the certification of the bargaining agent, or
- (c) a declaration that the bargaining agent is no longer entitled to bargain collectively.

81. (1) Notwithstanding any other provision of this Part, where an application for

- (a) certification as a bargaining agent, or
- (b) revocation of the certification of a bargaining agent, or
- (c) a declaration that a bargaining agent is no longer entitled to bargain collectively, or
- (d) registration of an employers' organization, or
- (e) cancellation of registration of an employers' organization,

has been refused by the Board, the applicant shall not, without the consent of the Board, make the same or substantially the same application until after the expiration of three months from the date the previous application was made to the Board.

(2) The date an application referred to in subsection (1) is received by the Board shall be deemed to be the date the application is made.

Division 6

Registration of Employers' Organizations in the Construction Industry

82. (1) In sections 83 to 93, "trade union" includes two or more trade unions having a common trade jurisdiction.

(2) Unless the Board otherwise consents, no employers' organization shall apply to the Board to become a registered employers' organization until at least 60 days after the date the employers' organization has complied with section 62, subsection (1), clause (a).

(3) The Board shall not accept any application for registration of an employers' organization unless the applicant applies under section 83, subsection (1).

30. Continuation of collective agreement is not a bar to applications.

31. Restriction on applications after refusal.

32. Employers' organization must file its constitution before applying to become registered.

83. (1) An employers' organization may apply to the Board to be registered as the agent for collective bargaining on behalf of all employers in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining, where the employers' organization claims to have a majority of the employers as members.

(2) An application for registration may be made by an employers' organization at any time except

- (a) where the majority of employers and the trade union named in the application are bargaining collectively, or
- (b) in the sixth month period preceding the date the majority of employers named in the application become entitled to require the trade union to commence collective bargaining.

84. (1) Upon receipt of an application for registration by an employers' organization, the Board shall inquire into

- (a) whether the application is timely, taking into consideration any seasonal factors affecting the work relating to the trade jurisdiction described in the application;
- (b) where applicable, whether two or more trade unions have a common trade jurisdiction;
- (c) whether the employers' organization is a proper organization to be registered;
- (d) whether the employers' organization has as members the majority of the employers in the territory and trade jurisdiction described in the application with whom the trade union has established the right of collective bargaining;
- (e) the trade jurisdiction for which the employers' organization should be registered;
- (f) the territory for which the employers' organization should be registered;
- (g) whether the work relating to the trade jurisdiction described in the application in whole or in part is part of the construction industry;
- (h) any other matter that is, in the opinion of the Board, material to the application.

(2) For the purpose of determining whether a majority of employers engaged in the territory and trade jurisdiction described in the application in the construction industry in respect of whom a trade union has established the right of collective bargaining are members of the employers' organization applying for regis-

83. Application for registration.

84. Inquiry into application for registration.

tration, the Board may fix a period of time during which any employer so engaged in that period shall be deemed to be an employer for the purposes of the application.

- (3) In any inquiry under subsection (1), the Board may
 - (a) determine which employers come within or should be excluded from the territory or trade jurisdiction;
 - (b) alter or amend the territory or trade jurisdiction;
 - (c) do such other things as it considers appropriate.

85. (1) Where the Board is satisfied that an employers' organization should be registered as the agent for collective bargaining on behalf of all employers in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining, the Board shall issue a registration certificate to the employers' organization.

- (2) The registration certificate shall state
 - (a) the name of the registered employers' organization,
 - (b) the name of the trade union with which the registered employers' organization may bargain collectively,
 - (c) the trade jurisdiction in respect of which the registered employers' organization and a trade union may bargain collectively, and
 - (d) the territory to which the registration certificate applies.

(3) Where two or more trade unions are named in a registration certificate, the provisions of this Part apply to the trade unions with respect to the settlement of disputes or strikes as if they were a single trade union.

86. (1) Upon the issue of a registration certificate, the employers' organization named therein becomes a registered employers' organization and has exclusive authority to bargain collectively with the trade union named in the registration certificate on behalf of

- (a) all employers engaged in the territory and trade jurisdiction in the construction industry set out in the registration certificate with whom the trade union has established or subsequently establishes the right of collective bargaining, and
- (b) any other employer engaged in the construction industry who is party to an agreement (notwithstanding anything in that agreement) which provides that he shall comply with any of the terms of a collective agreement entered into by the trade

85. Issue of registration certificate.

86. Effect of issue of registration certificate.

union in respect of work in the territory and trade jurisdiction set out in the registration certificate.

(2) Where a registered employers' organization bargains collectively with a trade union, it shall be deemed to be bargaining collectively on behalf of all of the employers specified or referred to in subsection (1).

87. (1) Where a registration certificate has been issued to an employers' organization, the Board, on the application of

- (a) the registered employers' organization, or
- (b) the trade union named in the registration certificate, or
- (c) an employer referred to in section 86, subsection (1),

may consider whether a collective agreement entered into prior to the issue of the registration certificate should continue, terminate or where there is no collective agreement in effect, whether an interim collective agreement should be entered into.

(2) The Board after such inquiry as it considers necessary may, with respect to an application made under subsection (1),

- (a) direct that a collective agreement entered into before the issue of the registration certificate
 - (i) continue, but specify conditions under which it continues, or
 - (ii) terminate, either immediately or at a future date;
- (b) make such other direction as it considers necessary.

88. Where a registered employers' organization and a trade union enter into a collective agreement, the collective agreement is binding upon

- (a) the employers referred to in section 86, subsection (1),
- (b) the employees of the employers referred to in clause (a),
- (c) the registered employers' organization insofar as the terms and conditions of the collective agreement apply to it, and
- (d) the trade union.

87. Directives of the Board following the issue of a registration certificate.

88. Collective agreement binding.

89. Where a registered employers' organization and a trade union bargain collectively and a collective agreement between an employer referred to in section 86, subsection (1) and the trade union is in force, that collective agreement terminates

(a) on the date a collective agreement between the registered employers' organization and the trade union comes into force, or

(b) on the date a strike or lockout commences in accordance with this Part,

whichever first occurs.

90. Subject to sections 127 and 128, no employer on whose behalf a registered employers' organization has exclusive authority to bargain collectively and no trade union affected by the registration shall negotiate or enter into individual collective agreements and any agreement entered into is void and of no effect.

Cancellation of Registration Certificate of Employers' Organization

91. (1) Where an employers' organization has been registered by the Board, an application for the cancellation of the registration certificate may be made to the Board by an employer affected by the registration certificate.

(2) An application under subsection (1) may be made

(a) after 10 months has elapsed since the date of issue of the registration certificate and no notice to commence collective bargaining has been served by either the registered employers' organization or the bargaining agent, or

(b) after 10 months has elapsed since notice to commence collective bargaining was served by the employers' organization or the bargaining agent and no collective agreement has been concluded, or

(c) where a collective agreement between the registered employers' organization and the trade union is in force, at any time in the two months prior to the end of the term of the collective agreement.

(3) Where a strike or lockout is in effect no application under subsection (1) shall be made except with the consent of the Board.

92. (1) Upon receipt of an application for cancellation of a registration certificate of a registered employers' organization the Board may determine the wishes of the employers in respect of which the employers' organization is registered in such manner as the Board considers adequate.

89. Individual collective agreements terminate in certain circumstances.

90. Individual agreements prohibited after registration.

91. Timing of application for cancellation of registration certificate.

92. Cancellation of registration certificate and effect.

(2) Where after considering an application for cancellation of a registration certificate of a registered employers' organization the Board is satisfied

- (a) that the registered employers' organization has ceased to be a proper organization to be registered, or
- (b) that the majority of employers affected by the registration certificate no longer wish the registered employers' organization to carry on collective bargaining on their behalf,

the Board shall cancel the registration certificate.

(3) Where a registration certificate is cancelled under subsection (2),

- (a) the trade union shall retain all rights of collective bargaining existing in respect of the individual employers in respect of whom it has established the right of collective bargaining,
- (b) any collective agreement in effect between the trade union and the registered employers' organization continues to be binding upon
 - (i) every employer who was bound by the collective agreement at the time of cancellation of the registration certificate, and
 - (ii) the trade union and every employee bound by the collective agreement,and
- (c) the employers' organization ceases to be registered as an agent for collective bargaining on behalf of the employers.

93. (1) No registered employers' organization shall

- (a) merge or amalgamate with an employers' organization, or
- (b) transfer or agree to transfer its rights under a registration certificate to any employers' organization,

without the consent of the Board.

(2) Where, after such inquiry as it considers necessary, the Board considers that an employers' organization that would succeed to the rights under a registration certificate or resulting from a merger or amalgamation,

- (a) is or will be a proper organization to be registered,
- (b) has or will have as its collective bargaining objects the regulation of relations between employers and employees in a territory and trade jurisdiction in the construction industry, and

93. Mergers, amalgamations and transfers connected with registered employers' organization.

(c) has or will have as members, if consent of the Board is obtained, a majority of employers engaged in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining, the Board may grant its consent and issue a new registration certificate, or amend an existing registration certificate as it considers necessary.

Division 7

Collective Bargaining

94. (1) Where a certified bargaining agent, an employer or an employers' organization wishes to commence collective bargaining, subject to the provisions on commencing collective bargaining contained in this Part,

(a) the certified bargaining agent may serve upon the employer or employers' organization, or

(b) the employer or an employers' organization may serve upon the certified bargaining agent, a notice to commence collective bargaining.

(2) Where a collective agreement is in effect, either party to the collective agreement may, not less than 30 days and not more than 90 days preceding the expiry of the term of the collective agreement or within such longer period as may be provided for in the collective agreement, by notice in writing, require the other party to the collective agreement to commence collective bargaining.

(3) A notice to commence collective bargaining shall be served at least 10 days before the time fixed in the notice for the commencement of collective bargaining.

(4) The notice to commence collective bargaining may be served

(a) personally, or

(b) by mailing the notice by registered mail to the last known business address of the addressee, in which case the date of mailing shall be deemed to be the date of service.

(5) Where a notice to commence collective bargaining has been served pursuant to this section, the bargaining agent and the employer or employers' organization, without delay, but in any event within 20 days after notice is given, shall

(a) meet and commence, or cause authorized representatives to meet and commence to bargain collectively in good faith, and

(b) make every reasonable effort to enter into a collective agreement.

94. Notice to commence collective bargaining.

95. Upon the service of a notice to commence collective bargaining by or upon an employer, the employer shall appoint a person resident in Alberta with authority

- (a) to bargain collectively,
- (b) to conclude a collective agreement, and
- (c) to sign a collective agreement on behalf of the employer

and thereupon shall notify the bargaining agent.

96. (1) Where an employers' organization that is not a registered employers' organization commences to bargain collectively with a bargaining agent it shall

- (a) deliver to the bargaining agent and to the Board a list of the names and addresses of the employers on whose behalf it is authorized to bargain collectively,
- (b) deliver to the bargaining agent and to the Board a copy of each authorization given by an employer, and
- (c) deliver to the bargaining agent and to the Board a list of the names and addresses of the persons designated as its bargaining committee,

and upon receipt by the Board of the lists and authorizations, the employers' organization shall be deemed to be bargaining collectively for all the employers who gave their authorization.

(2) An authorization under this section may be given by a director or other senior official of the employer and thereupon that authorization shall be deemed to be the authorization of the employer.

(3) Where an employer has authorized an employers' organization that is not a registered employers' organization to bargain collectively on his behalf, the authorization may not be revoked until

- (a) a collective agreement has been entered into between the employers' organization and the bargaining agent, or
- (b) a strike or lockout commences in accordance with this Part,

whichever first occurs.

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

95. Employer to appoint representative.

96. Employers' authorizations and the effect of them.

97. Special provision for employers' organization established by statute.

(2) Where collective bargaining is commenced under subsection (1), it shall be deemed for the purposes of this Part that the collective bargaining has been carried on by each member who gave its authorization.

98. Nothing in this Part prevents a trade union from continuing an existing collective agreement or entering into a new collective agreement with an employer or employers' organization whereby all the employees or any unit of employees of the employer or employers' organization are required to be members of a trade union.

Effect of a Collective Agreement

99. (1) Where a collective agreement is entered into, the provisions thereof are binding upon

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively;
- (b) the employer, where the employer acted on his own behalf;
- (c) the employers' organization and each employer on whose behalf it was bargaining collectively, where the employers' organization acted on behalf of employers.

(2) Where an employer ceases to be a member of an employers' organization that is a party to a collective agreement, binding on that employer, the employer shall, for the remainder of the term of the collective agreement, be deemed to be a party to a like agreement with the bargaining agent.

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

(2) Notwithstanding subsection (1), the parties to a collective agreement may before or after the agreement would otherwise cease to operate agree to continue its operation in part or in full, with or without changes,

- (a) for any period less than one year, or
 - (b) for an unspecified period,
- while the parties bargain collectively.

(3) Where a collective agreement is continued under subsection (2), its continued operation is not a bar to an application for certification as bargaining agent or to an application for the revocation of the certification of the bargaining agent or for a declaration that a bargaining agent is no longer entitled to bargain collectively.

98. Self-explanatory.

99. Effect of collective agreement.

100. Collective agreements for an unspecified term are deemed to last for a year.

101. (1) Subject to this section, where the terms and conditions to be included in a collective agreement have been settled each of the parties who bargained collectively shall sign the collective agreement.

(2) No employee is required to sign a collective agreement that has been entered into on his behalf by a bargaining agent.

(3) No employer is required to sign a collective agreement that has been entered into on his behalf by an employers' organization.

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

103. (1) Any collective agreement entered into between an employer and a trade union that is not a certified bargaining agent may be declared by the Board to be void where in its opinion the administration, management or policy of the trade union is,

(a) dominated by an employer, or

(b) influenced by an employer, so that the trade union's fitness to represent employees for the purpose of collective bargaining is impaired.

(2) Any collective agreement entered into between an employer and a trade union as a result of the employer's recognition of the trade union as a bargaining agent may be declared by the Board to be void where in its opinion the recognition resulted from picketing of the place of employment of the employees affected or elsewhere.

101. Self-explanatory.

102. Self-explanatory.

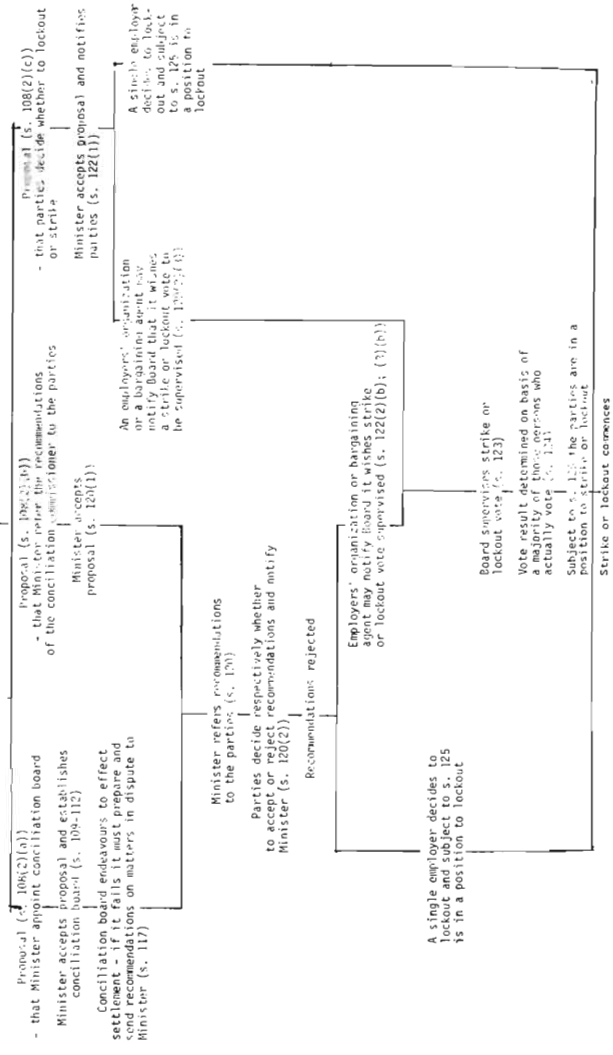
103. A collective agreement can be declared to be void by the Board in certain circumstances.

GENERAL NOTE: The procedure involved between the time a dispute arises during collective bargaining and the time the parties to the dispute are in a position to lockout or strike respectively can best be graphically illustrated as follows:

Division 8
Conciliation

Parties to collective bargaining fail to settle dispute
Either party may apply to Minister for appointment of conciliation commissioner (s. 104)
Minister appoints conciliation commissioner

If conciliation commissioner fails to effect settlement of the dispute he may refer the matter to the Minister (s. 108(2))



Division 8

Conciliation

104. (1) Where during collective bargaining the parties fail to settle a dispute, an employer, employers' organization or a bargaining agent may refer the dispute to the Minister and request him to appoint a conciliation commissioner.

(2) The Minister shall decide whether or not to appoint a conciliation commissioner within five days of receipt of a request to do so.

(3) The Minister may refuse to appoint a conciliation commissioner where he is satisfied that the parties to the dispute have failed to make reasonable efforts to conclude a collective agreement.

(4) Where the Minister is satisfied that the dispute referred to him under subsection (1) is a proper one to refer to a conciliation commissioner, he shall appoint a conciliation commissioner and refer the dispute to him.

(5) The Minister may, at the same time he refers a dispute to a conciliation commissioner, or subsequently, refer to the conciliation commissioner other disputes of a similar nature between any other employer, employers' organization and bargaining agent.

105. (1) Where in the opinion of the Minister a dispute exists or is expected to arise, the Minister may appoint a conciliation commissioner if he considers it expedient to do so and refer the dispute or the expected dispute to him.

(2) The Minister may at the same time he appoints a conciliation commissioner under subsection (1) or subsequently, refer to the conciliation commissioner any other dispute of a similar nature between any other employer, employers' organization and bargaining agent.

106. Upon the appointment of a conciliation commissioner under section 104 or 105 the Minister shall give notice of the appointment to all parties to the dispute.

107. (1) Upon his appointment, a conciliation commissioner shall, in such manner as he thinks fit, inquire into the dispute and endeavour to effect a settlement.

(2) During his inquiry the conciliation commissioner shall

- (a) hear such representations as are made to him by the parties to the dispute,
- (b) mediate between the parties to the dispute, and

104. Disputes may be referred to Minister who may appoint a conciliation commissioner.

105. Minister may appoint conciliation commissioner on his own initiative.

106. Notice of appointment of conciliation commissioner.

107. Duties of conciliation commissioner.

- (c) encourage the parties to the dispute to effect a settlement.

108. (1) Where a conciliation commissioner is unable to effect a settlement of a dispute within 20 days of the date of his appointment or such longer period as is agreed between the parties to the dispute or fixed by the Minister, the conciliation commissioner shall make one of the proposals specified in subsection (2) to the Minister.

- (2) The conciliation commissioner may propose
 - (a) that a conciliation board be appointed by the Minister, or
 - (b) that his recommendations, attached to the proposal, be referred to the parties to the dispute for them to accept or reject, or
 - (c) that the parties to the dispute decide whether to strike or lockout.

Establishment of Conciliation Board

109. (1) Where the Minister accepts the proposal of a conciliation commissioner under section 108, subsection (2), clause (a), that he establish a conciliation board, the Minister shall notify in writing

- (a) the employer or employers' organization, and
- (b) the bargaining agent,

and require each of them within 10 days to appoint a person to act as a member of the conciliation board.

(2) The two persons appointed to act as members of a conciliation board shall appoint a third person to act as a member and chairman of the conciliation board within 10 days of the date the second person is appointed.

110. No person shall be appointed or shall act as a member of a conciliation board if the person is directly affected by the dispute or if the person has been involved in an attempt to negotiate or settle the dispute.

111. (1) Where an employer, employers' organization or bargaining agent fails to appoint a person as a member of a conciliation board, the Minister may appoint a person to act as a member on his or their behalf.

(2) Where the two persons appointed as members of a conciliation board fail to appoint a person to act as a member and chairman, the Minister may appoint a person to act as a member and chairman on their behalf.

108. Proposals of conciliation commissioner.

109. Minister accepts proposal of conciliation commissioner to establish conciliation board.

110. Restrictions on who may serve as a member of a conciliation board.

111. Effect of failure to appoint members or chairman.

(3) Where a vacancy occurs in the membership of a conciliation board, it shall be filled in the same manner as provided for the appointment of the member or chairman.

112. (1) Where three persons are appointed to act as members of a conciliation board, the Minister shall establish them as a conciliation board.

(2) Upon the establishment of a conciliation board under subsection (1), the Minister shall send to its chairman a statement of the matters in dispute.

113. (1) A conciliation board shall inquire into the matters in dispute referred to it by the Minister and shall endeavour to effect a settlement.

(2) A conciliation board may determine its own procedure but shall give a full opportunity to all parties to the dispute to present evidence and be heard.

(3) The conciliation board or any member thereof may require by summons

(a) the attendance of any person as a witness before it at a place and time specified in the summons, and

(b) any person to bring and produce before it all documents, books, deeds and papers in his possession, custody or power relating in any way to the dispute.

(4) The members of a conciliation board have the same powers as a commissioner appointed under *The Public Inquiries Act* and may administer oaths.

(5) A conciliation board may accept, admit, or call for any evidence that it considers fit whether or not the evidence would be admissible in a court of law.

114. Where in the opinion of the Minister any member of a conciliation board is unduly or unnecessarily delaying the proceedings of the conciliation board the Minister may

(a) revoke the appointment of any member of the conciliation board, and

(b) require, by notice in writing and within the time stated, the employer, employers' organization or bargaining agent to appoint another person to act as a member of the conciliation board in place of the person whose appointment is revoked.

115. (1) A party to a dispute referred to a conciliation board may be represented before the conciliation board by not more than three persons or such greater number of persons as may be fixed by the conciliation board.

112. Statement of matters in dispute.

113. General powers of conciliation board.

114. Revoking of appointments to conciliation board and re-appointments.

115. Representation of the parties to a dispute.

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

(3) If any party to proceedings before a conciliation board fails to attend or to be represented, the conciliation board may proceed as if the party had attended or had been represented.

116. (1) A conciliation board shall meet at such times and places as are fixed by the chairman and where possible within the locality in which the dispute arose.

(2) The chairman of the conciliation board shall notify each member of the board of the time and place of each meeting.

117. (1) Where a conciliation board is unable to effect a settlement of a dispute within 20 days of the date the conciliation board is established or such longer time as may be agreed by the parties to the dispute or fixed by the Minister, the conciliation board shall make recommendations with respect to each matter in dispute and send them to the Minister.

(2) The conciliation board may report what in its opinion ought to be done by the parties to the dispute.

(3) The recommendations of the majority of the members of a conciliation board are the recommendations of the conciliation board and shall be signed by those members of the conciliation board that concur with the recommendations.

118. (1) Where any question arises concerning the recommendations of a conciliation board the Minister may request the chairman of the conciliation board to reconvene the conciliation board for the purpose of expressing an opinion on the question.

(2) Upon receipt of a request under subsection (1) the chairman of a conciliation board shall reconvene the conciliation board and report to the Minister as requested.

119. The recommendations of a conciliation commissioner or of a conciliation board may be of retroactive application.

120. (1) Where the Minister

(a) receives the recommendations of a conciliation board on the matters in dispute pursuant to section 117, or

116. Meetings of the conciliation board.

117. Recommendations on matters in dispute to be sent to Minister where the conciliation board is unable to effect a settlement.

118. Question arising from recommendations can be referred back to conciliation board.

119. Self-explanatory.

120. Minister refers recommendations to the parties to the dispute who must thereupon decide whether to accept or reject the recommendations.

- (b) accepts the proposal of a conciliation commissioner pursuant to section 108, subsection (2), clause (b) to refer the recommendations of a conciliation commissioner to the parties to the dispute for them to accept or reject,

the Minister shall notify the parties to the dispute in writing, refer the recommendations to the parties and require them to accept or reject the recommendations and to notify him of their decision before a date fixed by him.

(2) Upon receipt of the recommendations sent pursuant to subsection (1), the parties to the dispute shall respectively decide whether to accept or reject the recommendations and shall each notify the Minister of their decision on or before such date as is fixed by the Minister.

(3) The Minister may publish the recommendations received by him in such manner as he thinks fit.

121. (1) Where the parties to a dispute accept the recommendations of a conciliation commissioner or a conciliation board the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(2) Where the parties to a dispute notify the Minister in writing before a conciliation commissioner or conciliation board has made its recommendations that they will accept the recommendations of the conciliation commissioner or conciliation board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

122. (1) Where the Minister accepts the proposal of a conciliation commissioner pursuant to section 108, subsection (2), clause (c) that the parties decide whether to strike or lockout he shall notify the parties in writing thereof.

(2) Where a bargaining agent

(a) receives a notification pursuant to subsection (1),
or

(b) rejects the recommendations sent to it pursuant to section 120, subsection (1) and notifies the Minister thereof,

the bargaining agent may notify the Board that it wishes a strike vote to be supervised by the Board.

(3) Where an employers' organization

(a) receives a notification pursuant to subsection (1),
or

(b) rejects the recommendations sent to it pursuant to section 120, subsection (1) and notifies the Minister thereof,

121. Where recommendations are accepted they form the basis of a collective agreement.

122. Bargaining agent or employers' organization may notify the Board that it wishes a strike or lockout vote to be supervised.

the employers' organization may notify the Board that it wishes a lockout vote to be supervised by the Board.

123. (1) Upon receipt of a notification under section 122, subsection (2), the Board shall

- (a) where the bargaining agent is in dispute with a single employer, supervise a strike vote of the employees of the employer in the unit affected by the dispute, or
- (b) where the bargaining agent is in dispute with an employers' organization, supervise a strike vote of the employees of all employers in the unit affected by the dispute.

(2) Upon receipt of a notification under section 122, subsection (3), the Board shall supervise a lockout vote of the employers affected by the dispute.

(3) In this section the expression

- (a) "employees of the employer in the unit affected by the dispute" means any employee employed in the unit affected by the dispute at any time during
 - (i) the 60 days preceding the date (or the last date if there is more than one) fixed for taking the strike vote, or
 - (ii) the period of time between the date a conciliation commissioner was appointed by the Minister under section 104 or 105 and the date (or the last date if there is more than one) fixed for taking the strike vote,whichever is the shorter period;
- (b) "employers affected by the dispute" means any employer affected by the dispute who has employed any employee entitled to vote under subsection (1) at any time during
 - (i) the 60 days preceding the date (or the last date if there is more than one) fixed for taking the lockout vote, or
 - (ii) the period of time between the date a conciliation commissioner was appointed under section 104 or 105 and the date (or the last date if there is more than one) fixed for taking the lockout vote,whichever is the shorter period.

124. (1) The result of any vote under section 123 shall be determined on the basis of a majority of those persons who actually vote.

(2) Where any question arises with respect to a strike or lockout vote, it shall be referred to the Board whose decision is final and binding.

123. Who is entitled to vote at a vote supervised by the Board.

124. Self-explanatory.

Division 9

Strikes, Lockouts and Picketing

125. (1) No employee, bargaining agent or employee on whose behalf the bargaining agent bargains collectively shall strike or cause a strike

- (a) until at least 14 days after the date the Minister
 - (i) refers a copy of the recommendations of a conciliation commissioner or conciliation board to the parties to the dispute pursuant to section 120, or
 - (ii) notifies the parties to the dispute that he accepts the proposal of a conciliation commissioner that the parties decide whether to lockout or strike pursuant to section 122,
- (b) until the employees affected by a dispute in respect of whom a bargaining agent bargains collectively vote to strike pursuant to section 123, and
- (c) until the bargaining agent gives written notice to the employer in respect of whom the strike is to take place, that his employees are going on strike and not less than two working days elapse from the date the notice is given.

(2) No employer, employers' organization or employer on whose behalf an employers' organization bargains collectively shall lockout or cause a lockout

- (a) until at least 14 days after the date the Minister
 - (i) refers a copy of the recommendations of a conciliation commissioner or conciliation board to the parties to the dispute pursuant to section 120, or
 - (ii) notifies the parties to the dispute that he accepts the proposal of a conciliation commissioner that the parties decide whether to lockout or strike pursuant to section 122,
- (b) until
 - (i) a single employer affected by a dispute
 - (A) where he is the subject of a notification pursuant to section 122, decides to lockout, or
 - (B) rejects the recommendations referred to him pursuant to section 120 and decides to lockout,
 - or
 - (ii) employers affected by a dispute in respect of whom an employers' organization bargains collectively, vote to lockout pursuant to section 123,

125. Strikes and lockouts prohibited until the requirements of this section are met.

and

- (c) until the employer or employers' organization gives written notice to the bargaining agent that the employees will be locked out and not less than two working days elapse from the date the notice is given.

126. A strike or lockout is permitted where the provisions of section 125 have been met.

127. (1) Where a bargaining agent wishes to cause a strike permitted under section 126 in respect of an employers' organization, it shall cause the strike in respect of all employers affected by the dispute on whose behalf the employers' organization bargains collectively.

(2) Where a strike commences affecting employers who authorized an employers' organization that is not a registered employers' organization to bargain collectively on their behalf, the bargaining agent may, at any time after the strike commences, make a settlement with any employer.

(3) Where a strike commences affecting employers on whose behalf a registered employers' organization bargains collectively, the bargaining agent may, 60 days after the date of the commencement of the strike, make a settlement with one or more of the employers.

(4) No employer on whose behalf a registered employers' organization bargains collectively and the bargaining agent shall not settle the matters in dispute between themselves during the 60 days following the date of the commencement of the strike.

128. (1) Where an employers' organization wishes to cause a lockout permitted under section 126, all employers affected by the dispute on whose behalf the employers' organization bargains collectively, shall participate in the lockout.

(2) Where a lockout commences affecting employers who authorized an employers' organization that is not a registered employers' organization to bargain collectively on their behalf, any employer may at any time after a lockout commences, make a settlement with the bargaining agent.

(3) Where a lockout commences affecting employers on whose behalf a registered employers' organization bargains collectively any employer may, 60 days after the date of the commencement of the lockout, make a settlement with the bargaining agent.

(4) No employer on whose behalf a registered employers' organization bargains collectively and the bargaining agent

126. Self-explanatory.

127. Settlement may be reached by individual employers and the bargaining agent after a strike is called only in certain circumstances.

128. Settlement may be reached by individual employers and the bargaining agent after a lockout only in certain circumstances.

shall not settle the matters in dispute between themselves during the 60 days following the date of the commencement of the lockout.

129. (1) Where a settlement of a dispute is effected contrary to section 127 or 128 any agreement arising therefrom is void and of no effect.

(2) Where a settlement of a dispute is effected by an individual employer on whose behalf a registered employers' organization bargains collectively and a bargaining agent in accordance with section 127 or 128, any agreement arising therefrom continues until a collective agreement is concluded between the registered employers' organization and the bargaining agent and thereafter the agreement between the individual employer and the bargaining agent becomes void and ceases to have any effect.

130. The right to commence a strike or lockout permitted pursuant to section 126 lasts for one year from the date the right arises.

131. (1) Notwithstanding anything in this Act, *The Judicature Act* or any other Act, where there is a strike or lockout, 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 strike or lockout from doing any act in connection with the strike or lockout.

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

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

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

132. (1) A strike or lockout is illegal

(a) where the strike or lockout is not permitted under section 126, or

129. Effect of individual settlements during strike or lockout.

130. Right to strike or lockout lasts for a year.

131. Injunction.

132. Illegal strikes or lockouts.

(b) where a collective agreement is in force.

(2) 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 permitted under section 126.

(3) Where a strike is illegal, no trade union or member of the trade union or other person shall dissuade or endeavour to dissuade anyone from

- (a) entering an employer's place of business, operations or employment, or
- (b) dealing in or handling the products of any person, or
- (c) doing business with any person.

133. (1) Where a strike or lockout occurs and either of the parties alleges that it is illegal pursuant to section 132, the matter may be referred to the Board.

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

(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 require any person, employee, employer, employers' 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 declaration under subsection (3) the declaration or any requirement thereof is not complied with, the Board may file a copy of the declaration with the clerk of the Court in the judicial district in which the strike or lockout occurs and thereupon the declaration is enforceable as a judgment or order of the Court.

134. (1) Where there is a strike or lockout that is permitted under section 126, 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) Except as provided in subsection (1), no trade union or other person shall persuade or endeavour to persuade anyone not to

133. Cease and desist declaration.

134. Circumstances when picketing permitted.

- (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.

Division 10

Voluntary Collective Bargaining Arbitration Board

135. (1) The parties to a dispute may agree in writing

- (a) to request the Minister to appoint a conciliation commissioner to effect a settlement of a dispute, and
- (b) that if a conciliation commissioner fails to effect a settlement of the dispute, the matters in dispute will be referred to a collective bargaining arbitration board whose decision will be binding.

(2) Upon receipt of a request contained in an agreement made pursuant to subsection (1), the Minister shall appoint a conciliation commissioner.

(3) Where the conciliation commissioner is unable to effect a settlement of the dispute within 20 days of the date of his appointment or such longer period as may be agreed between the parties or fixed by the Minister, the conciliation commissioner shall report back to the Minister on the matters remaining in dispute between the parties.

136. (1) Where the Minister receives a report pursuant to section 135, he shall serve notice on the parties to the dispute requiring each of them, within 10 days, to appoint a person to act as a member of a collective bargaining arbitration board.

(2) The two persons appointed to serve as members of the collective bargaining arbitration board shall, within five days of the appointment of the second person, appoint a third person to act as chairman.

(3) If no chairman is appointed, the Minister shall appoint a chairman on request of either party to the dispute.

(4) No person shall be appointed or shall act as a member of a collective bargaining arbitration board if the person has been involved in an attempt to negotiate or settle the dispute.

137. (1) Upon the appointment of the chairman of the collective bargaining arbitration board, the Minister shall designate the members as a collective bargaining arbitration board and send to the chairman a statement of the matters in dispute to be inquired into by them.

(2) The functions and procedural powers of the collective bargaining arbitration board shall be the same as those of a conciliation board.

135. Application to Minister.

136. Appointment of collective bargaining arbitration board.

137. Award binding.

(3) The collective bargaining arbitration board shall mediate between the parties and make all possible efforts to assist the parties to effect a settlement.

(4) If the collective bargaining arbitration board is unable to effect a settlement and in any event within 20 days after a statement of the dispute is sent to its chairman or such longer period as may be agreed between the parties or fixed by the Minister, the collective bargaining arbitration board shall make an award dealing with all matters in dispute.

(5) The award of a collective bargaining arbitration board is binding on the parties to the dispute and shall be included in the terms of a collective agreement.

(6) *The Arbitration Act* does not apply to arbitration under this section.

Division 11

Collective Agreement Arbitration

138. (1) Every collective agreement shall contain provisions for the final settlement by

- (a) arbitration, or
- (b) such other method as may be agreed by the parties, of differences between the parties or persons bound by the collective agreement.

(2) The matters to be covered under the provisions of arbitration or other method shall be all differences as to the interpretation, application, operation of the collective agreement and with respect to any contravention or alleged contravention thereof and any question as to whether the differences are arbitrable without stoppage of work or refusal to perform work.

(3) Notwithstanding anything contained in a collective agreement, where a difference arises between the parties to a collective agreement during the period between

- (a) the date of its termination, and
- (b) until
 - (i) 14 days after the date the Minister
 - (A) refers a copy of the recommendations of a conciliation commissioner or conciliation board to the parties to a dispute pursuant to section 120, or
 - (B) notifies the parties to the dispute that he accepts the proposal of a conciliation commissioner that the parties decide whether to lockout or strike pursuant to section 122,

or

138. Collective agreements must provide for compulsory arbitration of differences arising out of a collective agreement. If the collective agreement is silent on the matter then the provisions of subsection (4) apply automatically.

(ii) the right of the trade union to represent the employees is terminated,

whichever first occurs,

the provisions required to be contained in a collective agreement pursuant to subsection (1) apply to the parties and the difference as if the collective agreement had remained in effect.

(4) Where a collective agreement does not contain provisions required under subsection (1) covering the matters referred to under subsection (2), the collective agreement shall be deemed to contain such of the following provisions in respect of which it remains silent:

- (a) *If any difference concerning the interpretation, application, operation or any alleged contravention of this agreement or any question as to whether any difference is arbitrable arises between the parties or persons bound by the collective agreement, such parties or persons shall meet and endeavour to resolve the difference.*
- (b) *If the parties are unable to resolve the difference referred to in clause (a), either of the parties may notify the other party in writing of its desire to submit the difference to arbitration, and the notice shall contain a statement of the difference and the name of the first party's appointee to an arbitration board. The recipient of the notice shall, within seven days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within seven days of the appointment of the second of them, appoint a third person who shall be the chairman.*
- (c) *If the recipient of the notice fails to appoint an arbitrator within the time limit under clause (b), the appointment shall be made by the Minister upon the request of either party. If the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.*
- (d) *The arbitration board shall hear and determine the difference and shall issue an award in writing and the decision is final and binding upon the parties and upon any employee affected by it. The decision of a majority is the award of the arbitration board, but if there is no majority, the decision of the chairman governs and it shall be deemed to be the award of the board.*
- (e) *Each party to the difference shall bear the expense of its respective appointee to the arbitration board and the two parties shall bear equally the expenses of the chairman.*

- (f) *Subject to clause (g), the arbitration board by its decision shall not alter, amend or change the terms of the collective agreement.*
- (g) *Where an arbitration board determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject matter of the arbitration, the arbitration board may substitute such other penalty for the discharge or discipline as to the arbitration board seems just and reasonable in all the circumstances.*

139. (1) Where an arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement

- (a) if either party to the collective agreement within seven days of the written notice from the other party of the appointment of his member or members fails or neglects to appoint a member or members, the Minister shall upon the request of the other party, appoint a person or persons he considers fit for the purpose and that person or persons are deemed to be appointed by that party,
 - (b) if the appointed members within seven days from the date of the appointment of the last appointed member, fail to agree upon a person to act as a chairman, the Minister shall appoint a chairman upon the request of either party, and
 - (c) if either member of the arbitration board, or the chairman thereof, refuses to act or is or becomes incapable of acting, a new member or chairman may be appointed in the same manner as provided for the appointment of the member or chairman.
- (2) Where both parties agree, the time within which any of the appointments shall be made may be extended.

140. No person shall be appointed as an arbitrator or as a member of an arbitration board or other body if the person is directly affected by the difference or if the person has been involved in an attempt to negotiate or settle the difference.

141. Where a difference has been submitted to an arbitrator, arbitration board or other body and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the arbitrator, arbitration board, or other body, issue whatever directive it con-

139. Appointment of members in cases of dispute.

140. Self-explanatory.

141. Application to the Board to speed up arbitration decision.

siders necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay.

142. (1) A decision of the majority of the members of an arbitration board or other body is the decision of the arbitration board or other body but, if there is no majority, the decision of the chairman governs and his decision shall be deemed to be the award of the arbitration board or other body.

(2) Every arbitrator, arbitration board or other body shall, immediately upon making the award, file a copy of the award with the Board.

(3) The award of an arbitrator, arbitration board or other body 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 or other body shall, at the request of any of the parties to the difference, make an affidavit or an affirmation to that effect.

(4) Upon receipt of the award of the arbitrator, arbitration board or other body, the Board may publish the award in such manner as it considers fit.

143. (1) Subject to subsection (2), no arbitrator, arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.

(2) Where an arbitrator, arbitration board or other body determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject matter of the arbitration, the arbitrator, arbitration board or other body may substitute such other penalty for the discharge or discipline as to the arbitrator, arbitration board or other body seems just and reasonable in all the circumstances.

144. The arbitrator or the chairman of the arbitration board or other body is empowered

- (a) to summon and enforce the attendance of witnesses and to compel them to give evidence in the same manner as a court of record in civil cases and to produce such documents and things as it deems requisite to the full investigation or consideration of any matter within its jurisdiction;
- (b) to administer oaths and take affirmations of witnesses;
- (c) to enter any premises where work is being done or has been done by employees or in which an em-

142. Arbitration award and publication.

143. Arbitration not to alter, amend or change a collective agreement with the one exception.

144. Power of arbitrator or chairman of arbitration board.

ployer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to him or it and inspect and view any work, material, machinery, appliance or article therein and question any person under oath in the presence of the parties or their representatives concerning any matter connected with the differences;

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

145. The award of an arbitrator, arbitration board or other body is binding

- (a) upon the employers and the bargaining agent,
- (b) in the case of a collective agreement between a bargaining agent and an employers' organization, upon the bargaining agent, employers' organization and employers bound by the agreement who are affected by the award, and
- (c) upon the employees bound by the agreement who are affected by the award,

and the employers, employers' organization, bargaining agent and employees shall do or abstain from doing any thing required of them by the board.

146. (1) No award or proceeding of an arbitrator, arbitration board or other body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, (whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise) to question, review, prohibit or restrain the arbitrator, arbitration board or other body in any of his or its proceedings.

(2) Notwithstanding subsection (1), the decision or proceedings of an arbitrator, arbitration board or other body may be questioned, or reviewed by way of an application for certiorari or mandamus, if an application therefor is filed with the court not later than 20 days after the issuance of the award of the arbitrator, arbitration board or other body.

147. (1) Where any employers' organization, employer, bargaining agent or employee fails to comply with an award of an arbitrator or arbitration board or other body any employers' organization, employer, bargaining agent

145. Award binding.

146. Binding application of award.

147. Enforcement of award.

or employee affected by the award may, after 20 days from the date on which the award is made, or the date provided in it for compliance, whichever is the later date, file a copy of the award with the clerk of the Court in the judicial district in which cause of the proceedings before the arbitrator or arbitration board or other body arose.

(2) On filing an award with the clerk of the Court pursuant to subsection (1), an award of an arbitrator, arbitration board or other body has the same force and effect, and all proceedings may be taken thereon, as if the award were a judgment obtained in that Court.

148. *The Arbitration Act* does not apply to arbitrations under collective agreements.

Division 12

Successor Employers and Trade Unions

Employers

149. (1) Where a business, undertaking or any other activity or part thereof is sold, leased, transferred or otherwise disposed of, so that control, management or supervision of it passes to a purchaser, lessee, transferee or person acquiring the same, then

- (a) the purchaser, lessee or transferee or person acquiring the business, undertaking or any other activity or part thereof is bound by all proceedings where there have been proceedings under this Part, as if he had been a party thereto,
- (b) if a trade union was certified, the certification remains in effect and applies to the purchaser, lessee or transferee or person acquiring the business, undertaking or any other activity or part thereof, and
- (c) if a collective agreement was in force, the collective agreement continues to bind the purchaser, lessee or transferee or person acquiring the business, undertaking or other activity or part thereof to the same extent as if it had been signed by him and no changes shall be made in the collective 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 section.

(2) Where a business, undertaking or other activity or part thereof is sold, leased, transferred or merged with another business, undertaking or other activity or otherwise disposed of and the employees affected by a certification of a bargaining agent or by a collective agreement are

148. The Arbitration Act not to apply.

149. *Effect of disposition of business.*

intermingled with other employees, the Board may, upon the application of any person or trade union affected

- (a) determine whether the employees concerned constitute one or more appropriate units for collective bargaining,
- (b) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of the employees,
- (c) amend, to such extent as the Board considers necessary, any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and
- (d) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate,

and before disposing of the application, the Board may make such inquiry, require the production of such evidence and the doing of such things or hold such votes as it considers appropriate.

150. Upon the application of a trade union where, in the opinion of the Board, associated or related activities or businesses, undertakings or other activities are carried on by or through more than one corporation, partnership, person or other association of persons, or any combination thereof, under common control or direction, the Board may declare the corporations, partnerships, persons or other association of persons or any combination thereof to be one employer for the purposes of any proceedings under this Part.

151. (1) In this section "governing body" means

- (a) a city, town, new town, village, or
- (b) a municipal district or county, or
- (c) a board of trustees of a school district or division,
or
- (d) a district board as defined in *The Alberta Hospitals Act*, **or**
- (e) the owner or operator of a non-district hospital as defined in *The Alberta Hospitals Act*.

(2) Where a governing body is incorporated or established and replaces or takes the place in whole or in part of another or other governing bodies or where one or more governing bodies are in whole or in part formed into, incorporated into or annexed to another governing body or governing bodies, the Board may on the application of any person or trade union affected

150. Spin-off provision.

151. Provisions with respect to governing bodies.

- (a) declare which governing body is bound by proceedings under this Part,
- (b) determine whether the employees concerned constitute one or more appropriate units for collective bargaining,
- (c) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of employees,
- (d) amend, to such extent as the Board considers necessary, any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and
- (e) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate,

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

Trade Unions

152. (1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction of a trade union it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent of a unit of employees of an employer, the Board in any proceedings before it or on the application of any person or trade union concerned may declare that the successor trade union has acquired the rights, privileges and duties under this Part of its predecessor.

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

(3) Where the Board makes a declaration under subsection (1), the successor trade union shall be deemed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise.

Division 13

Unfair Practices

153. (1) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

- (a) participate in or interfere with the formation or administration of a trade union, or
- (b) contribute financial or other support to a trade union.

152. Successor trade union.

153. Prohibited practices.

(2) An employer does not contravene subsection (1) by reason only that the employer

(a) in respect of a trade union that is a bargaining agent for his employees

(i) permits an employee or a representative of a trade union to confer with him during working hours or to attend to the business of the trade union during working hours without deduction in the computation of time worked by the employee and without deduction of wages in respect of the time so occupied, or

(ii) provides free transportation to representatives of the trade union for purposes of collective bargaining, the administration of a collective agreement and related matters, or

(iii) permits the trade union to use his premises for the purposes of the trade union,

or

(b) makes to a trade union donations to be used solely for the welfare of the members of the trade union and their dependants.

(3) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

(a) refuse to employ or continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because the person

(i) is a member of a trade union, or

(ii) has been expelled or suspended from membership in a trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union, or

(iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part, or

(iv) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part, or

(v) has made an application or filed a complaint under this Part, or

(vi) has participated in a strike that is permitted by this Part or exercised any right under this Part;

(b) impose any condition in a contract of employment that restrains, or has the effect of restraining, an employee from exercising any right conferred upon him by this Part;

- (c) deny to any employee any pension rights or benefits to which the employee would be entitled but for
 - (i) the cessation of work by the employee as the result of a lockout or strike that is permitted by this Part, or
 - (ii) the dismissal of the employee contrary to this Part;
- (d) seek by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of a trade union or to refrain from
 - (i) testifying or otherwise participating in a proceeding under this Part, or
 - (ii) making a disclosure that he may be required to make in a proceeding under this Part, or
 - (iii) making an application or filing a complaint under this Part;
- (e) suspend, discharge or impose any financial or other penalty on a person employed by him, or take any other disciplinary action against such a person, by reason of that person having refused to perform an act prohibited by this Part;
- (f) bargain collectively for the purpose of entering into a collective agreement, or enter into a collective agreement with a trade union in respect of a bargaining unit if another trade union is the bargaining agent for that unit;
- (g) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of his refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is permitted under section 126.

154. (1) Subject to the provisions of a collective agreement, if a collective agreement is in effect, where a trade union has made an application for certification, no employer affected by the application shall, except with the consent of the trade union, alter the rates of pay, any term or condition of employment or any right or privilege of any employee in the unit affected by the application during the time between the date of the application, and

- (a) the date of its refusal, or
- (b) 30 days after the date of certification.

(2) Subject to the provisions of a collective agreement, if a collective agreement is in effect, where a notice to commence collective bargaining has been given no employer

154. No alteration of terms of employment after an application for certification or notice to commence collective bargaining except in certain circumstances.

affected by the notice shall, except with the consent of the bargaining agent, alter the rates of pay, any term or condition of employment or any right or privilege of any employee or of the bargaining agent until

- (a) at least 14 days after the date the Minister
 - (i) refers a copy of the recommendations of a conciliation commissioner or conciliation board to the parties to a dispute pursuant to section 120, or
 - (ii) notifies the parties to the dispute that he accepts the proposal of a conciliation commissioner that the parties decide whether to lock-out or strike pursuant to section 122,or
 - (b) the right of the trade union to represent the employees has been terminated,
- whichever first occurs.

155. No trade union and no person acting on behalf of a trade union shall

- (a) seek to compel an employer or employers' organization to bargain collectively with the trade union if the trade union is not the bargaining agent for a unit of employees that includes employees of the employer;
- (b) bargain collectively or enter into a collective agreement with an employer or employers' organization in respect of a unit, if that trade union or person knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit of employees;
- (c) participate in or interfere with the formation or administration of an employers' organization;
- (d) except with the consent of the employer of an employee, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming or to cease to be a member of a trade union;
- (e) use coercion or intimidation of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;
- (f) require an employer to terminate the employment of an employee because he has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade

155. Prohibited action by trade unions.

- union as a condition of acquiring or retaining membership in the trade union;
- (g) expel or suspend a person from membership in the trade union or deny membership in the trade union to a person by applying to him in a discriminatory manner the membership rules of the trade union;
 - (h) take disciplinary action against or impose any form of penalty on a person by applying to him in a discriminatory manner the standards of discipline of the trade union;
 - (i) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on a person by reason of his having refused to perform an act that is contrary to this Part;
 - (j) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on any person
 - (i) for engaging in employment in accordance with the terms of a collective agreement between his employer and the trade union, or
 - (ii) for engaging in employment, with an employer who is not a party to a collective agreement with the trade union where the trade union fails to make employment available to that person with an employer who is a party to a collective agreement with the trade union, except where the trade union and that person are participating in a strike that is permitted under this Part;
 - (k) authorize, encourage or consent to any employee in a unit in respect of which the trade union is the bargaining agent refusing to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any persons or class of persons who were or are not members of a trade union or a particular trade union;
 - (l) discriminate against a person in regard to employment or membership in a trade union, or intimidate or coerce a person or impose a pecuniary or other penalty on a person, because he
 - (i) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part, or
 - (ii) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part, or
 - (iii) has made an application or filed a complaint under this Part.

156. No employee shall

- (a) refuse to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any person or class of persons who were or are not members of a trade union or a particular trade union, and
- (b) 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 engaged in a strike or lockout permitted by this Part.

157. (1) Subject to subsections (2) and (3), any employer, employers' organization, employee, trade union or other person may make a complaint in writing to the Board that there has been or is a failure to comply with sections 153 to 156 or any provision thereof.

(2) The Board has no jurisdiction to hear a complaint made pursuant to section 155, clause (g) or (h) unless the complainant establishes to the satisfaction of the Board that

- (a) he has presented an appeal to the trade union in accordance with the appeal procedure established by the trade union, and
- (b) the trade union failed to deal with the matter within six months of the date he made his appeal.

(3) Subsection (2) does not apply where the Board is satisfied that

- (a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay, or
- (b) the trade union has not given the complainant ready access to a reasonable appeal procedure.

158. (1) Where a complaint is made to the Board under section 157, the secretary of the Board may serve or cause to be served a notice of the complaint on the person against whom the complaint is made.

(2) Where a complaint is made, the Chairman or a vice-chairman may appoint an officer to inquire into the complaint and endeavor to effect a settlement.

(3) Where the Chairman or a vice-chairman does not appoint an officer under subsection (2) or where the appointed officer is unable to effect a settlement within such period as the Chairman or vice-chairman considers to be reasonable in the circumstances, the Board may inquire into the complaint.

156. Employees not to refuse to work for certain reasons.

157. Complaints to the Board.

158. Board's inquiry and decision.

(4) The Board may refuse to inquire into any complaint in respect of a matter that, in the opinion of the Board, could be referred by the complainant to an arbitrator, arbitration board or other body pursuant to a collective agreement.

(5) Where the Board is satisfied after an inquiry that an employer, employers' organization, employee, trade union or other person has failed to comply with sections 153 to 156 or any provision thereof, the Board

- (a) shall issue a directive to the employer, employers' organization, employee, trade union or other person concerned to cease doing the act in respect of which the complaint was made;
- (b) may in the same or a subsequent directive require the employer, employers' organization, employee, trade union or other person
 - (i) to reinstate any employee suspended or discharged contrary to those sections;
 - (ii) to pay to any employee or former employee suspended or discharged contrary to those sections compensation not exceeding such sum as, in the opinion of the Board would have been paid by the employer to the employee;
 - (iii) to reinstate or admit an employee as a member of a trade union;
 - (iv) to rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to those sections;
 - (v) to pay to an employee compensation not exceeding such sum as in the opinion of the Board is equivalent to the pecuniary or other penalty imposed on an employee contrary to those sections;
 - (vi) to pay to an employee in respect of a failure to comply with section 153 compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would have been paid to the employee by the employer if the employer had complied with that section.

(6) If any directive made by the Board pursuant to subsection (5) is not complied with, the Board may, on the request of an employer, employers' organization, employee, 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 the Court.

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

159. Nothing in this Part detracts from or interferes with the right of an employer to suspend, transfer, lay off or discharge employees for proper and sufficient cause.

Division 14

Work Jurisdiction Disputes in the Construction Industry

160. (1) Where employers and trade unions in the construction industry wish to have regulations established providing for a work jurisdictional committee affecting employers and trade unions in the construction industry they may apply to the Minister to have the Lieutenant Governor in Council make the regulations.

(2) The Lieutenant Governor in Council may make regulations

- (a) providing for the appointment of a work jurisdictional committee and the manner in which persons are to be appointed or nominated thereto;
- (b) specifying the manner in which the committee is to conduct its business and affairs or providing that it may make its own rules of procedure;
- (c) making rules concerning the manner in which an employer, employers' organization or trade union may apply to the committee;
- (d) providing for the method in which a committee is to conduct inquiries;
- (e) providing for such other matters as are necessary or desirable, either generally or with regard to a specific case for the purpose of settling differences or disagreements.

(3) Where a difference arises following the assignment of work to members of a trade union or to workers of a particular trade, craft or class any of the parties affected may apply to the work jurisdictional committee appointed under the regulations to settle the difference.

(4) Upon an application being made to the work jurisdictional committee the parties to the difference are thereupon bound to comply with the decision of the committee.

(5) A copy of the decision shall be sent to the Board.

161. (1) Where a work jurisdictional committee has not been established under section 160 and a difference arises following the assignment of work to members of a trade union or to workers of a particular trade, craft or class, any of the parties affected, after exhausting all other reasonable means to settle the difference, may apply to the Board to settle the difference.

159. Self explanatory.

160. Regulations to establish a work jurisdictional committee.

161. Application to Board after other reasonable means to reach a settlement have been exhausted.

(2) Upon an application being made to the Board under subsection (1), the parties to the difference are thereupon bound to comply with the decision of the Board.

162. If the decision of the work jurisdictional committee or the decision of the Board under section 161 is not complied with, the Board may, on the request of any party affected by the decision, 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 the Court.

Division 15

Emergencies

163. (1) Where at any time in the opinion of the Lieutenant Governor in Council a state of emergency exists in Alberta arising out of a labour dispute in such circumstances that

(a) life or property would be in serious jeopardy by reason of

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

(ii) a stoppage or impending stoppage of hospital services in any part of Alberta,

or

(b) extreme privation or human suffering has been caused by any stoppage of services or work over an extended period of time,

the Lieutenant Governor in Council may by order declare that on and after a date fixed in the order all further action and procedures in the dispute are to be replaced by the emergency procedures under this section.

(2) Before an order is made under subsection (1), the Minister may give the parties to the dispute an opportunity to meet with him and he may report his findings relating to the dispute and the effect of the stoppage or impending stoppage of work to the Lieutenant Governor in Council.

(3) After the date fixed in the order, any strike or lockout or other action in the labour dispute otherwise authorized or permitted under this Act in a labour dispute becomes illegal and an offence under this Act.

(4) Upon the order being made, the Minister shall forthwith establish a procedure to assist the parties to the dispute in respect of which the order issued to reach a settlement, and the Minister is hereby empowered to do all such things as may be necessary to settle the dispute.

162. Enforcing decisions.

163. Emergencies.

(5) Notwithstanding any other provision of this Act, where the Minister establishes a procedure for settlement of a dispute under this section

- (a) no employer who is a party to the dispute shall lockout;
- (b) no employees who are parties to the dispute shall strike;
- (c) none of the parties to the dispute shall alter any of the conditions of employment except that the employer, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours;
- (d) any strike or lockout that may be in effect shall terminate,

and the relationship of employer and employee continues uninterrupted by the dispute or anything arising out of the dispute.

(6) *The Regulations Act* does not apply to an order or procedure established under this section.

164. (1) As a procedure to settle a dispute under section 163, the Minister may establish a Public Emergency Tribunal consisting of three or more persons, one of whom shall be designated chairman.

(2) The persons appointed as members of the Public Emergency Tribunal have the powers of a commissioner under *The Public Inquiries Act*.

165. (1) A Public Emergency Tribunal established by the Minister shall inquire into the dispute and endeavour to bring the parties to an agreement.

(2) After making full inquiry and where the dispute has not been settled by agreement, the Public Emergency Tribunal

- (a) shall make its award and 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.

(3) The award of a Public Emergency Tribunal is binding on

- (a) the employer,
- (b) the bargaining agent, and
- (c) every employee affected.

(4) If an award of a Public Emergency Tribunal is not complied with, the Minister may file a copy of the award 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 the Court.

164. Establishment of Public Emergency Tribunal.

165. Inquiry and decision of Public Emergency Tribunal.

PART 5
MISCELLANEOUS

166. (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
- (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.

167. (1) The Lieutenant Governor in Council may make regulations

- (a) providing that employers shall provide privies or water or chemical closets for their employees;
- (b) providing for the number and type of privies or closets to be provided by employers for their employees;
- (c) providing for the repair, condition and inspection of privies and closets;
- (d) requiring employers to provide a washroom, towels, drinking water and drinking cups;
- (e) authorizing an officer to issue directives to an employer or other person
 - (i) prohibiting employees from eating in a place where a manufacturing process is being carried on,
 - (ii) requiring an employer to provide a suitable dining room or rest room or both;

166. Liability of trustees.

167. Regulations.

- (f) defining for the purpose of the regulations made under this subsection any word or expression used in this subsection;
 - (g) providing for any other matter concerning the welfare of employees.
- (2) Any regulation made under subsection (1) may be of general or specific application.
- (3) The Lieutenant Governor in Council may make
- (a) regulations prescribing the remuneration and expenses to be paid to members of a
 - (i) conciliation board;
 - (ii) collective bargaining arbitration board;
 - (iii) Public Emergency Tribunal,
 and
 - (b) such other regulations as he considers necessary for the proper carrying out of the purposes and intent of this Act.

Offences and Penalties

168. (1) Any employer, employers' organization or employer on whose behalf an employers' organization bargains collectively who commences or causes a lockout contrary to Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 for each day that the lockout continues.

(2) Any person not referred to in subsection (1) who commences or causes a lockout contrary to Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

169. (1) Any trade union that causes a strike contrary to Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 for each day that the strike continues.

(2) Any person who is not a trade union who strikes or causes a strike contrary to Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

170. (1) Any employer or employers' organization who refuses or fails to bargain collectively when required to do so under Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 for each day that the refusal or failure continues.

(2) Any trade union who refuses or fails to bargain collectively when required to do so under Part 4 is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 for each day that the refusal or failure continues.

168. Offence and penalties concerning lockouts not permitted by Part 4.

169. Offence and penalties concerning strikes not permitted under Part 4.

170. Offences and penalties concerning failure to bargain collectively.

171. Subject to sections 168 and 169, any person, employee, employer, employers' organization or trade union who contravenes or fails to comply with any provision of Part 4 or of the regulations made pursuant to Part 5 or of any decision, order, directive, declaration or ruling made by the Board under Part 4, is guilty of an offence and liable on summary conviction

- (a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$10,000, or
- (b) in the case of an individual, to a fine not exceeding \$5,000.

172. No prosecution for an offence referred to in this Part shall be commenced without the consent in writing of the Minister.

171. General offence and penalty.

172. Self-explanatory.

PART 6

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

173. In this Part, “former Act” means *The Alberta Labour Act* being chapter 196 of the Revised Statutes of Alberta 1970.

Transitional Provisions

174. An order, opinion, determination, permit or approval of the Board made pursuant to

section 2, clause (j);
section 3, subsection (2);
section 13, subsections (2) and (3);
section 15, subsection (2);
section 16;
section 17;
section 24, subsections (1), (2), (3), (6), (9) and (10);
section 36,

of the former Act shall be deemed to have been made pursuant to this Act.

175. An order of the Board made with the approval of the Lieutenant Governor in Council pursuant to section 16.1 of the former Act shall be deemed to have been made by a permit of the Board pursuant to section 25 of this Act.

176. Any power exercised or duty performed by the Executive Committee pursuant to section 6 of the former Act shall be deemed to have been exercised or performed by the Board pursuant to this Act.

177. Regulations of the Lieutenant Governor in Council made pursuant to sections 36 and 135 of the former Act shall be deemed to have been made under this Act.

178. (1) Subject to subsection (2), an application for certification made to the Board pursuant to section 59 of the former Act before the coming into force of Part 4 of this Act, shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where, pursuant to an application under subsection (1), the Board certifies the applicant as a bargaining agent, the certification shall be deemed to be issued pursuant to this Act and the Board shall issue a certificate under section 72, subsection (3) of this Act.

173. Definition.

174. Certain matters done under the former Act are continued.

175. Section 16.1 of the former Act and section 25 of this Bill deal with the compressed work week.

176. The Executive Committee will die with the former Act, but its decisions will remain in effect.

177. Regulations are continued.

178. If, after an application for certification as a bargaining agent is made to the Board Part 4 of this Bill is Proclaimed in force, the application will be treated as if the former Act had remained in force. If the bargaining agent is certified, the certification will be deemed to have been made under this Act, thereafter the new Act will apply in all respects.

179. (1) Subject to subsection (2), an application for the merging of certificates into one consolidated certificate made to the Board pursuant to section 66 of the former Act before the coming into force of this Act, shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where, in disposing of an application under subsection (1), the Board issues a consolidated certificate and declares that one or more collective agreements are to remain in force or to terminate, the consolidated certificate and declaration shall be deemed to have been made pursuant to section 75 of this Act.

180. (1) Subject to subsection (2), an application to the Board for the revocation of the certification of a bargaining agent pursuant to section 67 of the former Act made before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1), the Board revokes the certification of a bargaining agent, the revocation shall be deemed to have been made pursuant to section 77 of this Act.

181. Any proceedings or action taken under the former Act before the coming into force of this Act with respect to

- (a) collective bargaining or a notice to commence collective bargaining;
- (b) the appointment, inquiry and related matters concerning a conciliation commissioner or a conciliation board;
- (c) any vote;
- (d) a strike, lockout or picketing;
- (e) the appointment of an arbitrator or arbitration board;

shall continue to their conclusion and be treated for all purposes as if this Act had not come into force and the former Act had remained in force.

182. (1) Subject to subsection (2), an application to the Board for the registration of an employers' organization as the agent for collective bargaining pursuant to section 75 of the former Act before the coming into force of Part 4 of this Act, shall be continued to its conclusion and treated

179. Application for merger of certificates continued under former Act. See note to section 178.

180. Application for revocation of certification of a bargaining agent. See note to section 178.

181. Any action or proceedings taken before the new Act comes into force continue under the former Act.

182. Application for registration continued under former Act. See note to section 178.

for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1) the Board registers the employers' organization, the registration shall be deemed to have been made pursuant to this Act and the Board shall issue a registration certificate under section 85 of this Act.

183. (1) Subject to subsection (2), an application to the Board for a declaration pursuant to section 75.1 of the former Act before the coming into force of this Act, shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1) the Board declares that an employers' organization has acquired the rights, privileges and duties of an employers' organization named in a registration under the former Act, the Board shall be deemed to have issued its consent and shall issue a new registration certificate or amend an existing registration certificate pursuant to section 93 of this Act.

184. (1) Subject to subsection (2), an application to the Board for the cancellation of the registration of an employers' organization pursuant to section 76 of the former Act made before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1) the Board cancels a registration, the cancellation shall be deemed to have been made pursuant to section 92 of this Act.

185. (1) Subject to section 138, subsection (2) applies to

- (a) all collective agreements in effect on the date this Act comes into force, and
- (b) all collective agreements entered into after the date this Act comes into force whether collective bargaining commenced before or after the date this Act comes into force.

(2) Where an arbitrator, arbitration board or other body has been appointed pursuant to section 78 of the former Act or the terms of a collective agreement before the coming into force of this Act, the proceedings of the arbitrator or arbitration board shall be continued to their conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

183. Applications for mergers or transfers under registration made before the coming into force of this Act, continued under the former Act.

184. Application for cancellation of registration continued under former Act.

185. Provisions concerning arbitrations and terms concerning arbitrations in collective agreements.

186. (1) Subject to subsection (2), an application to the Board made pursuant to section 79 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1), the Board makes a determination, declaration or amendment, it shall be deemed to have been made pursuant to section 149 of this Act.

187. (1) Subject to subsection (2), an application to the Board made pursuant to section 80 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1), the Board makes an affirmation or declaration, it shall be deemed to be a declaration under section 152 of this Act.

188. (1) A complaint made to the Board under section 87 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) Where pursuant to an application under subsection (1) the Board issues a directive or makes a decision it shall be deemed to have been made under section 158 of this Act.

189. (1) Where a trade union has filed documents with the Board pursuant to section 113 of the former Act, the documents shall be deemed to have been filed pursuant to section 55 of this Act.

(2) Where an employers' organization has filed documents with the Board pursuant to section 113 of the former Act, the documents shall be deemed to have been filed pursuant to section 62 of this Act.

190. (1) A trade union certified as a bargaining agent under the former Act shall be deemed to be a certified bargaining agent under this Act.

(2) An employers' organization registered under the former Act shall be deemed to be a registered employers' organization under this Act.

Consequential Provisions

191. *The Apprenticeship Act, section 21, subsection (2.1) is amended by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973".*

186. Applications relating to successor employers continued under former Act.

187. Applications relating to successor trade unions continued under former Act.

188. Complaints continued.

189. Documents deemed to have been filed.

190. Certification and registration continued.

191. Amends chapter 20 of the Revised Statutes of Alberta 1970.

192. *The Child Welfare Act, section 44, subsection (1) is amended by striking out the words "Notwithstanding section 36 of The Alberta Labour Act" and by substituting the words "Notwithstanding section 41 of The Alberta Labour Act, 1973".*

193. *The Colleges Act, section 46, subsection (3) is amended by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973".*

194. *The Companies Act, section 266, subsection (1) is amended*

- (a) *by striking out the words "In a winding-up" and by substituting the words "Subject to section 48 of The Alberta Labour Act, 1973, in a winding-up",*
- (b) *by adding the word "and" at the end of clause (a) and by striking out clauses (b) and (c).*

195. *The Employment Agencies Act, section 3, clause (b) is amended by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973".*

196. *The Firefighters and Policemen Labour Relations Act is amended*

- (a) *as to section 2, clauses (f) and (j) by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973",*
- (b) *as to section 11, subsection (2) by striking out the words "section 107 of The Alberta Labour Act" and by substituting the words "section 164 of The Alberta Labour Act, 1973",*
- (c) *by striking out section 20 and by substituting the following:*
 - 20. Part 4 of *The Alberta Labour Act, 1973* does not apply to firefighters.

197. *The Licensing of Trades and Businesses Act, section 12, clause (a) is amended by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973".*

198. *The Registered Nurses Act is amended*

- (a) *as to section 3, subsection (2), clause (c) by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973",*

192. Amends chapter 45 of the Revised Statutes of Alberta 1970.

193. Amends chapter 56 of the Revised Statutes of Alberta 1970.

194. Amends chapter 60 of the Revised Statutes of Alberta 1970.

Section 266, subsections (1) and (2) presently read:

266. (1) In a winding-up there shall be paid in priority to all other debts,

- (a) all Provincial or municipal taxes and rates assessed on or due by the company up to the first day of January next before the date hereinafter mentioned, but in respect of any particular tax or rate not exceeding in the whole one year's assessment,
- (b) all wages or salary of any clerk or servant in respect of services rendered to the company during three months before the said date, not exceeding \$250.
- (c) all wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during three months before the said date, not exceeding \$250, and
- (d) unless the company is being wound up voluntarily merely for the purpose of reconstruction or of amalgamation with another company, the amount of any assessment under The Workmen's Compensation Act, the liability for which accrued before the said date.

(2) The foregoing debts

- (a) rank equally among themselves and shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions, and
- (b) in so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and shall be paid accordingly out of any property comprised in or subject to that charge.

The effect of the amendment is to give priority to claims for wages of employees over every other claim, in a winding up.

195. Amends chapter 123 of the Revised Statutes of Alberta 1970.

196. Amends chapter 143 of the Revised Statutes of Alberta 1970.

197. Amends chapter 207 of the Revised Statutes of Alberta 1970.

198. Amends chapter 317 of the Revised Statutes of Alberta 1970.

(b) *as to section 8, subsection (1), clause (e) by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973"*.

199. *The School Act is amended*

(a) *as to section 65, subsections (6) and (7) by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973",*

(b) *as to section 74, subsection (3), clause (a) by striking out the words "The Alberta Labour Act" and by substituting the words "The Alberta Labour Act, 1973"*.

200. *The Alberta Labour Act is repealed.*

201. This Act comes into force on a date or dates to be fixed by Proclamation.

199. Amends chapter 329 of the Revised Statutes of Alberta 1970.

200. Repeals chapter 196 of the Revised Statutes of Alberta 1970.

201. Coming into force.