

1977 BILL 41

Third Session, 18th Legislature, 26 Elizabeth II

~~THE~~ LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 41

THE PUBLIC SERVICE EMPLOYEE RELATIONS ACT

~~BY~~
THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

THE PUBLIC SERVICE EMPLOYEE RELATIONS ACT

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BILL 41

1977

THE PUBLIC SERVICE EMPLOYEE RELATIONS ACT

(Assented to , 1977)

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

PART 1

INTERPRETATION AND APPLICATION

Interpretation

1. In this Act,

- (a) “adjudicator” means
 - (i) a person established as a single adjudicator in accordance with this Act or a collective agreement, or
 - (ii) an adjudication board established in accordance with this Act or a collective agreement, or
 - (iii) a person or body of persons established in accordance with a collective agreement to settle differences between the parties bound by a collective agreement;
- (b) “arbitral item” means a matter that may be referred to an arbitration board under this Act;
- (c) “arbitration board” means an arbitration board established by the Board in accordance with this Act;
- (d) “bargain collectively” means to negotiate with a view to entering into, renewing or revising a collective agreement and “collective bargaining” has a corresponding meaning;
- (e) “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

Explanatory Notes

1. Definitions.

whether or not the bargaining agent is a certified bargaining agent;

- (f) “bargaining unit” means a unit in respect of which a trade union is certified as a bargaining agent pursuant to section 32;
- (g) “Board” means the Public Service Employee Relations Board established by this Act;
- (h) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (i) “chairman” means the chairman of the Board;
- (j) “collective agreement” means an agreement in writing between an employer and a bargaining agent, containing terms or conditions of employment;
- (k) “Court” means the Supreme Court of Alberta;
- (l) “difference” means a difference arising
 - (i) as to the interpretation, application or operation of a collective agreement, or
 - (ii) with respect to a contravention or alleged contravention of a collective agreement, or
 - (iii) as to whether a difference referred to in sub-clauses (i) and (ii) can be the subject of adjudication;
- (m) “dispute” means a dispute arising in connection with entering into, renewing or revising a collective agreement or any part of it;
- (n) “employee” means an employee of an employer but does not include a person who is
 - (i) excluded from a bargaining unit or any other unit for collective bargaining under section 22, subsection (1), or
 - (ii) excluded from a bargaining unit or any other unit for collective bargaining pursuant to a determination by the Board pursuant to section 22, subsection (2), or
 - (iii) a member of a profession during the period that he is excluded from a bargaining unit or any other unit for collective bargaining pursuant to this Act or by the Board under sections 23 to 26;

(o) “employer” means

- (i) the Crown in right of Alberta, or
- (ii) a corporation, commission, board, council or other body, all or a majority of whose members or directors
 - (A) are designated by an Act of the Legislature, or
 - (B) can be appointed or designated either by the Lieutenant Governor in Council or by a Minister of the Crown in right of Alberta or partly by the Lieutenant Governor in Council and partly by a Minister of the Crown in right of Alberta, whether the power of appointment or designation is exercised or not or is only partially exercised, or
 - (C) are in part designated by an Act of the Legislature and in part can be appointed or designated either by the Lieutenant Governor in Council or by a Minister of the Crown in right of Alberta or partly by the Lieutenant Governor in Council and partly by a Minister of the Crown in right of Alberta, whether the power of appointment or designation is exercised or not or is only partially exercised;

(p) “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 a person,

for the purpose of compelling persons employed by him or to aid another employer in compelling persons employed by that employer to accept terms or conditions of employment;

(q) “strike” includes

- (i) a cessation of work, or
- (ii) a refusal to work, or
- (iii) a refusal to continue to work, or

(iv) a concerted activity designed to restrict production or service,

by two or more persons employed by the same employer acting in combination or in concert or in accordance with a common understanding;

(r) “trade union” means an organization having

(i) a written constitution, rules or by-laws, and

(ii) as one of its objects, the regulation of relations between employers and employees,

and that files its constitution, rules or by-laws under section 13, subsection (1);

(s) “unit” means two or more employees of the same employer.

Application

2. (1) This Act does not apply to

(a) the persons named in the Schedule to the extent described in the Schedule, or

(b) a person who is permanently employed outside Alberta by an employer.

(2) The Lieutenant Governor in Council may by regulation amend the Schedule to add to it or make deletions from it or amend the name of a person named or the description of a person referred to in the Schedule.

2. Employers and persons to whom the Act does not apply.

PART 2

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

3. (1) There is hereby established a board to be known as the Public Service Employee Relations Board.

(2) The Board shall consist of five persons appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman.

(3) The Lieutenant Governor in Council may appoint a person, in addition to the persons appointed under subsection (2), as alternate chairman of the Board to act as chairman

(a) when the chairman is absent or unable to act, or

(b) upon the request of the chairman,

and when the alternate chairman is so acting he is the chairman for all purposes.

(4) The chairman, alternate chairman and other members of the Board shall receive such remuneration, travelling and living expenses for their services as the Lieutenant Governor in Council determines.

4. (1) No member of the Board shall be appointed for a term of office of more than five years.

(2) Upon the expiration of any term of office of a member he may be re-appointed for a term of not more than five years.

5. (1) The members of the Board shall meet at the direction of the chairman.

(2) The quorum of the Board is the chairman and two other members.

(3) Notwithstanding a vacancy in the membership of the Board, the remaining members, if at least three members remain in office, have and may exercise and perform the powers and duties of the Board.

6. The Board may for the purposes of this Act

(a) make or issue such orders, notices, directives, declarations, certificates or other decisions as it considers necessary with or without conditions;

(b) make rules of procedure for the conduct of its business, for hearing and conducting inquiries and for the

3. Establishment and composition of The Public Service Employee Relations Board.

4. Term of office of Board members.

5. Decisions of the Board.

6. Jurisdiction of the Board.

conduct of proceedings before it and for any other matter it considers necessary.

7. (1) An order, notice, directive, declaration, certificate or other decision that the Board makes may be issued on its behalf by the chairman or by any other person authorized by the Board to do so.

(2) An order, notice, directive, declaration, certificate or other decision purporting to be signed by the chairman or an authorized person shall be admitted in evidence as prima facie proof

(a) of the order, notice, directive, declaration, certificate or other decision, and

(b) that the person signing it was authorized to do so,

without proof of the appointment, authorization or signature of the chairman or the person authorized.

8. *The Regulations Act* does not apply to

(a) an order, notice, directive, declaration, certificate or other decision of the Board, or

(b) the rules of procedure of the Board.

Powers of the Board

9. (1) The Board is empowered to decide for the purposes of this Act whether

(a) a corporation, commission, board, council or other body is an employer;

(b) a person is an employee;

(c) an organization of employees is a trade union;

(d) a trade union is a proper bargaining agent;

(e) the parties to a dispute have settled the terms and conditions to be included in a collective agreement;

(f) a collective agreement has been entered into;

(g) a person is bound by a collective agreement;

(h) a person is a party to a collective agreement;

7. Procedural.

8. The Regulations Act not to apply.

9. Powers of the Board to determine questions arising under the Act.

- (i) a collective agreement has been entered into on behalf of any person;
- (j) a collective agreement is in effect;
- (k) subject to sections 19 to 21, two or more employees of the same employer are a bargaining unit;
- (l) a person has applied for membership in a trade union;
- (m) a matter in dispute is an arbitral item;
- (n) a person practices his profession as a condition of employment;
- (o) a profession has characteristics similar in nature to the professions referred to in section 23, subsection (1);
- (p) a person is a member in good standing of a trade union;
- (q) a person is included in or excluded from a unit,

and the Board's decision is final and binding.

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

- (a) hold any hearing that it considers necessary;
- (b) require, conduct or supervise votes by secret ballot;
- (c) 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;
- (d) 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;

- (e) determine who is eligible to vote on any matter;
 - (f) investigate any complaint made to it concerning any vote taken pursuant to this Act;
 - (g) 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;
 - (h) 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;
 - (i) direct that all interested persons refrain or desist from electioneering and from issuing any propaganda
 - (i) on the date that the vote is taken, and
 - (ii) for such period of time before the date fixed for taking the vote as the Board prescribes.
- 10.** (1) For the purpose of this Act, the Board, the chairman or a person authorized by the chairman may
- (a) inspect and examine all books, payrolls and other records of an employer, employee or any other person that in any way relate to wages, hours of work or other terms or conditions of employment;
 - (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 provide oral or written statements respecting terms and conditions of employment;
 - (e) 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;
 - (f) make such other examination and inquiry as is necessary to ascertain whether any provision of this Act or any order, notice, directive, declaration, certificate or other decision of the Board has been or is being complied with;

10. Powers of the Board, chairman and persons authorized by the chairman.

(g) question any person apart from his employer, during the employee's regular hours of employment or otherwise, to ascertain whether any provision of this Act or any order, notice, directive, declaration, certificate or other decision has been or is being carried out;

(h) administer oaths.

(2) Every employer, any person acting on his behalf and every person employed by an employer shall give all necessary assistance to the Board, the chairman and any person authorized by the chairman, to enable it or him to make an entry, inspection, examination or inquiry in relation to the matter being investigated.

11. The Board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act 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 order, notice, directive, declaration, certificate or other decision made by it and vary or revoke it.

12. Where the Board is given any power or duty under this Act it may authorize the chairman to exercise or perform that power or duty generally or with respect to any particular case upon such conditions or in such circumstances as it prescribes and thereupon that power or duty may be exercised or performed by the chairman in addition to the Board.

11. Board's exclusive jurisdiction.

12. Delegation to chairman.

PART 3

TRADE UNIONS AND BARGAINING UNITS

Division 1

Trade Unions

- 13.** (1) A trade union shall file with the Board
- (a) a true copy of
 - (i) its constitution or the constitution of the organization from which it receives its charter, or
 - (ii) its rules or by-laws, or
 - (iii) where the trade union has both a constitution and rules or by-laws, both of them,
 - and
 - (b) the names and addresses of its president, secretary, officers and other organizers.
- (2) Any changes to the information supplied under subsection (1) shall be given to the Board within 30 days of the date the change is made.
- (3) The information sent to the Board under this section shall be used only for the purposes of this Act and shall not be open to inspection by the public.
- 14.** The Board is not required to divulge to any employer, employee, trade union or other person any information as to whether a person is or is not a member of a trade union.
- 15.** (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.
- 16.** 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

13. Filing constitution of trade union.

14. Disclosure of information.

15. Status of trade unions.

16. Restrictions on expulsion and suspension of trade union members.

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.

17. 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.

18. (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 to bargain collectively with its employees.

Division 2

Bargaining Units

19. The employees of the Crown in right of Alberta constitute a single bargaining unit.

20. (1) This section does not apply to

- (a) the employees of the Crown in right of Alberta, or
- (b) the employees of employers referred to in section 21.

(2) Subject to subsection (1), the employees of each employer respectively constitute single bargaining units unless the Board otherwise determines in accordance with section 32, subsection (2), clause (b), subclause (ii), paragraph (B).

17. Temporary trade union cards.

18. Rights of employees and employers.

19. Crown employees constitute one bargaining unit.

20. There will be one bargaining unit for each employer unless the Board considers that particular circumstances justify the establishment of two or more bargaining units. Crown employees and employees of certain hospitals are treated in a different manner - see sections 19 and 21 respectively.

21. The Board may determine the number of appropriate bargaining units for each of the following employers:

- (a) the board of management of each Provincial General Hospital established by or pursuant to *The Provincial General Hospitals Act*;
- (b) the Provincial Cancer Hospitals Board under *The Cancer Treatment and Prevention Act*;
- (c) the University Hospital Board under *The University of Alberta Hospital Act*.

Division 3

Persons Included in and Excluded from Bargaining Units and Other Units for Collective Bargaining

22. (1) A person employed by an employer

- (a) who has or exercises managerial duties and responsibilities in relation to the formulation, development and administration of policies or programs, or
- (b) who is primarily engaged in the administration of personnel policies or personnel programs, or
- (c) in the Employee Relations Division of the Personnel Administration Office established under *The Public Service Act* or in any capacity requiring him to deal on behalf of an employer with any matter related to collective bargaining under this Act, or
- (d) for the purpose of the administration of this Act, or
- (e) who is required by reason of his duties and responsibilities to represent the employer in a procedure established pursuant to a collective agreement for the resolution of differences, or
- (f) as an officer under *The Alberta Labour Act, 1973* dealing with any matter related to collective bargaining under that Act, or
- (g) in a position established under *The Public Service Act* that is classified as
 - (i) a budget officer, or
 - (ii) a systems analyst, or
 - (iii) an auditor,

or

21. The Board exercises discretion in determining the number of bargaining units for each hospital employer referred to in the section.

22. Composition of bargaining units.

- (h) in an investigative or research capacity in the office of the Ombudsman established under *The Ombudsman Act*, or
- (i) as an officer of the Legislative Assembly or in a position on the staff of the Legislative Assembly requiring him to be involved in matters of a confidential nature, whether or not those matters relate to the regulation of relations between an employer and his employees, or
- (j) in the office of
 - (i) the Lieutenant Governor, or
 - (ii) a member of the Executive Council, or
 - (iii) the Executive Council,or
- (k) on the personal staff of
 - (i) a deputy head or assistant deputy head or person who has comparable duties and responsibilities, or
 - (ii) a person referred to in clause (b), (c) or (f),or
- (l) who in the opinion of the Board should not be included in a bargaining unit or any other unit for collective bargaining by reason of the duties and responsibilities he has to his employer,

shall not be included in a bargaining unit or any other unit for collective bargaining.

(2) If a question arises under subsection (1) as to whether a person is or is not to be included in a bargaining unit or any other unit for collective bargaining which cannot be settled by the persons concerned, the question shall be referred to the Board and its decision is final and binding.

- 23.** (1) Those persons who are members of
- (a) the medical profession, or
 - (b) the dental profession, or
 - (c) the architectural profession, or

23. Certain professionals are excluded from bargaining units unless they choose to opt in.

(d) the engineering profession, or

(e) the legal profession,

and who practise their profession as a condition of employment, shall not be included in a bargaining unit or any other unit for collective bargaining unless the Board directs that the members of the profession be included in the unit pursuant to subsection (2).

(2) The Board may direct that members of a profession referred to in subsection (1) be included in a bargaining unit or any other unit for collective bargaining if

(a) it is satisfied that the majority of the persons employed by an employer who are members of the profession wish to be included in the unit, and

(b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and who the Board agrees to hear, to present any facts or arguments they feel are relevant.

(3) For the purpose of determining a majority under subsection (2), only those members of the profession who would not be excluded from a bargaining unit or any other unit for collective bargaining under section 22, subsection (1) are entitled to vote or otherwise express an opinion on the matter.

24. (1) Where the members of a profession are included in a bargaining unit or any other unit for collective bargaining by the Board pursuant to section 23, subsection (2), they may subsequently be excluded from the unit by the Board if

(a) it is satisfied that the majority of the persons employed by an employer who are members of the profession and who practise their profession as a condition of employment wish to be excluded, and

(b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and who the Board agrees to hear, to present any facts or arguments they feel are relevant.

(2) In determining a majority for the purposes of subsection (1), only those members of the profession who are members of the bargaining unit or any other unit for collective bargaining are entitled to vote or express an opinion on the matter.

25. (1) A person who is a member of a profession having characteristics similar in nature to the professions referred to in section 23, subsection (1) and who practises his profession as a

24. Certain professionals who opt in to a bargaining unit may thereafter opt out.

25. Other professionals are included in bargaining units unless they choose to opt out.

condition of employment shall be included in a bargaining unit or any other unit for collective bargaining unless

- (a) the person is excluded from the unit under section 22, subsection (1), or
- (b) the Board directs that the members of the profession be excluded from the unit pursuant to subsection (2).

(2) The Board may direct that the members of a profession having characteristics similar in nature to the professions referred to in section 23, subsection (1) and who practise their profession as a condition of employment be excluded from a bargaining unit or any other unit for collective bargaining if

- (a) it is satisfied that the majority of the persons employed by an employer who are members of the profession and who practice their profession as a condition of employment wish to be excluded, and
- (b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and who the Board agrees to hear, to present any facts or arguments they feel are relevant.

(3) In determining a majority for the purposes of subsection (2), only those members of the profession who are members of the bargaining unit or any other unit for collective bargaining are entitled to vote or express an opinion on the matter.

26. (1) The Board may direct that the members of a profession excluded from a bargaining unit or any other unit for collective bargaining by the Board under section 25, subsection (2) be subsequently included in a bargaining unit or any other unit for collective bargaining, as the case may be, if

- (a) it is satisfied that the majority of the persons employed by an employer who are members of the profession and who practise their profession as a condition of employment wish to be included in the unit, and
- (b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and who the Board agrees to hear, to present any facts or arguments they feel are relevant.

(2) For the purpose of determining a majority under subsection (1), only those members of the profession who would not be excluded from a bargaining unit or any other unit for collective bargaining under section 22, subsection (1) are entitled to vote or express an opinion on the matter.

26. Other professionals may opt back in to the bargaining unit after having opted out.

27. An application to the Board to be included in or excluded from a bargaining unit or any other unit for collective bargaining under sections 23 to 26 may be made

- (a) if a collective agreement for a term of two years or less is in force in respect of any of the employees of the employer, at any time in the two months prior to the end of the term of the collective agreement affecting the unit in respect of which the application is made, or
- (b) if a collective agreement for a term of more than two years is in force in respect of any of the employees of the employer, at any time
 - (i) in the 11th or 12th month of the second year or the 11th or 12th month of any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term, of the collective agreement affecting the unit in respect of which the application is made.

27. Time limits for members of a profession opting in and out of bargaining units.

PART 4

CERTIFICATION OF BARGAINING AGENTS

28. Where a trade union claims to have been selected by a majority of employees in a unit that the trade union considers to be an appropriate bargaining unit, it may apply to the Board to be certified as the bargaining agent of the employees in the unit.

29. An application by a trade union to be certified as the bargaining agent of employees in a unit may be made

- (a) if no collective agreement and no certification of a bargaining agent is in effect in respect of any of the employees in the unit, at any time;
- (b) if 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) if 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) if 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) if 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 11th or 12th month of the second year or the 11th or 12th month of any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term.

30. A person may be treated by the Board to be an employee for the purposes of this Act 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.

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

28. Circumstances under which a trade union may apply for certification.

29. Times when an application or certification may be made.

30. Persons treated as employees.

31. Inquiry by Board.

- (a) whether the trade union is a proper bargaining agent;
 - (b) such matters as are necessary for it to come to a decision with respect to the matters referred to in section 32, subsection (2), clause (b);
 - (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 in accordance with this Act
- (a) include or exclude employees from the unit that is claimed by the union to be an appropriate bargaining unit,
 - (b) alter or amend the description of the unit, and
 - (c) do such other things as it considers appropriate.
- 32.** (1) The Board shall complete its inquiries and consideration into an application for certification as soon as possible.
- (2) If the Board is satisfied that
- (a) the trade union applying for certification is a proper bargaining agent, and
 - (b) the unit claimed by the trade union to be an appropriate bargaining unit is
 - (i) the single bargaining unit constituted under section 19, or
 - (ii) with respect to an employer to whom section 20 applies,
 - (A) a unit comprising all of the employees of an employer and if so, that it would be appropriate to certify the trade union as the bargaining agent of all the employees of that employer, or
 - (B) a unit comprising only some of the employees of an employer and if so, that it is both an appropriate unit for collective bargaining and that the regulation of relations between the employer and its employees would be more satisfactorily conducted by having or allowing for the creation of two or more bargaining units than

32. Certification of bargaining agent.



by having a single bargaining unit in respect of the employer,

or

- (iii) a unit in respect of an employer referred to in section 21 and that it constitutes a unit appropriate for collective bargaining,

it shall further satisfy itself, by way of evidence before it or pursuant to a vote directed to be taken by it, that

- (c) a majority of the employees in the unit by
 - (i) membership in good standing in the trade union, or
 - (ii) 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
- (d) 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,

and thereupon 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 the bargaining agent.

33. 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

33. Trade unions dominated by employer.

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

34. (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 bargaining 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 union previously certified as a 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.

35. (1) Employees in a unit for which a trade union has been certified may apply to the Board to revoke the certification of the bargaining agent.

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

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

34. Effect of certification of a bargaining agent.

35. Application for revocation of certification of bargaining agent.

- (c) if 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) if a collective agreement for a term of more than two years is in force, at any time
 - (i) in the 11th or 12th month of the second year or the 11th or 12th month of 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 if 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, if 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, if a collective agreement has been entered into between the employer and the certified bargaining agent.

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

- (a) 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) the majority of the employees in the unit no longer desire the bargaining agent to carry on collective bargaining on their behalf, or
- (c) the employer and the bargaining agent have not bargained collectively for a period of three years from the first fixed date for the termination of the collective agreement, if a collective agreement has been entered into by the employer and the certified bargaining agent,

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
 - (b) a collective agreement in effect at the time of the revocation of the certification of the bargaining agent

36. Revocation of certification of a bargaining agent.

becomes void and of no effect to the extent that it affects that employer and his employees.

Revocation of Rights of Bargaining Agent Voluntarily Recognized

37. (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) if 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) if a collective agreement for a term of more than two years is in force, at any time
 - (i) in the 11th or 12th month of the second year or the 11th or 12th month of any subsequent year of the term, or
 - (ii) in the two months prior to the end of the term.

38. (1) After considering an application for a declaration that a bargaining agent is no longer entitled to bargain collectively, the Board if it is satisfied that

- (a) the bargaining agent is not a proper bargaining agent, or
- (b) 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, or
- (c) the employer and the bargaining agent have not bargained collectively for a period of three years from the first fixed date for the termination of the collective agreement if a collective agreement has been entered into by the employer and the bargaining agent, or
- (d) the unit does not meet the requirements of section 32, subsection (2), clause (b),

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.

37. Application for declaration that a bargaining agent is no longer entitled to bargain collectively on behalf of employees.

38. Issue of declaration.

(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 its employees.

39. Where notice to commence collective bargaining has been served by either party to a collective agreement and the collective agreement contains a 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.

40. (1) Notwithstanding anything in this Act, 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,

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 treated as the date the application is made.

39. Continuation of collective agreement not a bar to certain applications.

40. Overriding provisions concerning applications.

PART 5

COLLECTIVE BARGAINING

41. (1) Where a certified bargaining agent or an employer wishes to commence collective bargaining then, subject to the provisions on commencing collective bargaining contained in this Act,

- (a) the certified bargaining agent may serve upon the employer, or
- (b) the employer may serve upon the certified bargaining agent,

a notice in writing 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.

42. (1) A notice to commence collective bargaining shall

- (a) be served at least 10 days before the time fixed in the notice for the commencement of collective bargaining,
- (b) name the one or more persons, resident in Alberta with authority to
 - (i) bargain collectively,
 - (ii) conclude a collective agreement, and
 - (iii) sign a collective agreement,

and

- (c) be served personally or by mailing it by registered mail to the last known business address of the addressee

and in the event that the notice is mailed, the date of mailing shall be treated as the date of service.

(2) Upon receipt of a notice to commence collective bargaining the recipient shall by notice in writing to the other party name the one or more persons resident in Alberta with authority to

- (a) bargain collectively,

41. Commencement of collective bargaining.

42. Notice to commence collective bargaining.

- (b) conclude a collective agreement, and
- (c) sign a collective agreement

on his behalf.

(3) Upon the service of a notice to commence collective bargaining, the bargaining agent and the employer, without delay, but in any event within 20 days after the 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.

43. An employer and a bargaining agent may enter into a collective agreement

- (a) authorizing or requiring an employer to deduct the dues of employees who are members of the trade union and remit the dues to the trade union;
- (b) requiring that all the employees of an employer or any unit of employees become members of a trade union during their employment.

Effect of Collective Agreement

44. The provisions of a collective agreement are binding upon

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and
- (b) the employer.

45. (1) If a collective agreement is for an unspecified period of time, the agreement shall be deemed to provide for its operation for 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 it, in whole or in part and with or without changes,

- (a) for any period less than one year, or
- (b) for an unspecified period,

43. Particular provisions that may be included in a collective agreement.

44. Person on whom a collective agreement is binding.

45. Collective agreements for an unspecified period of time.

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.

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

47. 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.

48. (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.

46. Filing collective agreement.

47. Domination or influence of trade union by employer.

48. Signing collective agreement.

PART 6

RESOLUTION OF COLLECTIVE BARGAINING DISPUTES

Division 1

Mediation

49. (1) If a dispute arises and the employer and the bargaining agent request the Board to do so, the Board may appoint a mediator to assist the parties to resolve the dispute.

(2) Upon the appointment of a mediator the Board shall notify the parties accordingly.

50.(1) The person appointed as mediator shall, in such manner as he thinks fit, inquire into the dispute and endeavour to resolve it.

(2) During his inquiry the mediator 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
- (c) encourage the parties to the dispute to resolve it.

(3) Within 20 days of the date of his appointment or such longer period as the parties agree, the mediator shall report to the Board whether the parties were able to resolve the dispute.

Division 2

Arbitration

51. (1) An arbitration board may only consider, and an arbitral award may only deal with, terms and conditions of employment between an employer and an employee.

(2) Notwithstanding subsection (1), none of the following matters may be referred to an arbitration board and provisions in respect of the following matters shall not be contained in the arbitral award of an arbitration board:

- (a) the organization of work, the assignment of duties and the determination of the number of employees of an employer;
- (b) the systems of job evaluation and the allocation of individual jobs and positions within the systems;

49. Appointment of mediator.

50. Duties of mediator.

51. Arbitral and non-arbitral items.

- (c) selection, appointment, promotion, training, transfer, lay off or termination of employment;
- (d) subject to subsection (3), the right of the employer to discipline, suspend or dismiss its employees;
- (e) the appraisal of employees' performance;
- (f) pensions;
- (g) anything which would require an employer to provide, acquire, purchase, construct, erect, extend, enlarge, repair, improve, form, excavate, operate, reconstruct, replace or remove any real or personal property at the expense, wholly or partly, of the employer.

(3) Subsection (2), clause (d) does not prevent an arbitration board establishing or dealing with grievance procedures with respect to employees who are disciplined, suspended or dismissed.

52. (1) If a dispute cannot be resolved, the employer or the bargaining agent or both may refer it to the Board and request that an arbitration board be established.

(2) A request by either or both of the parties under subsection (1) shall

- (a) if it is made by the employer, be accompanied by a list of the arbitral items it claims are in dispute and that the employer wishes to be referred to arbitration at that time, or
- (b) if it is made by the bargaining agent, be accompanied by a list of the arbitral items it claims are in dispute and that the bargaining agent wishes to be referred to arbitration at that time, or
- (c) if it is made jointly, be accompanied by a list of the arbitral items that each party claims are in dispute and that each wish to be referred to arbitration at that time.

(3) Upon receipt of a request by either party under subsection (1), the Board shall as soon as possible send a copy of the request and the list of arbitral items claimed to be in dispute, to the other party.

(4) The party receiving the copy of the request for the appointment of an arbitration board shall within 10 days of receipt of the copy and if the party has additional arbitral items to add, send those items to the Board and send a copy of them to the other party to the dispute.

52. Request for arbitration board to be established.

53. (1) Where a request for the establishment of an arbitration board is made by either an employer or a bargaining agent, the Board may

- (a) if it is satisfied that the parties to the dispute have failed to make reasonable efforts to conclude a collective agreement, direct the parties to continue collective bargaining, or
- (b) if the party making the request agrees to withdraw it and both parties agree to the appointment of a mediator, make that appointment, or
- (c) if it is satisfied that
 - (i) there are arbitral items to refer to an arbitration board,
 - (ii) the arbitral items can satisfactorily be considered together,
 - (iii) it is an appropriate time to refer the matter to an arbitration board, and
 - (iv) the dispute is a proper one to refer to an arbitration board,

it may establish an arbitration board in accordance with this Part.

(2) Where a request for the establishment of an arbitration board is made by an employer and a bargaining agent jointly, the Board may, if it is satisfied with respect to the matters referred to in subsection (1), clause (c), establish an arbitration board in accordance with this Part.

54. (1) Where the Board agrees to establish an arbitration board, it shall notify the parties to the dispute in writing accordingly and require each of them within 10 days to appoint a person to act as a member of the arbitration board.

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

55. (1) If an employer or bargaining agent fails to appoint a person as a member of an arbitration board, the Board may appoint a person to act as a member on its or their behalf.

(2) Where the two persons appointed as members of an arbitration board fail to appoint a person to act as a member and

53. Matters that the Board must consider before establishing an arbitration board.

54. Appointment of members and chairman of arbitration board.

55. Board may make appointments in certain circumstances.

chairman, the Board may appoint a person to act as a member and chairman on their behalf.

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

56. (1) Where three persons are appointed to act as members of an arbitration board, the Board, by notice in writing to the chairman, shall

- (a) establish the members as an arbitration board, and
- (b) list the arbitral items in dispute to be resolved by the arbitration board.

(2) An arbitration board remains constituted until it is dissolved by the Board by notice in writing to the chairman of the arbitration board.

57. (1) Where an arbitration board is established, the employer and the bargaining agent may jointly refer additional arbitral items to the Board with a request that they be sent to the arbitration board.

(2) If the Board is satisfied with respect to the matters referred to in section 53, subsection (1), clause (c), the Board shall refer the arbitral items to the arbitration board for resolution.

58. In the conduct of proceedings before it an arbitration board shall consider

- (a) the interests of the public;
- (b) the terms and conditions of employment in similar occupations outside the public service of Alberta including such geographic, industrial or other variations as the arbitration board considers relevant;
- (c) the need to maintain appropriate relationships in the terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service of Alberta;
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;

56. Arbitration board and terms of reference.

57. Additional arbitral items may be referred to an established arbitration board if both parties to the dispute agree.

58. Matters to be considered by an arbitration board.

- (e) any other factor that to it appears to be relevant to the matter in dispute.
- 59.** (1) As soon as possible after making an inquiry into the arbitral items in dispute referred to it, the arbitration board shall make an award and in its award deal with each arbitral item in dispute.
- (2) An arbitral award may be retroactive in whole or in part.
 - (3) The arbitration board may issue
 - (a) one arbitral award, or
 - (b) one arbitral award in separate parts at different times, or
 - (c) two or more arbitral awards at different times.
- 60.** (1) Upon making an arbitral award the arbitration board shall
- (a) file a copy of it with the Board, and
 - (b) serve a copy of it on the employer and the bargaining agent personally or by double registered mail.
- (2) The Board may in any manner publish an arbitral award.
- 61.** (1) An arbitral award of an arbitration board is binding upon
- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and
 - (b) the employer,
- and the employer and the bargaining agent shall forthwith give effect to it.
- (2) The terms of the one or more arbitral awards relating to, entering into, renewing or revising a collective agreement shall be included in a collective agreement.
- 62.** (1) If either the employer or the bargaining agent neglects or refuses to participate in the preparation of a collective agreement in accordance with section 61, subsection (2), the other party may prepare the agreement giving effect to
- (a) the one or more arbitral awards of the arbitration board or arbitration boards, and

59. Arbitral award.

60. Filing and service of arbitral award.

61. Binding effect of arbitral award.

62. Preparation of collective agreement incorporating arbitral awards.

(b) such other matters as are agreed by the parties,

and shall submit the agreement to the one or more arbitration boards concerned to certify in each case that the agreement accurately incorporates the one or more awards of that arbitration board.

(2) Where an arbitration board receives a collective agreement pursuant to subsection (1) and it is satisfied that it gives effect to its award, the arbitration board shall certify the collective agreement as accurately incorporating its award.

(3) If

(a) neither the employer nor the bargaining agent prepare a collective agreement, or

(b) the arbitration board or boards, as the case may be, refuse to certify the collective agreement pursuant to subsection (2),

the one or more arbitral awards affecting the parties and such other matters as are agreed to by the parties constitute a collective agreement between the employer and the bargaining agent.

63. (1) Upon certification by the one or more arbitration boards concerned pursuant to section 62, the employer and the bargaining agent shall sign the collective agreement.

(2) If, at the expiration of 10 days after the date of certification by the only or the final arbitration board concerned

(a) neither party to the agreement has signed it, or

(b) one party to the agreement has signed it,

the collective agreement thereupon becomes a collective agreement between the parties as if they had both signed it and is effective from the day specified in the agreement.

(3) A collective agreement referred to in subsection (2) is binding upon

(a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and

(b) the employer.

63. Signing of collective agreement.

PART 7
ADJUDICATION

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

- (a) adjudication, or
- (b) such other method as may be agreed by the parties,

of differences between the parties or persons bound by the collective agreement.

65. 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) either
 - (i) the date a new collective agreement between the employer and the bargaining agent comes into force, or
 - (ii) the right of the bargaining agent to represent the employees is revoked,

whichever first occurs,

the provisions required to be contained in a collective agreement pursuant to section 64 apply to the parties and the difference as if the collective agreement had remained in effect.

66. If a collective agreement does not contain the provisions required under section 64, the collective agreement shall be deemed to contain such of the following provisions in respect of which it is silent:

- (a) If any difference arises as to the interpretation, application, operation or any contravention or alleged contravention of this agreement or as to whether any such difference can be the subject of adjudication, the parties or persons agree to meet and endeavour to resolve the difference.*
- (b) If the parties are unable to resolve any difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to adjudication.*
- (c) The notice referred to in clause (b) shall contain a statement of the difference and shall*

64. Adjudication provisions in a collective agreement.

65. Certain provisions of collective agreement remain in effect.

66. Adjudication provisions deemed to be included in a collective agreement if it is silent on the matter.

- (i) *indicate that the party is willing to submit the difference to a single adjudicator, suggesting one or more names of persons it is willing to accept as adjudicator, or*
 - (ii) *indicate that the party wishes an adjudication board to be established and stating the name of its appointee to the adjudication board.*
- (d) *Upon receipt of a notice indicating that a party is willing to submit the difference to a single adjudicator the party receiving the notice*
 - (i) *if it agrees to the appointment of a single adjudicator and it accepts one of the persons suggested to act as adjudicator it shall, within seven days, notify the other party accordingly and the difference shall be submitted to the adjudicator, or*
 - (ii) *if it agrees to the appointment as a single adjudicator but does not accept the one or more persons suggested by the party sending the notice it shall, within seven days, notify the other party accordingly and send one or more names of the persons it is willing to accept as a single adjudicator.*
- (e) *If the parties are unable to agree on a person to act as single adjudicator*
 - (i) *they may jointly request the Public Service Employee Relations Board to appoint a single adjudicator, or*
 - (ii) *either party may serve the other with a notice indicating that it wishes an adjudication board to be established and stating the name of its appointee to the adjudication board.*
- (f) *Upon receipt of a notice referred to in clause (c), subclause (ii) or a notice referred to in clause (e), subclause (ii) indicating that the party sending the notice wishes an adjudication board to be established, the recipient of the notice shall, within seven days, notify the other party of the name of its appointee to the adjudication board.*
- (g) *Upon the appointment of two appointees to an adjudication board they shall, within seven days of the appointment of the second of them, appoint a third person as a member who shall be chairman.*
- (h) *If within the required time*
 - (i) *the recipient of a notice fails to appoint a person as member of an adjudication board, or*

(ii) the two appointees fail to agree on a member and chairman of the adjudication board,

either or both parties may request the Public Service Employee Relations Board to appoint a person as a member or as member and chairman, as the case may be.

(i) Notwithstanding clauses (b) to (h), the parties may jointly request the Public Service Employee Relations Board to appoint a single adjudicator.

(j) The single adjudicator or adjudication board, as the case may be, shall hear and determine the difference and shall issue an award in writing and the award is final and binding upon the parties and upon any employee affected by it.

(k) In the case of an adjudication board, the decision of the majority of the members is the award of the board but if there is no majority the decision of the chairman governs and his decision is the award of the adjudication board.

(l) Each party to the difference shall bear the expense of its respective appointee to the adjudication board and the two parties shall share equally the expenses of the chairman.

(m) If a single adjudicator is appointed the two parties shall share equally his expenses.

(n) Except as permitted by clause (o), the single adjudicator or adjudication board by its award shall not alter, amend or change the terms of the collective agreement.

(o) If a single adjudicator or an adjudication board by its award 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 adjudication, the single adjudicator or the adjudication board may substitute such other penalty for the discharge or discipline as to it seems just and reasonable in all the circumstances.

67. (1) Where an adjudication board or other body of persons is to be appointed or established pursuant to 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 its member or members fails or neglects to appoint a member or members, the Board shall upon the request of the other party, appoint a person or persons and that person or those persons are deemed to be appointed by that party,

67. Board may appoint persons to settle differences if the parties fail to do so in accordance with the collective agreement.

- (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 member and chairman, the Board shall appoint a person to act as member and chairman upon the request of either party, and
- (c) if a member refuses to act or is or becomes incapable of acting, a new member or a new member and chairman may be appointed in the same manner as the original member or member and chairman was appointed.

(2) If a single person is to be appointed pursuant to a collective agreement but the parties fail to agree on the appointee, either or both parties may apply to the Board to make the appointment and the Board may make the appointment accordingly.

(3) The time within which any appointment must be made may be extended by agreement between the parties to the difference.

68. Where a difference has been submitted to an adjudicator and one of the parties to the difference complains to the Board that the adjudicator has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the adjudicator, issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered without further undue delay.

69. (1) Every adjudicator shall immediately upon making an award file a copy of it with the Board.

(2) The award of an adjudicator shall be served upon the parties to the difference by double registered mail or personally.

(3) The Board may in any manner publish an award filed with it.

70. (1) Subject to subsection (2), no adjudicator shall by its award alter, amend or change the terms of a collective agreement.

(2) If an adjudicator as a result of its award 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 adjudication, the adjudicator may substitute such other penalty for the discharge or discipline as to it seems just and reasonable in all the circumstances.

68. Speeding up of adjudication decision.

69. Filing, service and publication of adjudication award.

70. Restrictions on the effect of an adjudication award.

71. The award of an adjudicator is binding upon

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and
- (b) the employer.

72. (1) Where any employer, bargaining agent or employee fails to comply with an adjudicator's award, an employer, bargaining agent 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 the cause of the proceedings before the adjudicator arose.

(2) On filing an award with the clerk of the Court pursuant to subsection (1), an award of the adjudicator has the same force and effect, and all proceedings may be taken on it, as if the award were a judgment of that Court.

71. Adjudication award binding.

72. Filing of award of adjudicator in the Supreme Court.

PART 8

UNFAIR PRACTICES

73. (1) No employer and no person acting on behalf of an employer 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.

(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 its 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 and no person acting on behalf of an employer shall

- (a) refuse to employ or terminate the employment of 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 is an applicant for membership in 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

73. Acts prohibited by an employer.

all members of the 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 Act, or
 - (iv) has made or is about to make a disclosure that he may be required to make in a proceeding under this Act, or
 - (v) has made an application or filed a complaint under this Act;
- (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 Act;
 - (c) deny to any employee any pension rights or benefits to which the employee would be entitled but for the wrongful dismissal of the employee;
 - (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;
 - (e) suspend, discharge or impose any financial or other penalty on a person employed by the employer or take any other disciplinary action against that person by reason of that person having refused to perform an act prohibited by this Act;
 - (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) discriminate against a person in regard to employment or membership in a trade union or intimidate or threaten to dismiss or in any other manner 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 authorized or permitted under a collective agreement or a proceeding under this Act, or
 - (ii) has made or is about to make a disclosure that he may be required to make in a proceeding

authorized or permitted under a collective agreement or a proceeding under this Act, or

(iii) has made an application or filed a complaint under this Act.

74. (1) Where a trade union makes an application for certification as a bargaining agent, no employer shall alter any term or condition of employment of the employees in the unit affected by the application during the time between the date of the application for certification and either

- (a) the date of refusal, or
- (b) 30 days after the date the trade union is certified as the bargaining agent of the employees

unless

- (c) the alteration is permitted by a collective agreement, if one is in effect respecting the employees in the unit affected by the application, or
- (d) the trade union applying for certification agrees to the alteration.

(2) Where a notice to commence collective bargaining is given, the employer affected by the notice shall not alter any term or condition of employment of an employee in the unit on whose behalf the bargaining agent has given notice until

- (a) a collective agreement is in effect between the parties, or
- (b) the award or the final award of an arbitrator is issued with respect to the entering into, renewing or revising of a collective agreement is issued, or
- (c) the right of the trade union to represent employees is terminated,

whichever occurs first, unless

- (d) the alteration is permitted by a collective agreement, if one is in effect respecting the employees represented by the bargaining agent, or
- (e) the bargaining agent agrees to the alteration.

(3) Nothing in this section detracts from or interferes with the right of an employer to discipline, suspend, lay off, demote, dismiss or terminate the employment of employees

74. Terms and conditions of employment frozen at certain times.

- (a) in accordance with a collective agreement, or
- (b) for cause, if there are no provisions in a collective agreement relating to those rights.

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

- (a) seek to compel an employer 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 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) 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;
- (d) 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;
- (e) 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 union as a condition of acquiring or retaining membership in the trade union;
- (f) 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;
- (g) 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;
- (h) 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 Act;

75. Acts prohibited by a 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 any person for engaging in employment in accordance with the terms of a collective agreement between his employer and the trade union;
- (j) authorize, encourage or permit any employee in a unit in respect of which the trade union is the bargaining agent to 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 persons or class of persons who were or are not members of a trade union or a particular trade union;
- (k) 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 authorized or permitted under a collective agreement or a proceeding under this Act, or
 - (ii) has made or is about to make a disclosure that he may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act, or
 - (iii) has made an application or filed a complaint under this Act.

76. No employee shall 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.

Complaints

77. (1) Subject to subsections (2) and (3), any employer, 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 73 to 76.

(2) The Board has no jurisdiction to hear a complaint made pursuant to section 75, clause (f) or (g) 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

76. Refusal to perform work by employees.

77. Complaint of unfair practice.

- (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.

78. (1) Where a complaint is made to the Board under section 77, 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 Board may appoint a person to inquire into the complaint and endeavour to effect a settlement.

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

(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 adjudicator.

(5) Where the Board is satisfied after an inquiry that an employer, employee, trade union or other person has failed to comply with sections 73 to 76, the Board

- (a) shall issue a directive to the employer, 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, employee, trade union or other person to do all or any of the following:
 - (i) reinstate any employee suspended or discharged contrary to those sections;
 - (ii) 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) reinstate or admit an employee as a member of a trade union;

78. Board's powers respecting unfair practices.

- (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.

78. (1) Where a complaint is made to the Board under section 77, 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 Board may appoint a person to inquire into the complaint and endeavour to effect a settlement.

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

(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 adjudicator.

(5) Where the Board is satisfied after an inquiry that an employer, employee, trade union or other person has failed to comply with sections 73 to 76, the Board

- (a) shall issue a directive to the employer, 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, employee, trade union or other person to do all or any of the following:
 - (i) reinstate any employee suspended or discharged contrary to those sections;
 - (ii) 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) reinstate or admit an employee as a member of a trade union;

78. Board's powers respecting unfair practices.

- (iv) rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to those sections;
- (v) pay to a person compensation not exceeding such sum as in the opinion of the Board is equivalent to the pecuniary or other penalty imposed on a person contrary to those sections;
- (vi) pay to an employee in respect of a failure to comply with section 72 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, 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.

PART 9

GENERAL

79. In this Part,

- (a) “member of a tribunal” means a person appointed as a member of
- (i) the Board, or
 - (ii) an arbitration board, or
 - (iii) an adjudication board, or
 - (iv) a person or body of persons appointed by an employer and a bargaining agent pursuant to a collective agreement to settle differences between them,

and includes a person acting as a single adjudicator;

- (b) “tribunal” means
- (i) the Board, or
 - (ii) an arbitration board, or
 - (iii) an adjudicator.

Reports

80. (1) The Board shall at the end of each Government fiscal year make a report on the administration of the Act during that year to the Minister of the Crown charged by the Lieutenant Governor in Council with the administration of this Act.

(2) Upon receipt of the report referred to in subsection (1) by the Minister, he shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

Staff

81. In accordance with *The Public Service Act* there may be appointed such persons as are necessary for the administration of this Act.

Proceedings of Tribunals

82. No person shall be appointed as a single adjudicator or as a member of an arbitration board or adjudication board or as a

79. Definitions.

80. Report.

81. Staff

82. Restrictions on appointment of certain persons.

person or as a member of a body of persons established to resolve differences between an employer and a bargaining agent if the person is directly affected by the dispute or difference or if he has been involved in an attempt to negotiate or settle the dispute or difference.

83. (1) A decision or award of a majority of the members of a tribunal is a decision or award of the tribunal, as the case may be, but if there is no majority the decision or award of the chairman of the tribunal is the decision or the award of the tribunal, as the case may be.

(2) A tribunal may in any proceeding, award or decision correct any clerical mistake, error or omission.

84. No proceeding under this Act is invalid by reason only of any defect of form or a technical irregularity.

85. A tribunal, in the exercise of any powers and duties imposed or conferred on him or it,

- (a) may accept such oral or written evidence as he or it in his or its discretion considers proper whether admissible in a court of law or not, and
- (b) is not bound by the laws of evidence applicable to judicial proceedings.

86. (1) For the purposes of this Act, a tribunal may

- (a) summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;
- (b) require any person to attend and produce such documents and things as it considers necessary for the purpose of any inquiry or consideration of any matter within its jurisdiction.

(2) A member of a tribunal may administer an oath to a person appearing before the tribunal.

87. (1) Where in the opinion of a tribunal

- (a) the attendance of a person is required, or
- (b) the attendance of a person to produce a document or other thing is necessary,

83. Decisions of certain tribunals.

84. Technical irregularities.

85. Proceedings of tribunal.

86. Power to summon witnesses and documents.

87. Enforcing attendance of witnesses and the production of documents.

the tribunal may cause to be served on the person concerned a notice to attend or a notice to attend and produce, as the case may be.

(2) Where a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or other thing,

issued under subsection (1), a judge of the Court, on application of the tribunal, may issue a bench warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the tribunal.

88. (1) Notwithstanding anything in this Act, where a document is in the official possession, custody or power of a member of the Executive Council or of the head of a department of the public service of the Province, but a deputy head or other officer has the document in his personal possession and is called as a witness, the deputy head or other officer, acting by the direction and on behalf of the member of the Executive Council or head of a department is entitled to object to produce the document on the ground that it is privileged.

(2) The objection may be taken by such deputy head or other officer in the same manner and has the same effect as if the member of the Executive Council or head of a department were personally present and made the objection.

(3) A person employed by the Crown in right of Alberta shall not disclose or be compelled to disclose information obtained by him in his official capacity if a member of the Executive Council certifies that in his opinion

(a) it is not in the public interest to disclose such information, or

(b) the information cannot be disclosed without prejudice to the interests of persons not concerned in the proceedings.

(4) The information in respect of which a certificate is given under subsection (3) is privileged.

89. The following persons are not compellable witnesses in proceedings before any court respecting any information, material or report obtained by them:

(a) a member of a tribunal;

88. Privileged information.

89. Persons who are not compellable witnesses.

- (b) a person authorized by the chairman pursuant to section 10;
- (c) a person authorized by an arbitration board, adjudication board or person or body of persons appointed by an employer and a bargaining agent to settle differences.

90. Each member of an arbitration board, adjudication board, or person or body of persons appointed by an employer and a bargaining agent pursuant to a collective agreement to settle differences or a person acting as a single adjudicator may

- (a) enter any premises where
 - (i) work is being done or has been done by employees or in which an employer carries on business, or
 - (ii) anything is taking place or has taken place concerning a difference or dispute;
- (b) inspect and examine any work, material, machinery, appliance or article in the one or more places referred to in clause (a);
- (c) question an employee under oath in the presence of the parties or their representatives concerning any matter connected with the difference or dispute;
- (d) to authorize any person to do the things that they are permitted to do under this section and to report thereon.

91. *The Arbitration Act* does not apply to an arbitration or adjudication under this Act or any award resulting from it.

92. (1) No award, proceeding or decision of a tribunal 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 tribunal in any of his or its proceedings.

(2) Notwithstanding subsection (1), the award, proceeding or decision of a tribunal 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 30 days after the date of the award, proceedings or decision of the tribunal.

90. Powers to investigate differences and disputes.

91. The Arbitration Act not to apply.

92. Review by the Court.

Successor Employers and Trade Unions

93. Where an employer is incorporated or established and replaces or takes the place in whole or in part of another or other employers or if one or more employers are in whole or in part merged with another employer or employers, the Board may, on the application of any employer or trade union affected,

- (a) declare which employer is bound by this Act,
- (b) determine, in accordance with this Act, whether the employees concerned constitute one or more bargaining units,
- (c) declare which trade union or trade unions, if any, is 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.

94. (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 Act of its predecessor.

(2) 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.

Other Matters

95. (1) The Board may govern the remuneration, travelling and living expenses to be paid to

- (a) the chairman and other members of an arbitration board, and
- (b) a mediator.

93. Successor employers.

94. Successor trade unions.

95. Payment to arbitration board members and mediators.

(2) For the purposes of *The Financial Administration Act*, the chairman has all the powers of the head of a department or the deputy head of a department.

96. (1) No person shall cause or attempt to cause a strike by the persons to whom this Act applies.

(2) No person to whom this Act applies shall strike or consent to a strike.

97. (1) No person shall cause or attempt to cause a lockout by an employer.

(2) No employer shall lockout or consent to a lockout.

98. A person who contravenes section 96, subsection (1) or section 97, subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000.

96. Strikes prohibited.

97. Lockouts prohibited.

98. Offence and penalty.

PART 10

**TRANSITIONAL, CONSEQUENTIAL AND
COMMENCEMENT**

Transitional Provisions

99. (1) Where upon the coming into force of this Act

- (a) a notice to commence collective bargaining has been given, or
- (b) collective bargaining has commenced and no dispute between the parties has been referred to an arbitration board or no request has been made for the appointment of a conciliation commissioner

under *The Crown Agencies Employee Relations Act, The Public Service Act* or *The Alberta Labour Act, 1973*, as the case may be, in respect of employers and bargaining agents of employees to whom this Act applies, the notice shall be deemed to have been given and the collective bargaining shall continue under this Act.

(2) Where upon the coming into force of this Act proceedings have commenced to settle a difference arising with respect to a collective agreement made under *The Crown Agencies Employee Relations Act, The Public Service Act* or *The Alberta Labour Act, 1973* relating to employers, bargaining agents or employees to whom this Act applies, the difference shall continue as if it were a difference arising with respect to a collective agreement made under this Act.

100. (1) Subject to section 99, where before the coming into force of this Act

- (a) a notice was given, or
- (b) a proceeding was undertaken or an action was taken, or
- (c) an application was made, or
- (d) any other thing was done,

under *The Crown Agencies Employee Relations Act, The Public Service Act* or *The Alberta Labour Act, 1973*, respecting an employer, bargaining agent or person to whom this Act applies, no proceeding, action or other thing shall continue or commence upon the coming into force of this Act without the prior approval of the Board.

99. Certain proceedings continued under this Act.

100. Temporary powers of the Board.

(2) Upon the application of an employer, bargaining agent or other person affected under subsection (1) or upon its own initiative, the Board may

- (a) direct that no further action be taken with respect to anything referred to in subsection (1), or
- (b) direct that no further action be taken or thing done, or
- (c) direct that anything referred to in subsection (1) continue under the Act under which it was done or commenced except where the direction would permit a strike or lockout or could cause a strike or lockout, or
- (d) direct that anything referred to in subsection (1) continue under this Act in accordance with such sections as may be prescribed.

(3) For the purposes of this section

- (a) the Board may exercise such powers as it considers necessary for the purpose of transferring or facilitating the transfer of employers, bargaining agents and persons to whom this Act applies from *The Crown Agencies Employee Relations Act*, *The Public Service Act* or *The Alberta Labour Act, 1973*, as the case may be, to this Act;
- (b) provide for the resolution of any difficulty arising as a result of the operation of this Act,

whether or not an exercise of a power by the Board under this section would otherwise contravene a provision of *The Alberta Labour Act, 1973*.

(4) Where a direction is given by the Board or it exercises any power under this section which requires an employer, bargaining agent or other person to take an action or proceed under a provision of *The Public Service Act* repealed by this Act or under *The Crown Agencies Employee Relations Act*, those provisions or that Act, as the case may be, shall be deemed to remain in force to the extent necessary to meet the requirements of the direction or the exercise of the power.

101. (1) During any period from the date this section comes into force and the date that the members of the Board are appointed, the Lieutenant Governor in Council may exercise the same power and authority as the Board may exercise under this Act.

(2) If the Lieutenant Governor in Council is empowered to act pursuant to subsection (1), he may authorize any person to exercise any power or authority under this Act either generally or with respect to any particular case under such conditions or in

101. Temporary authority of the Lieutenant Governor in Council may arise in certain circumstances.

(2) Upon the application of an employer, bargaining agent or other person affected under subsection (1) or upon its own initiative, the Board may

- (a) direct that no further action be taken with respect to anything referred to in subsection (1), or
- (b) direct that no further action be taken or thing done, or
- (c) direct that anything referred to in subsection (1) continue under the Act under which it was done or commenced except where the direction would permit a strike or lockout or could cause a strike or lockout, or
- (d) direct that anything referred to in subsection (1) continue under this Act in accordance with such sections as may be prescribed.

(3) For the purposes of this section

- (a) the Board may exercise such powers as it considers necessary for the purpose of transferring or facilitating the transfer of employers, bargaining agents and persons to whom this Act applies from *The Crown Agencies Employee Relations Act*, *The Public Service Act* or *The Alberta Labour Act, 1973*, as the case may be, to this Act;
- (b) provide for the resolution of any difficulty arising as a result of the operation of this Act,

whether or not an exercise of a power by the Board under this section would otherwise contravene a provision of *The Alberta Labour Act, 1973*.

(4) Where a direction is given by the Board or it exercises any power under this section which requires an employer, bargaining agent or other person to take an action or proceed under a provision of *The Public Service Act* repealed by this Act or under *The Crown Agencies Employee Relations Act*, those provisions or that Act, as the case may be, shall be deemed to remain in force to the extent necessary to meet the requirements of the direction or the exercise of the power.

101. (1) During any period from the date this section comes into force and the date that the members of the Board are appointed, the Lieutenant Governor in Council may exercise the same power and authority as the Board may exercise under this Act.

(2) If the Lieutenant Governor in Council is empowered to act pursuant to subsection (1), he may authorize any person to exercise any power or authority under this Act either generally or with respect to any particular case under such conditions or in

101. Temporary authority of the Lieutenant Governor in Council may arise in certain circumstances.

such circumstances as the Lieutenant Governor in Council prescribes and thereupon that power or duty may be exercised or performed by that person in addition to the Lieutenant Governor in Council.

(3) The power and authority of

(a) the Lieutenant Governor in Council, and

(b) any person authorized under subsection (2),

terminates upon the appointment of at least three members of the Board.

102. (1) A certified bargaining agent under *The Alberta Labour Act, 1973* of a unit of employees to which this Act applies shall be deemed to be a certified bargaining agent of those employees under this Act.

(2) The Alberta Union of Public Employees is deemed to be the certified bargaining agent in respect of each unit of employees on behalf of which it entered into a collective agreement under *The Public Service Act* or *The Crown Agencies Employee Relations Act* before the coming into force of this Act.

103. A collective agreement entered into under *The Crown Agencies Employee Relations Act*, *The Public Service Act* or *The Alberta Labour Act, 1973* in respect of any employers, bargaining agents or employees to which this Act applies shall be deemed to be a collective agreement entered into under this Act.

104. Those employees who are members of a professional association excluded from a bargaining unit or other unit for collective bargaining pursuant to section 26 of *The Public Service Act* or pursuant to *The Crown Agencies Employee Relations Act* but who are not members of a profession referred to in section 23, subsection (1) of this Act, shall be deemed to have been excluded from the bargaining unit or other unit for collective bargaining under section 26 of this Act.

Consequential Amendments

105. *The Alberta Insurance Act* is amended as to section 2 by striking out clause 63 and substituting the following:

63. “trade union” means a trade union under *The Alberta Labour Act, 1973* or under *The Public Service Employee Relations Act*;

102. Certified bargaining agents transferred.

103. Collective agreements transferred.

104. Professional associations.

105. Chapter 187 of the Revised Statutes of Alberta is amended.

106. *The Alberta Labour Act, 1973 is amended as to section 2*

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

2. (1) Subject to subsection (2), this Act applies to all employers and employees.

(b) *as to subsection (2), by striking out clauses (a) and (b) and substituting the following:*

(a) employers as defined in *The Public Service Employee Relations Act* and to whom that Act applies;

(a.1) persons employed by employers as defined in *The Public Service Employee Relations Act* and to whom that Act applies;

(b) employers and employees in respect of whom this Act does not apply by virtue of a provision of another Act;

(c) *by striking out subsection (3).*

107. *The Colleges Act is amended*

(a) *as to section 46 by striking out subsection (3);*

(b) *as to section 47 by adding after subsection (4) the following subsection:*

(5) *The Alberta Labour Act, 1973 does not apply to the college board or to the academic staff members.*

108. *The Alberta Opportunity Fund Act is amended as to section 6 by striking out subsection (6).*

109. *The Employment Agencies Act is amended as to section 3, clause (b) by adding after the words "The Alberta Labour Act, 1973," the words "or The Public Service Employee Relations Act".*

110. *The Election Finances and Contributions Disclosure Act is amended as to section 1, subsection (1), clause (q) by adding after the words "The Alberta Labour Act, 1973" the words ", The Public Service Employee Relations Act".*

111. *The Firefighters and Policemen Labour Relations Act is amended as to section 2, clause (j) by adding after the words "The*

106. Chapter 33 of the Statutes of Alberta, 1973 is amended.

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

108. Amends chapter 11 of the Statutes of Alberta, 1972.

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

110. Amends Election Finances and Contributions Disclosure Act.
See Bill 24.

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

Alberta Labour Act, 1973” the words “or *The Public Service Employee Relations Act*”.

112. *The Improvement Districts Act* is amended by striking out section 16 and substituting the following:

16. In accordance with *The Public Service Act* there may be appointed such persons as are necessary for the administration of an improvement district.

113. *The Public Service Act* is amended

(a) as to section 2 by striking out clauses (a), (b) and (i),

(b) as to section 3, subsection (2) by striking out the words “and the Ombudsman” and substituting the words “, the Ombudsman and the chairman of The Public Service Employee Relations Board” ,

(c) as to section 3, subsection (4) by striking out the words “employees on whose behalf the Association has the sole right to negotiate” and substituting the words “an employee who is a member of a bargaining unit under *The Public Service Employee Relations Act*”,

(d) as to section 3 by adding the following subsection after subsection (4):

(5) A person who is appointed or employed

(a) in accordance with, or

(b) pursuant to, or

(c) subject to,

this Act, is an employee of the Crown in right of Alberta.

(e) as to section 6, subsection (1) by adding the following clause after clause (h):

(i) represent the Crown in right of Alberta under *The Public Service Employee Relations Act*.

(f) as to section 13, subsection (2) by striking out clause (b) and substituting the following clause:

(b) the person in the position or class is not included in or is excluded from a bargaining unit under *The Public Service Employee Relations Act*,

112. Amends chapter 180 of the Revised Statutes of Alberta 1970.

113. Amends chapter 298 of the Revised Statutes of Alberta 1970.

- (g) *as to section 21 by striking out the words “The Lieutenant Governor in Council” and substituting the words “Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under The Public Service Employee Relations Act, the Lieutenant Governor in Council”,*
- (h) *as to section 25, subsection (1) by striking out the words “An employee may” and substituting the words “Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under The Public Service Employee Relations Act, an employee may”,*
- (i) *as to section 25, subsection (2) by striking out the words “If the employee” and substituting the words “Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under The Public Service Employee Relations Act, if the employee”,*
- (j) *by striking out sections 26 to 40,*
- (k) *by striking out section 42,*
- (l) *as to section 43, subsection (3), by striking out the words and figures “and 26 to 42”,*
- (m) *as to section 46, subsection (2) by striking out the words “on whose behalf the Association has the sole right to negotiate” and substituting “who is part of a bargaining unit under The Public Service Employee Relations Act”.*

114. *The Registered Nurses Act is amended*

- (a) *as to section 3, subsection (2) by striking out clause (c) and substituting the following:*
 - (c) *when requested to do so by a majority of a group of members, act as a bargaining agent for the group subject to The Alberta Labour Act, 1973 or The Public Service Employee Relations Act, as the case may be.*
- (b) *as to section 8, subsection (1), clause (e) by adding after the words “The Alberta Labour Act, 1973” the words “or The Public Service Employee Relations Act, as the case may be,”.*

115. *The Universities Act is amended*

- (a) *as to section 19 by striking out subsection (5) and substituting the following:*

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

115. Amends chapter 378 of the Revised Statutes of Alberta 1970.

(5) *The Alberta Labour Act, 1973* does not apply to the board or academic staff.

(b) *as to section 77 by adding the following subsection after subsection (4):*

(5) *The Alberta Labour Act, 1973* does not apply to the council or to the employees of the council who are members of the academic staff.

116. *The Civil Service Association of Alberta Repeal Act is repealed.*

117. *The Crown Agencies Employee Relations Act is repealed.*

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

116. Repeals chapter 9 of the Statutes of Alberta, 1976.

117. Repeals chapter 79 of the Revised Statutes of Alberta 1970.

Schedule

1. All the following employers and all of the persons employed by them:

- (a) The Alberta Government Telephones Commission;
- (b) The Alberta Educational Communications Corporation;
- (c) Alberta Resources Railway Corporation;
- (d) The Alberta General Insurance Company;
- (e) The Board of the Northland School Division No. 61;
- (f) every board of administrators of a new town formed under *The New Towns Act*;
- (g) The Life Insurance Company of Alberta;
- (h) Irrigation Land Manager;
- (i) every board of trustees of a drainage district formed or continued under *The Drainage Districts Act*;
- (j) every housing authority incorporated under section 41 of *The Alberta Housing Act*.

2. (1) The board of governors of each university under *The Universities Act* while it is acting as the employer of its academic staff as defined in *The Universities Act*.

(2) The academic staff as defined in *The Universities Act* of each university.

3. (1) The college board of each college under *The Colleges Act* while it is acting as the employer of its academic staff members as defined in *The Colleges Act*.

(2) The academic staff members as defined in *The Colleges Act* of each college board.