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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 79

THE LABOUR RELATIONS ACT

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE LABOUR RELATIONS ACT

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BILL 79

1980

THE LABOUR RELATIONS ACT

(Assented to _____, 1980)

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

1(1) In this Act

- (a) “bargain collectively” and “collective bargaining” means to negotiate or negotiation with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;
- (b) “bargaining agent” means a trade union acting on behalf of employees in collective bargaining or as a party to a collective agreement with an employer or employers’ organization, whether or not the bargaining agent is a certified bargaining agent;
- (c) “Board” means the Labour Relations Board;
- (d) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (e) “Chairman” means the Chairman of the Board;
- (f) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent, containing terms or conditions of employment;
- (g) “Court” means the Court of Queen’s Bench;
- (h) “Director” means the person appointed pursuant to *The Public Service Act* as the Director of Mediation Services;
- (i) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;
- (j) “disputes inquiry board” means a board established by the Minister under section 93;

GENERAL NOTE: This Bill will revise and replace the labour relations portions of The Alberta Labour Act, 1973. The rest of that Act will be revised and replaced by The Employment Standards Act.

1 Definitions.

(k) “employee” means a person employed by an employer to do work who is in receipt of wages, but does not include

(i) a person who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations, or

(ii) a person who is a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of Alberta and employed in his professional capacity;

(l) “employer” means a person who

(i) has control and direction over an employee,

(ii) has control over the manner in which work is done by an employee,

(iii) is responsible directly or indirectly for the employment of an employee, or

(iv) is responsible for the payment of wages to an employee;

(m) “employers’ organization” means an organization of employers acting on behalf of an employer or employers, having as one of its objects the regulation of relations between employers and employees, whether or not the employers’ organization is a registered employers’ organization;

(n) “lockout” includes

(i) the closing of a place of employment by an employer,

(ii) the suspension of work by an employer, or

(iii) a refusal by an employer to continue to employ employees,

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

(o) “lockout vote” means a vote of employers under section 87;

(p) “mediator” means a person appointed as a mediator under section 83;

(q) “Minister” means the Minister of Labour;

(r) “officer” means a person designated by the Chairman as an

officer of the Board for the purposes of this Act;

(s) “open period” means, with respect to an employer or employers’ organization and bargaining agent,

(i) if no collective agreement is in effect, any time, or

(ii) if a collective agreement is in effect, any time after a notice to commence collective bargaining is served under section 72;

(t) “registered employers’ organization” means an employers’ organization registered as an agent for collective bargaining by the Board;

(u) “strike” includes

(i) a cessation of work,

(ii) a refusal to work, or

(iii) a refusal to continue to work,

by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers’ organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers’ organization to accept terms or conditions of employment;

(v) “strike vote” means a vote of employees under section 87;

(w) “trade union” means an organization of employees that has a written constitution, rules or by-laws and has as one of its objects the regulation of relations between employers and employees;

(x) “unit” means any group of employees of an employer;

(y) “vice-chairman” means a vice-chairman of the Board;

(z) “wages” includes any salary, pay, overtime pay and any other remuneration for work or services however computed but does not include tips and other gratuities.

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

2(1) Subject to subsection (2), this Act applies to every employer and employee.

2 Application of Act.

(2) This Act does not apply to

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

(b) a person employed by an employer as defined in *The Public Service Employee Relations Act* and to whom that Act applies;

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

(d) employees who are policemen of a municipal police force appointed pursuant to *The Police Act, 1973*;

(e) employees employed on a farm or ranch whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, poultry or bees or to their employer while acting in the capacity of their employer;

(f) employees employed in domestic work in a private dwelling or to their employer while he is ordinarily resident in the dwelling and acting in the capacity of their employer.

3 In accordance with *The Public Service Act* there may be appointed a secretary of the Board, registrars of the Board, a Director of Mediation Services and any other persons necessary.

PART 1

LABOUR RELATIONS BOARD

4(1) The Board of Industrial Relations previously established is continued as the Labour Relations Board.

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

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

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

3 Staff.

4 Composition of Board.

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

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

5(1) The members of the Board shall meet at the times and places specified by the Chairman.

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

- (a) preside at a meeting of the Board, or
- (b) preside at a meeting of a division of the Board.

6(1) The members of the Board shall, at the direction of the Chairman, meet as

- (a) the Board,
- (b) a division of the Board, or
- (c) 2 or more divisions of the Board.

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

(3) The Board may meet in 2 or more divisions simultaneously or at different times.

(4) A decision of a majority of the members of the Board or a division of the Board present and constituting a quorum is the decision of the Board, but if there is a tie vote, the Chairman or the vice-chairman presiding at the meeting may cast a 2nd vote.

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

7(1) Notwithstanding section 6, the Chairman may sit alone to hear and decide a question under section 87(5) or a reference under section 112.

(2) When the Chairman sits alone under subsection (1) or the Board meets as a division of the Board under section 6, the Chairman or division, as the case may be, shall be deemed to be the Board for the purposes of this Act.

5 Board meetings.

6 Meetings and decisions of Board.

7 Chairman may sit alone on certain matters.

8(1) The Board may

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

(2) The Board may decide for the purposes of this Act whether:

- (a) a person is an employer;
- (b) a person is an employee;
- (c) an organization or association is an employers' organization;
- (d) an organization of employees is a trade union;
- (e) an employer has given an employers' organization authority to bargain collectively on his behalf or has revoked that authority;
- (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;
- (i) a collective agreement has been entered into on behalf of any person;
- (j) a collective agreement is in effect;
- (k) the parties to a dispute have settled the terms to be included in a collective agreement;
- (l) a group of employees is a unit appropriate for collective bargaining;
- (m) a person has applied for membership or has terminated his membership in a trade union;
- (n) a person is a member in good standing of a trade union;
- (o) a person is included in or excluded from a unit;
- (p) an employer is affected by the registration certificate of a registered employers' organization;

8 Powers of Board.

and the Board's decision is final and binding.

(3) In addition to the matters specified or referred to in subsections (1) and (2), the Board has all necessary jurisdiction and power to perform any duties assigned to it by the Lieutenant Governor in Council.

9(1) For the purpose of deciding any question under section 8(2) or determining any other matter referred to it or arising under this Act, the Board may

(a) make

(i) any examination of books, payrolls, records, papers, contracts of employment or collective agreements, or

(ii) any inquiry,

that it considers necessary;

(b) hold any hearing that it considers necessary;

(c) require, conduct or supervise votes by secret ballot;

(d) make rules with respect to any vote required, conducted or supervised including

(i) the manner of taking or casting votes;

(ii) the procedure to be followed before, during and after a vote;

(iii) the fixing of the date, place and time of voting;

(iv) the manner in which and the time at which a voters' list is to be prepared;

(v) the disposal of ballots;

(e) appoint persons to act as returning officers for any vote required, supervised or conducted and vest in them such authority as it considers necessary to ensure that the vote is properly conducted and that its rules are complied with;

(f) when it is required or permitted to do so under this Act, determine who is eligible to vote on any matter;

(g) investigate any complaint made to it concerning any vote taken pursuant to this Act;

(h) require an employer to place a suitable portion of his premises or the premises where employees are working at the disposal

9 Powers of Board.

of the Board for the purpose of taking a vote;

(i) direct all interested persons to refrain or desist from electioneering or from issuing any propaganda or both for any period of time prior to the date of a vote that the Board fixes.

(2) The Board may delegate its powers under subsection (1)(a), (c), (e), (f), (g), (h), or (i) to an officer or to the Chairman or a vice-chairman.

10(1) The Board, the Chairman, a vice-chairman or any officer may

(a) inspect and examine all books, payrolls and other records of an employer, employee or any other person relating to employment or terms or conditions of employment;

(b) by notice in writing demand the production of any books, records, documents, papers, payrolls, contracts of employment or other records relating to employment or terms and conditions of employment either forthwith or at a time, date and place specified in the notice;

(c) take extracts from or make copies of books, records, documents, papers, payrolls, contracts of employment and any other records relating to employment or terms or conditions of employment;

(d) require an employer, employee or any other person to make, furnish or produce full and correct statements either orally or in writing respecting employment or terms and conditions of employment, and may require the statements to be made on oath or to be verified by statutory declaration;

(e) post or require any employer, employee or other person to post any notices or other communications of the Board at the locations that the Board, Chairman, vice-chairman or officer, as the case may be, considers advisable;

(f) question an employee, without his employer being present, during the employee's regular hours of work or otherwise to ascertain whether this Act or any decision, order, directive, declaration or ruling under this Act has been or is being complied with.

(2) Nothing in subsection (1)(f) requires an employee to answer a question asked of him by the Board, Chairman, vice-chairman or officer.

(3) An employer, any person acting on his behalf and any employee shall give all necessary assistance to an officer to enable him to make an entry, inspection, examination or inquiry or to post notices or communications for the purposes of this Act.

10 Investigations and inspections.

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

- (a) enter, inspect and examine at all reasonable times any premises or other place, other than a private dwelling, in which he has reason to believe that a person is employed, and
- (b) make any examination and inquiry necessary to ascertain whether the provisions of this Act or any order, decision, directive, declaration or notice of the Board or any written instructions of the Chairman, a vice-chairman or an officer have been complied with.

12(1) For the purposes of this Act the Board, Chairman, a vice-chairman or any officer designated by the Board may administer oaths.

(2) The Board

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

13(1) When, in the opinion of the Board, Chairman or a vice-chairman of the Board

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

the Board, Chairman or vice-chairman may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by the Chairman, vice-chairman, secretary or registrar of the Board.

(2) If 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 Board, Chairman or a vice-chairman, 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 Board.

11 Powers of officers.

12 Evidence.

13 Attendance of witnesses and production of documents.

14(1) Except when this Act otherwise provides, if anything is required or permitted to be served under this Act it may be served

- (a) in the case of an individual,
 - (i) personally or by leaving it for him at his last or most usual place of abode with some person who is apparently at least 16 years old, or
 - (ii) by mailing it to him by registered mail or certified mail at his last known post office address;
- (b) in the case of a corporation,
 - (i) personally on a director, manager or officer of the corporation, or
 - (ii) by leaving it at or by sending it by registered or certified mail to the registered office of a corporation or to the office of the attorney of an extra-provincial corporation;
- (c) in the case of a trade union or registered employers' organization,
 - (i) personally on the president, secretary or an officer of the trade union or registered employers' organization, or
 - (ii) by sending it by registered or certified mail to the address of the president, secretary or an officer of the trade union or registered employers' organization.

15 If it is necessary to prove service of anything for the purposes of this Act,

- (a) if service is effected personally, the actual date on which it is served is the date of service;
- (b) if service is effected by registered mail or certified mail, service of it shall be deemed to have been made 5 days after the date of mailing;
- (c) if service is effected by leaving it with a person apparently at least 16 years old, service of it shall be deemed to have been made on the date it was so left.

16(1) The Minister, the Deputy Minister of Labour, an officer or member of the Board, the Director, a mediator, any person appointed pursuant to section 143, 147 or 148 or any person designated by the Minister or selected by the parties to endeavour to effect settlement of a dispute is not a compellable witness in proceedings before any

14 Service of documents.

15 Proof of service.

16 Witnesses.

court respecting any information, material or report obtained by him under this Act.

(2) In this section, “court” means the Court of Queen’s Bench or any other court and includes the Board or any other board or person having by law or by the consent of the parties authority to hear, receive and examine evidence but does not include an inquiry under *The Public Inquiries Act*.

17(1) An order that the Board makes may be issued on its behalf by the Chairman or a vice-chairman.

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

(a) of the order, and

(b) that the persons signing the order were authorized to do so,

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

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

18(1) The Board has exclusive jurisdiction to exercise the powers conferred on 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 decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

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

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

17 Board orders.

18 Jurisdiction of Board.

19(1) If the Board is satisfied in any proceedings under this Act that a bona fide mistake has been made in naming or not naming a person, trade union, employer or employers' organization, the Board may direct that the name of the person, trade union, employer or employers' organization be substituted, added or deleted as a party to the proceedings.

(2) No proceeding under this Act is invalid by reason of a defect of form or a technical irregularity.

20 The Board

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

(b) shall on the direction of the Minister,

require a vote to be taken under its supervision on any question involving the relations between an employer and his employees in a unit or between an employers' organization and the employers in the employers' organization where it is desirable to have an expression of opinion of the majority of the employees or employers, as the case may be.

21(1) When a difference exists between an employer or an employers' organization and a trade union concerning the application or operation of this Act, any of the parties to the difference may refer the difference to the Board.

(2) On reference of a difference to the Board pursuant to subsection (1) the Board may, if it considers it desirable, cause an investigation to be made as to the facts and in the course of the investigation call the parties concerned before it for the purpose of effecting an agreement between the parties in relation to the difference.

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

(4) If agreement between the parties is not effected, the Board may institute whatever action it considers necessary to ensure compliance with and enforcement of this Act.

22 *The Regulations Act* does not apply to an order, decision, notice, directive, declaration or certificate issued or made by the Board.

19 Error in and validity of proceedings.

20 Supervised vote.

21 Settlement of differences.

22 Non-application of The Regulations Act.

PART 2

CERTIFICATION AND REGISTRATION

Division 1

Trade Unions and Registered Employers' Organizations

Trade Unions

23(1) A trade union shall file with the Board

(a) unless otherwise filed with the Board, a true copy of

(i) its constitution,

(ii) its rules or by-laws, or

(iii) when the trade union has both a constitution and rules or by-laws, both of them,

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

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

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

(3) Any changes to the information supplied under subsection (1) shall be sent to the Board as soon as possible after the change is made.

24 The Board is not required to divulge any information as to whether a person is or is not a member of a trade union or has or has not applied for membership in a trade union.

25(1) For the purposes of this Act a trade union is capable of

(a) prosecuting and 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.

23 Filing of constitution, etc., of trade union.

24 Confidentiality of information.

25 Capacity of trade union.

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

- (a) served personally or by double registered mail 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 of his choice, and
- (d) found guilty of the charge or charges, and if a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.

27(1) An employee may authorize his employer in writing to deduct from wages due to him an amount payable by that employee to a trade union for

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

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

- (a) is effective only for the amount or the percentage of the wages specified therein, and
- (b) continues in force for at least 3 months and thereafter until revoked in writing by the employee.

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

- (a) the dues deducted for the preceding month, and
- (b) a written statement of the name of the employee for whom the deduction was made and of the amount or percentage of the employee's wages of each deduction,

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

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

26 Suspension or expulsion from trade union.

27 Deduction of union dues.

28 If a trade union issues a temporary card, document or other permit to a person who is not a member of the trade union, the dues or fees charged by the trade union for the temporary card, document or other permit for each month shall not exceed an amount equivalent to the dues or fees payable by a member of the trade union for the same period.

Registered Employers' Organizations

29(1) An employers' organization that intends to apply to the Board to become a registered employers' organization in the construction industry shall file with the Board

- (a) unless otherwise filed with the Board, a true copy of its constitution, rules or by-laws,
 - (b) the names and addresses of its president, secretary and officers, and
 - (c) the names of its officers who are authorized to sign collective agreements.
- (2) The copy of the constitution, rules and by-laws filed with the Board under subsection (1) shall contain a full and complete statement of the purposes and objects of the employers' organization.
- (3) Any changes to the information filed under subsection (1) shall be sent to the Board as soon as possible.

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

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

31 No registered employers' organization shall expel or suspend any of its members or take disciplinary action against or impose any form of penalty on any person for 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 registered employers' organization as a condition of acquiring or retaining membership in the registered employers' organization, unless that person has been

- (a) served personally or by double registered mail with specific

28 Fees for temporary card.

29 Filing of constitution, etc., of registered employers' organization.

30 Capacity of registered employers' organization.

31 Expulsion or suspension.

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 of his choice, and

(d) found guilty of the charge or charges, and if a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.

Division 2

Rights of Employees and Employers

32(1) An employee has the right

(a) to be a member of a trade union and to participate in its lawful activities, and

(b) to bargain collectively with his employer through a bargaining agent.

(2) An employer has the right

(a) to be a member of an employers' organization and to participate in its lawful activities,

(b) to bargain collectively with his employees, and

(c) to conduct collective bargaining through an employers' organization.

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

32 Rights of employees and employers.

Division 3

Certification

33 Unless the Board otherwise consents, no trade union shall apply to the Board to be certified as a bargaining agent until at least 60 days after the date it has complied with section 23(1)(a).

34(1) A trade union that claims to have been selected by a majority of employees in a unit that the trade union considers appropriate for collective bargaining may apply to the Board to be certified as the bargaining agent of the employees in the unit.

(2) An application under subsection (1) shall be supported by evidence that a majority of the employees in the unit by

- (a) membership in good standing in the trade union,
- (b) having applied for membership in the trade union and having paid on their own behalf a sum of not less than \$2 not longer than 90 days before the date the application for certification was made, or
- (c) indicating in writing their selection of the trade union to be the bargaining agent on their behalf,

or by any combination thereof, have selected the trade union to be a bargaining agent on their behalf.

(3) 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 or 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 2 years or less is in force in respect of any of the employees in the unit, at any time in the 2 months prior to the end of the term of the collective

33 Time for application for certification.

34 Application for certification as bargaining agent.

agreement;

(e) if a collective agreement for a term of more than 2 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 2nd or any subsequent year of the term, or

(ii) in the 2 months prior to the end of the term.

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

35(1) Two or more trade unions that claim to have been selected by a majority of employees in a unit that the trade unions consider appropriate for collective bargaining may join in an application for certification as a bargaining agent.

(2) When 2 or more trade unions join in an application for certification as a bargaining agent, this Act applies to the trade unions in respect of the joint application and to all matters arising from the joint application, as if the application had been made by one trade union.

36 A person may be deemed 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.

37(1) On receipt of an application by a trade union for certification as a bargaining agent, the Board shall inquire into

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

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

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

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

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

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

35 Joint application for certification as bargaining agent.

36 Persons deemed employees.

37 Inquiry re certification.

(c) do any other things it considers appropriate.

38(1) The Board shall complete its inquiries into and consideration of an application for certification as soon as possible.

(2) When the Board is satisfied that the unit on behalf of which the trade union is applying for certification is an appropriate unit for collective bargaining,

(a) it shall further satisfy itself that 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 not longer than 90 days before the date the application for certification was made,

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

(b) if a majority of the employees in the unit have indicated in writing their selection of the trade union as the bargaining agent on their behalf or in any other case that the Board considers advisable, it shall further satisfy itself that a majority of those employees in the unit on the date the application for certification was made, or on any 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) When a trade union is certified under subsection (2) as a bargaining agent, the certificate issued by the Board shall

(a) name the certified bargaining agent,

(b) name the employer in respect of which the trade union is certified as bargaining agent, and

(c) describe the unit in respect of which the trade union is certified as bargaining agent.

39(1) A trade union shall not be certified as a bargaining agent if its administration, management or policy is, in the opinion of the Board,

(a) dominated by an employer, or

38 Certification.

39 Trade union dominated by employer.

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

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

40(1) When a trade union becomes a certified bargaining agent, it

(a) has exclusive authority to bargain collectively on behalf of the employees in the unit for which it is certified and to bind them by a collective agreement, and

(b) immediately replaces any other bargaining agent of employees in the unit for which it is certified.

(2) When a trade union becomes a certified bargaining agent of employees in a unit, the certification of any trade union previously certified as the bargaining agent for any employees in the unit is revoked to the extent that the certification relates to those employees.

(3) When a trade union becomes a certified bargaining agent of employees in a unit and if 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, and

(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 2 months' notice in writing.

41(1) One or more certified bargaining agents may apply to the Board for the consolidation of certificates of one or more bargaining agents into a consolidated certificate.

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

(a) naming the trade union or trade unions as the certified bargaining agent,

(b) naming the employer in respect of which the trade union or trade unions are certified as bargaining agent, and

40 Effect of certification.

41 Consolidation of certificate.

- (c) describing the unit in respect of which the trade union or trade unions are certified as bargaining agent.
- (3) When a consolidated certificate is issued, the Board may declare which collective agreements, if any, shall continue in force and which collective agreements, if any, shall terminate.

Revocation of Certification of a Bargaining Agent

42(1) When a trade union is a certified bargaining agent, the trade union or employees in the unit represented by the trade union 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;
 - (c) if a collective agreement for a term of 2 years or less is in force, at any time in the 2 months prior to the end of the term of the collective agreement;
 - (d) where a collective agreement for a term of more than 2 years is in force, at any time
 - (i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or
 - (ii) in the 2 months prior to the end of the term.
- (3) An employer may apply to the Board to revoke the certification of a bargaining agent but only where the employer and the certified bargaining agent have not bargained collectively for a period of at least 3 years
 - (a) after 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) after the first fixed date for the termination of the collective

42 Application for revocation of certification.

agreement, if a collective agreement has been entered into affecting the employer and the certified bargaining agent.

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

43(1) The Board

(a) shall revoke the certification of a bargaining agent if the Board is satisfied that the majority of the employees in the unit represented by the bargaining agent no longer desire the bargaining agent to carry on collective bargaining on their behalf, and

(b) may revoke the certification of a bargaining agent if it is satisfied that

- (i) there have been no employees in the unit represented by the bargaining agent for a period of at least 3 years, or
- (ii) the bargaining agent has abandoned its bargaining rights.

(2) If 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 becomes void and of no effect with respect to that employer and his employees in the unit represented by the bargaining agent.

44 Notwithstanding section 42 or 43, the Board may at any time revoke the certification of a bargaining agent if the Board

(a) has served notice personally or by double registered mail on the trade union and the employer or employers' organization affected by the revocation, and

(b) has not received any objection to the revocation from the trade union or the employer or employers' organization so notified within 30 days of the notification.

43 Revocation of certification.

44 Revocation without application.

Revocation of Rights of Bargaining Agent Voluntarily Recognized

45(1) When a collective agreement is in force and the bargaining agent is not a certified bargaining agent, the 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 2 years or less is in force, at any time in the 2 months prior to the end of the term of the collective agreement;

(b) if a collective agreement for a term of more than 2 years is in force, at any time

(i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or

(ii) in the 2 months prior to the end of the term.

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

46(1) The Board

(a) shall issue a declaration that a bargaining agent is no longer entitled to bargain on behalf of the employees in a unit if the Board is satisfied that a majority of the employees in the unit in respect of which the bargaining agent collectively bargained no longer desires the bargaining agent to carry on collective bargaining on their behalf, or

(b) may issue a declaration that a bargaining agent is no longer entitled to bargain on behalf of the employees in a unit if the Board is satisfied that

(i) there have been no employees in the unit for a period of at least 3 years, or

(ii) the bargaining agent has abandoned its bargaining rights.

(2) When 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

45 Revocation of rights of bargaining agent.

46 Bargaining agent no longer entitled to bargain collectively.

(b) a collective agreement in effect at the time the declaration is issued becomes void and of no effect as it affects that employer and his employees in the unit represented by that bargaining agent.

47 Notwithstanding sections 45 and 46 the Board may at any time issue a declaration that the bargaining agent is no longer entitled to bargain collectively on behalf of the employees in the unit if the Board

(a) has served notice personally or by double registered mail on the trade union and the employer or employers' organization affected by the revocation, and

(b) has not received any objection to the revocation from the trade union or the employer or employers' organization so notified within 30 days of the notification.

General Provisions Concerning Applications

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

(a) certification as a bargaining agent,

(b) revocation of the certification of the bargaining agent, or

(c) a declaration that the bargaining agent is no longer entitled to bargain collectively.

49 Notwithstanding anything in this Act, if an application for

(a) certification as a bargaining agent,

(b) revocation of the certification of a bargaining agent,

(c) a declaration that a bargaining agent is no longer entitled to bargain collectively,

(d) registration of an employers' organization, or

(e) cancellation of registration of an employers' organization,

47 Revocation without application.

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

49 Overriding provision concerning application.

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 90 days from the date of the refusal.

Division 4

Registration of Employers' Organizations in the Construction Industry

50(1) In sections 51 to 61, "trade union" includes 2 or more trade unions having a common trade jurisdiction.

(2) Unless the Board otherwise consents, no employers' organization shall apply to the Board to become a registered employers' organization until at least 60 days after the date the employers' organization has complied with section 29(1)(a).

(3) The Board shall not accept any application for registration of an employers' organization unless the applicant applies under section 51(1).

51(1) An employers' organization may apply to the Board to be registered as the agent for collective bargaining on behalf of all employers in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining when the employers' organization claims to have a majority of the employers as members.

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

(a) when the majority of employers and the trade union named in the application are bargaining collectively, or

(b) in the 6 month period preceding the 90 days prior to the end of the term of the collective agreement between the trade union and the majority of the employers named in the application.

52(1) On receipt of an application for registration by an employers' organization, the Board shall inquire into

(a) whether the application is timely, taking into consideration any seasonal factors affecting the work relating to the trade jurisdiction described in the application;

50 Registration in construction industry.

51 Application for registration.

52 Inquiry re registration of employers' organization.

- (b) if applicable, whether 2 or more trade unions have a common trade jurisdiction;
 - (c) whether the employers' organization has as members the majority of the employers in the territory and trade jurisdiction described in the application with whom the trade union has established the right of collective bargaining;
 - (d) the trade jurisdiction for which the employers' organization should be registered;
 - (e) the territory for which the employers' organization should be registered;
 - (f) whether the work relating to the trade jurisdiction described in the application in whole or in part is part of the construction industry;
 - (g) any other matter that is, in the opinion of the Board, material to the application.
- (2) For the purpose of determining whether a majority of employers engaged in the territory and trade jurisdiction described in the application in the construction industry in respect of whom a trade union has established the right of collective bargaining are members of the employers' organization applying for registration, the Board may fix a period of time during which any employer so engaged shall be deemed to be an employer for the purposes of the application.
- (3) In any inquiry under subsection (1), the Board may
- (a) determine which employers come within or should be excluded from the territory or trade jurisdiction;
 - (b) alter or amend the territory or trade jurisdiction;
 - (c) do any other things it considers appropriate.
- 53(1)** When the Board is satisfied that an employers' organization should be registered as the agent for collective bargaining on behalf of all employers in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining, the Board shall issue a registration certificate to the employers' organization.
- (2) The registration certificate shall state
- (a) the name of the registered employers' organization,
 - (b) the name of the trade union with which the registered employers' organization may bargain collectively,

53 Issue of registration certificate.

(c) the trade jurisdiction in respect of which the registered employers' organization and a trade union may bargain collectively, and

(d) the territory to which the registration certificate applies.

(3) When 2 or more trade unions are named in a registration certificate, the provisions of this Act apply to the trade unions with respect to the settlement of disputes or strikes as if they were a single trade union.

54(1) On the issuance of a registration certificate the employers' organization named therein becomes a registered employers' organization and has exclusive authority to bargain collectively with the trade union named in the registration certificate on behalf of

(a) all employers engaged in the territory and trade jurisdiction in the construction industry set out in the registration certificate with whom the trade union has established or subsequently establishes the right of collective bargaining, and

(b) any other employer engaged in the construction industry who is party to an agreement, notwithstanding anything in that agreement, which provides that he shall comply with any of the terms of a collective agreement entered into by the trade union in respect of work in the territory and trade jurisdiction set out in the registration certificate.

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

55(1) When a registration certificate has been issued to an employers' organization, the Board, on the application of

(a) the registered employers' organization,

(b) the trade union named in the registration certificate, or

(c) an employer referred to in section 54(1),

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

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

(a) direct that a collective agreement entered into before the

54 Effect of registration.

55 Directive re collective agreement.

issue of the registration certificate

- (i) continue, under conditions specified by the Board, or
 - (ii) terminate, either immediately or at a future date;
- (b) make any other direction it considers necessary.

56 When a registered employers' organization and a trade union enter into a collective agreement, the collective agreement is binding on

- (a) the, Bill 79 employers referred to in section 54(1),
- (b) the employees of the employers referred to in clause (a),
- (c) the registered employers' organization insofar as the terms and conditions of the collective agreement apply to it, and
- (d) the trade union.

57 When a registered employers' organization and a trade union bargain collectively and a collective agreement between an employer referred to in section 54(1) and the trade union is in force, that collective agreement terminates

- (a) on the date a collective agreement between the registered employers' organization and the trade union comes into force, or
- (b) on the date a strike or lockout commences in accordance with this Act,

whichever first occurs.

58(1) Subject to sections 107 and 108, no employer on whose behalf a registered employers' organization has exclusive authority to bargain collectively and no trade union affected by the registration shall negotiate or enter into individual collective agreements with employers in the territory and trade jurisdiction set out in the registration and any agreement entered into is void and of no effect.

(2) Notwithstanding subsection (1), a principal contractor as defined in Part 3 and a trade union may bargain collectively for the purposes contemplated by that Part whether or not a regulation has been made under that Part.

56 Collective agreement between registered employers' organization and trade union.

57 Termination of collective agreement.

58 Individual collective agreements prohibited.

Cancellation of Registration Certificate of Employers' Organization

59(1) When an employers' organization has been registered by the Board, an application for the cancellation of the registration may be made to the Board by the employers' organization or an employer affected by the registration certificate.

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

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

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

(c) if a collective agreement between the registered employers' organization and the trade union is in force, at any time in the 2 months prior to the end of the term of the collective agreement.

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

60(1) On receipt of an application for cancellation of a registration certificate of a registered employers' organization the Board may determine the wishes of the employers in respect of whom the employers' organization is registered in any manner that the Board considers adequate.

(2) The Board, after considering an application for cancellation of a registration certificate of a registered employers' organization,

(a) shall cancel the registration certificate if it is satisfied that the majority of employers affected by the registration certificate no longer wish the registered employers' organization to carry on collective bargaining on their behalf, or

(b) may cancel the registration certificate if it is satisfied that

(i) there have been no employers affected by the registration certificate engaged in the territory and trade jurisdiction for a period of at least 3 years, or

(ii) the majority of employers affected by the registration certificate have not employed employees in the territory and trade jurisdiction for a period of at least 3 years.

59 Time for application for cancellation of registration certificate.

60 Cancellation of registration certificate.

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

(a) the trade union retains all rights of collective bargaining existing in respect of the individual employers in respect of whom it has established the right of collective bargaining,

(b) any collective agreement in effect between the trade union and the registered employers' organization continues to be binding on

(i) every employer who was bound by the collective agreement at the time of cancellation of the registration certificate, and

(ii) the trade union and every employee bound by the collective agreement,

and

(c) the employers' organization ceases to be registered as an agent for collective bargaining on behalf of the employers.

61(1) No registered employers' organization shall

(a) merge or amalgamate with an employers' organization, or

(b) transfer its rights under a registration certificate to any employers' organization,

without the consent of the Board.

(2) When, after any inquiry it considers necessary, the Board is satisfied that

(a) in the case of a merger or amalgamation, the successor organization would, if consent to the merger or amalgamation were granted,

(i) have, as one of its objects, the regulation of relations between employers and employees in a territory and trade jurisdiction in the construction industry, and

(ii) have as members a majority of the employers engaged in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining,

or

(b) in the case of a proposed transfer of rights under a registration certificate, the proposed transferee would, if consent to the trans-

61 Mergers and transfers.

fer were granted,

(i) have, as one of its objects, the regulation of relations between employers and employees in a territory and trade jurisdiction in the construction industry, and

(ii) have as members a majority of the employers engaged in a territory and trade jurisdiction in the construction industry in respect of whom a trade union has established the right of collective bargaining,

the Board may grant its consent and issue a new registration certificate or amend an existing registration certificate, as it considers necessary.

PART 3

COLLECTIVE AGREEMENTS RELATING TO THE CONSTRUCTION OF OIL SANDS AND HEAVY CRUDE OIL PLANTS

62 In this Part

(a) “construction” includes the alteration of or addition to an existing plant;

(b) “designated area” means an area that is designated under section 65;

(c) “heavy crude oil” means a naturally occurring viscous mixture that consists mainly of hydrocarbons heavier than pentane, that may contain sulphur compounds and that in its naturally occurring state has a density of more than 900 kilograms per cubic metre;

(d) “oil sands” has the meaning given to it in *The Mines and Minerals Act*;

(e) “plant” means a plant or other works or undertakings used or to be used for or in connection with

(i) the mining, quarrying, working, removing, treating or processing of oil sands or heavy crude oil, or

(ii) the treatment, processing or storage of crude bitumen or other mineral substances recovered from oil sands or from heavy crude oil deposits;

62 Definitions.

(f) “principal contractor” means the person, corporation, partnership or group of persons primarily responsible for the construction of a plant.

63 This Part applies to the construction of a plant in an area that is designated under section 65.

64(1) A person who wishes to construct a plant may apply to the Lieutenant Governor in Council for the designation of the area where the plant is to be constructed in an area to which this Part applies.

(2) An application under subsection (1) shall be sent to the Minister and be in the form and contain the information prescribed by him.

65(1) If the Lieutenant Governor in Council is satisfied that it is in the public interest that the construction of a plant proceed in an area in respect of which the Minister has received an application under section 64, he may by regulation designate the area as an area to which this Part applies.

(2) In the regulation made under subsection (1) or in any subsequent regulation, the Lieutenant Governor in Council may also

- (a) identify the principal contractor,
- (b) specify the terms and conditions under which this Part applies to the construction of a plant,
- (c) prescribe the scope of construction to which a collective agreement under this Part shall apply, and
- (d) provide for the method by which it shall be determined when the completion of the construction of a plant or of the construction of any phase of a plant in a designated area occurs for the purposes of section 68(3) or (4).

66(1) Subject to subsection (2) and the regulations under section 65, a principal contractor may bargain collectively on his own behalf and on behalf of any other employer engaged

- (a) in the construction of a plant in a designated area, or
- (b) in providing camp or catering facilities in connection with the construction of a plant in a designated area

with any trade union that is the bargaining agent of the employees of the principal contractor or of the employees of those employers referred to in this subsection.

63 Application of Part.

64 Application for designation of area.

65 Designation of area.

66 Collective bargaining by principal contractor and trade unions.

(2) A principal contractor and a trade union referred to in subsection (1) may bargain collectively with respect to any terms or conditions of employment of the employees referred to in that subsection, except with respect to those terms and conditions of employment relating to

- (a) wages,
- (b) health, welfare and pension benefits, and
- (c) vacation and other holiday benefits.

(3) When a collective agreement is in effect between

- (a) the principal contractor in his capacity as an employer or any other employer referred to in subsection (1), and
- (b) a trade union,

that collective agreement and the rights of the parties to that collective agreement are unaffected during any collective bargaining between a principal contractor and a trade union pursuant to this section.

(4) This section applies notwithstanding that

- (a) a registration certificate is in effect with respect to
 - (i) the principal contractor in his capacity as an employer or any other employer on whose behalf a principal contractor is authorized to bargain collectively under this section, and
 - (ii) a trade union,

or

- (b) a collective agreement is in force between
 - (i) the principal contractor in his capacity as an employer or any other employer on whose behalf a principal contractor is authorized to bargain collectively under this section or any employers' organization, and
 - (ii) a trade union.

(5) Sections 83 to 113 do not apply to a principal contractor and a trade union who bargain collectively under this section.

67(1) If a collective agreement is entered into between a principal contractor and a trade union under this Part, the collective agreement shall thereupon be deemed to include the same terms and conditions of employment relating to

67 Terms and conditions deemed included in collective agreement and persons bound by agreement.

- (a) wages,
- (b) health, welfare and pension benefits, and
- (c) vacation and other holiday benefits,

as are contained in the collective agreement made between

- (d) the principal contractor in his capacity as an employer or any employers' organization acting on his behalf,
- (e) any other employer on whose behalf the principal contractor bargained collectively or any employers' organization acting on behalf of those employers, or
- (f) when applicable, any employer who becomes engaged in the construction of a plant or in providing camp or catering facilities in a designated area after the collective agreement between the principal contractor and the trade union is entered into under this Part or any employers' organization acting on his behalf,

and a trade union which, but for this Part, would have applied to the principal contractor in his capacity as an employer or any other employer and the trade union.

(2) A collective agreement entered into between a principal contractor and a trade union under this Part is binding on

- (a) the principal contractor in his capacity as the principal contractor,
- (b) the principal contractor in his capacity as an employer to the extent that the principal contractor is an employer engaged in the construction of a plant or in providing camp or catering facilities in a designated area,
- (c) the employers on whose behalf the principal contractor bargained collectively to the extent that they are employers engaged in the construction of a plant or in providing camp or catering facilities in a designated area,
- (d) any other employer who becomes engaged in the construction of a plant or in providing camp or catering facilities in a designated area after the collective agreement between the principal contractor and the trade union is entered into, to the extent that he is an employer engaged in the construction of a plant or in providing camp or catering facilities in a designated area,
- (e) the trade union, to the extent that the trade union is the bargaining agent of employees of the employers referred to in this subsection and to the extent that those employees are employed in the construction of a plant or in providing camp or catering facilities in a designated area, and

(f) the employees on whose behalf the trade union bargained collectively and who become part of the bargaining unit of the trade union, to the extent that the employees are employed in the construction of a plant or in providing camp or catering facilities in a designated area by the employers referred to in this subsection.

68(1) If the terms and conditions of a collective agreement entered into between a principal contractor and a trade union under this Part have been settled, the principal contractor and the trade union shall sign the collective agreement.

(2) If a collective agreement is entered into between a principal contractor and a trade union under this Part

(a) no employer on whose behalf the principal contractor bargained collectively,

(b) no employer who becomes bound by the collective agreement after it is entered into, and

(c) no employee on whose behalf a trade union bargained collectively or who becomes part of the bargaining unit of the trade union,

is required to sign the collective agreement.

(3) A collective agreement entered into between a principal contractor and a trade union under this Part shall be deemed

(a) to be a collective agreement for the purposes of this Act, and

(b) to continue in force until completion of the construction of the plant in the designated area or the repeal of the regulation under section 65(1), whichever first occurs.

(4) Notwithstanding subsection (3)(b), if the construction of a plant occurs in phases, a collective agreement under this Part shall be deemed to continue in force with respect to any phase of construction until the completion of that phase of construction or the repeal of the regulation under section 65(1), whichever first occurs.

69 If a collective agreement is entered into between a principal contractor and a trade union under this Part,

(a) the principal contractor, to the extent that the principal contractor is an employer engaged in the construction of a plant or in providing camp or catering facilities in a designated area,

(b) the employers on whose behalf the principal contractor bar-

68 Signatures on and duration of collective agreement.

69 Effect of collective agreement.

gained collectively, to the extent that they are employers engaged in the construction of a plant or in providing camp or catering facilities in a designated area,

(c) any other employer who becomes engaged in the construction of a plant or in providing camp or catering facilities in a designated area after the collective agreement between the principal contractor and the trade union is entered into, to the extent that he is an employer engaged in the construction of a plant or in providing camp or catering facilities in a designated area,

(d) the trade union, to the extent that the trade union is the bargaining agent of employees of the employers referred to in this section and to the extent that those employees are employed in the construction of a plant or in providing camp or catering facilities in a designated area, and

(e) the employees on whose behalf the trade union bargained collectively or who become part of the bargaining unit of the trade union, to the extent that the employees are employed in the construction of a plant or in providing camp or catering facilities in a designated area by employers referred to in this section,

shall be deemed to be excluded from

(f) any registration certificate and the effects of any registration certificate,

(g) any other collective agreement, and

(h) if applicable, any application for a registration certificate, any registration certificate issued as a result of the application and any collective agreement entered into between a registered employers' organization and a trade union thereafter,

that, but for the provisions of this Part, would have applied to them.

70 If the Board announces

(a) a strike vote, or

(b) a lockout vote

with respect to a dispute that, but for this Part, would have affected employees engaged in the construction of a plant or in providing camp or catering facilities in a designated area, no principal contractor or employer shall, until the date on which the dispute is settled, increase the number of employees in the designated area in the same trade as the employees who are affected by the dispute beyond the number of employees so employed on the date of the Board's announcement.

70 Prohibition re build-up of employees.

71(1) If a collective agreement is entered into between a principal contractor and a trade union under this Part, the following provisions of this Act, namely,

section 40(3)(b),
section 43(2)(b),
section 46(2)(b),
section 79, and
section 118

that would otherwise have applied, do not apply to

(a) the principal contractor, employers, trade unions and employees referred to in and to the extent specified in section 69, and

(b) the collective agreement between the principal contractor and the trade union.

(2) If a conflict arises between the provisions of this Part or the regulations under this Part and any other provisions of this Act, this Part or the regulations under this Part shall prevail.

PART 4

COLLECTIVE BARGAINING

72(1) When a certified bargaining agent, an employer or an employers' organization wishes to commence collective bargaining, subject to the other provisions on commencing collective bargaining contained in this Act,

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

(b) the employer or an employers' organization may serve on the certified bargaining agent,

a notice to commence collective bargaining.

(2) When 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 any longer period that may be provided for in the collective agreement, by notice in writing, require the other party to the collective agreement to commence collective bargaining.

71 Application of other provisions of Act.

72 Notice to commence collective bargaining.

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

(4) When a notice to commence collective bargaining has been served pursuant to this section, the bargaining agent and the employer or employers' organization, without delay, but in any event within 15 days after notice is served, 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.

73 On the service of a notice to commence collective bargaining by or on an employer, the employer shall appoint a person resident in Alberta with authority

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

on behalf of the employer, and thereupon shall notify the bargaining agent.

74(1) When an employers' organization that is not a registered employers' organization serves notice to commence collective bargaining, the notice must also contain or be accompanied by

- (a) a list of the names and addresses of the employers on whose behalf the employers' organization is authorized to bargain collectively,
- (b) a copy of each authorization given by the employers, and
- (c) a list of the names and addresses of the persons designated as its bargaining committee.

(2) When an employers' organization that is not a registered employers' organization receives a notice to commence collective bargaining, it shall, within 10 days after the day on which it receives the notice, serve on the bargaining agent the lists and authorizations referred to in subsection (1).

(3) A copy of the lists and authorizations served under subsection (1) or (2) must be filed with the Director.

(4) Upon service of the lists and authorizations in accordance with subsection (1) or (2), as the case may be, the employers' organization

73 Representative for collective bargaining.

74 Notice to commence collective bargaining.

shall be deemed to be bargaining collectively for all the employers who are named in the list and who gave their authorization.

(5) An employer may be added to the list of employers on whose behalf the employers' organization is deemed to be bargaining collectively if

(a) the bargaining agent and the employers' organization agree to add the employer to the list, and

(b) an authorization of the employer is served under subsection (1) or (2), as the case may be.

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

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

(a) a collective agreement has been entered into between the employers' organization and the bargaining agent, or

(b) a strike or lockout commences in accordance with this Act,

whichever first occurs.

75(1) This section does not apply unless one of the parties to a collective agreement serves the other parties with a notice of intent to commence collective bargaining under this section at least 150 days prior to the end of the term of the collective agreement.

(2) If a single registered employers' organization serves notice to commence collective bargaining on 2 or more trade unions named in registration certificates and

(a) the trade unions have

(i) a common trade jurisdiction, and

(ii) a territorial jurisdiction which, when combined, extends to all of Alberta,

and

(b) the notice states that the registered employers' organization named in the notice wants to bargain collectively with the trade unions named in the notice,

subsection (6) applies.

75 Province-wide collective bargaining.

(3) If 2 or more registered employers' organizations serve notice to commence collective bargaining on 2 or more trade unions named in registration certificates and

(a) the trade unions have

(i) a common trade jurisdiction, and

(ii) a territorial jurisdiction which, when combined, extends to all of Alberta,

and

(b) each notice states that the registered employers' organizations named in the notice want to bargain collectively with the trade unions named in the notice,

subsection (6) applies.

(4) If 2 or more trade unions

(a) having

(i) a common trade jurisdiction, and

(ii) a territorial jurisdiction which, when combined, extends to all of Alberta,

and

(b) named in registration certificates

serve notice to commence collective bargaining on a single registered employers' organization stating that the trade unions named in the notice want to bargain collectively with the registered employers' organization, subsection (6) applies.

(5) If 2 or more trade unions

(a) having

(i) a common trade jurisdiction, and

(ii) a territorial jurisdiction which, when combined, extends to all of Alberta,

and

(b) named in registration certificates

serve notice to commence collective bargaining on 2 or more registered employers' organizations stating in each notice that the trade unions named in the notice want to bargain collectively with the registered employers' organizations named in the notice, subsection

(6) applies.

(6) Notwithstanding anything in this Act, when notice to commence collective bargaining is served in the circumstances described in subsection (2), (3), (4) or (5),

(a) matters arising from the notice shall, where necessary, be dealt with as if it had been served or received by one registered employers' organization or one trade union, as the case may be, until

(i) a collective agreement is entered into, or

(ii) a trade union is entitled to make a settlement with an individual employer under section 107(3) or 108(3);

(b) a dispute arising between the one or more registered employers' organizations and the 2 or more trade unions shall, where necessary, be conducted and settled as if it were a dispute between one registered employers' organization and one trade union until

(i) a collective agreement is entered into, or

(ii) a trade union is entitled to make a settlement with an individual employer under section 107(3) or 108(3);

(c) the notice cannot be revoked or amended by agreement or otherwise by any of the parties named in the notice until

(i) a collective agreement is entered into, or

(ii) a trade union is entitled to make a settlement with an individual employer under section 107(3) or 108(3);

(d) the one or more registered employers' organizations or the trade unions served with the notice shall be deemed to be bargaining collectively with the one or more organizations or unions who served the notice.

(7) A copy of every notice of intent under subsection (1) and of every notice served in the circumstances described in subsection (2), (3), (4) or (5) shall be filed with the Director.

76(1) When an employers' organization is established by statute and is given authority by one or more of its members to represent them, the employers' organization may, with the consent of the bargaining agent, bargain collectively on a joint basis for those members.

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

76 Joint collective bargaining.

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

Effect of a Collective Agreement

78(1) If a collective agreement is entered into, its provisions are binding on

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

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

79(1) When a collective agreement is for an unspecified term, the agreement shall be deemed to provide for its operation for a term of one year from the date that it commenced to operate.

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

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

while the parties bargain collectively.

(3) When a collective agreement is continued under subsection (2), its continued operation is not a bar to an application for certification

77 Employees to be union members.

78 Effect of collective agreement.

79 Collective agreements for unspecified time.

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 or to an application for the cancellation of a registration certificate.

80(1) Subject to this section, when the terms and conditions to be included in a collective agreement have been settled each of the parties who bargained collectively shall sign the collective agreement.

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

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

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

82(1) Any collective agreement entered into between an employer or an employers' organization and a trade union that is not a certified bargaining agent may be declared by the Board to be void when in its opinion the administration, management or policy of the trade union is,

(a) dominated by an employer, or

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

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

80 Signing of collective agreement.

81 Filing collective agreement.

82 Collective agreement declared void.

PART 5
MEDIATION, STRIKES AND LOCKOUTS

Division 1

Mediation

83(1) During an open period

- (a) either or both parties to a dispute may request the Director to appoint a mediator, or
- (b) the Minister may require the Director to appoint a mediator,

to assist the parties in resolving the dispute.

(2) The Director

- (a) may appoint a mediator if he receives a request under subsection (1)(a), and
- (b) shall appoint a mediator if he is required to do so under subsection (1)(b).

84(1) When a mediator is appointed the dispute shall be referred to him and the parties notified accordingly.

(2) When a mediator is appointed or subsequently, any other dispute of a similar nature between an employer or an employers' organization and a bargaining agent may be referred to him by the Director or the Minister.

85(1) A mediator shall, in any manner that he thinks fit, inquire into the dispute and endeavour to effect a settlement.

(2) During his inquiry the mediator shall

- (a) hear any representations 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 effect a settlement.

83 Appointment of mediator.

84 Referral of dispute to mediator.

85 Duties of mediator.

Strike and Lockout Votes

86 During the open period

- (a) a bargaining agent may apply to the Board to supervise a strike vote, or
- (b) an employers' organization may apply to the Board to supervise a lockout vote.

87(1) On receipt of an application under section 86 to supervise a strike vote the Board shall

- (a) if the bargaining agent is in dispute with a single employer, supervise a vote of the employees of the employer affected by the dispute on whether or not the employees wish to strike, or
 - (b) if the bargaining agent is in dispute with an employers' organization, supervise a vote of the employees of the employers affected by the dispute on whether or not the employees wish to strike.
- (2) On receipt of an application under section 86 to supervise a lockout vote the Board shall supervise a vote of those employers affected by the dispute on whether or not the employers wish to lockout.

(3) In this section

- (a) "employees of the employer affected by the dispute"
 - (i) means employees of the employer employed in the unit affected by the dispute at any time during the 60 days preceding the date, or the last date if there is more than one, fixed for taking the strike vote, but
 - (ii) does not include employees who are employed in the construction of a plant or in providing camp or catering facilities that are the subject of a collective agreement entered into under Part 3;
- (b) "employees of the employers affected by the dispute"
 - (i) means employees of the employers employed in the unit affected by the dispute at any time during the 60 days preceding the date, or the last date if there is more than one, fixed for taking the strike vote, but
 - (ii) does not include employees who are employed in the construction of a plant or in providing camp or catering fa-

86 Application to the Board to supervise a strike or lockout vote.

87 Supervision of strike or lockout votes by Board.

cilities that are the subject of a collective agreement entered into under Part 3;

(c) “employers affected by the dispute” means employers affected by the dispute who have employed any employees referred to in clause (b) entitled to vote at a vote under subsection (1) at any time during the 60 days preceding the date, or the last date if there is more than one, fixed for taking the lockout vote.

(4) The result of a strike vote or a lockout vote shall be determined on the basis of a majority of those persons who actually vote.

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

88 The bargaining agent or employers’ organization conducting the strike vote or lockout vote, as the case may be, shall file with the Board a declaration of the result of the vote immediately after the result is known.

Strike or Lockout Notices

89(1) If a strike vote results in a majority of employees in favour of a strike the bargaining agent may cause a strike only if it

(a) personally serves a written strike notice on the employer or employers’ organization that is a party to the dispute giving at least 72 hours’ notice of the date and time the strike will commence, and

(b) forthwith after service of the notice referred to in clause (a), notifies the Director or a mediator, if a mediator has been appointed under section 83, giving him notice of the date and time the strike will commence.

(2) An employer or, if a lockout vote results in a majority of employers in favour of a lockout, an employers’ organization, may lockout or cause a lockout only if it

(a) personally serves a written lockout notice on the bargaining agent that is a party to the dispute giving at least 72 hours’ notice of the date and time the lockout will commence, and

(b) forthwith after service of the notice referred to in clause (a), notifies the Director or a mediator, if a mediator has been appointed under section 83, giving him notice of the date and time

88 Declaration evidencing the result of the vote filed with the Board.

89 Service of strike or lockout notice.

the lockout will commence.

(3) No strike notice or lockout notice may be served, or if it is served it is void and of no effect, unless a declaration as to the result of the strike vote or lockout vote, as the case may be, has been filed with the Board.

90(1) If the parties to a dispute agree in writing to do so, a strike notice or a lockout notice may be amended one or more times after it has been served by changing the date or time or both specified for the commencement of the strike or lockout.

(2) The Director or the mediator who was notified under section 89 shall be forthwith notified of any amendment to the strike notice or the lockout notice.

91 If a strike or lockout does not or is not permitted to occur on the date and at the time specified

- (a) in the strike notice or lockout notice, or
- (b) if the notice is amended, in accordance with the amended notice,

the notice becomes ineffective and another notice must be served in accordance with section 89 before the party concerned strikes or locks out or causes a strike or lockout, as the case may be.

Disputes Inquiry Board

92 Before or after a strike or lockout commences, the Minister may serve notice in writing on an employer or employers' organization and bargaining agent that are parties to a dispute that

- (a) he has established a disputes inquiry board, or
- (b) he intends to establish a disputes inquiry board.

93(1) The Minister shall, before he serves a notice under section 92(a) or forthwith after he serves a notice under section 92(b), establish a disputes inquiry board by

- (a) appointing one or more persons as members of the board, and
- (b) if more than one member is appointed, designating one member as chairman of the board.

90 Strike notice or lockout notice may be extended by agreement.

91 Strike or lockout notice becomes ineffective if strike or lockout does not occur in accordance with the notice.

92 Notice of establishment or intended establishment of disputes inquiry board.

93 Appointment of disputes inquiry board.

(2) No person shall be appointed or shall act as a member of a disputes inquiry board who is directly affected by a dispute in respect of which the board is appointed or has been involved in an attempt to negotiate or settle the dispute.

94 When a disputes inquiry board is established the Minister shall refer the dispute to it.

95 The Minister may, at the same time he appoints a disputes inquiry board or subsequently, refer to the board any other dispute of a similar nature.

96 A disputes inquiry board

(a) may accept any oral or written evidence it 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.

97(1) If, in the opinion of a disputes inquiry board,

(a) the attendance of a person is required, or

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

the disputes inquiry board may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by a member of the board or an individual authorized by the board to sign the notice on behalf of the board.

(2) If 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 by or on behalf of a disputes inquiry board, a judge of the Court, on application of the board or a person acting on its behalf, 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 disputes inquiry board.

98 If in the opinion of the Minister a member of a disputes inquiry board is unduly or unnecessarily delaying the proceedings of the board the Minister may

94 Referral of dispute to disputes inquiry board.

95 Referral of other disputes.

96 Evidence.

97 Attendance of persons and production of documents.

98 Revocation of appointments to disputes inquiry board.

- (a) revoke the appointment of the member, and
- (b) appoint another person in his place.

99(1) A disputes inquiry board shall meet at those times and places fixed by the member, if only one is appointed, or the chairman of the board and, if possible, within the locality in which the dispute arose.

(2) The chairman of a disputes inquiry board shall notify each member of the board of the time, date and place of each meeting.

100(1) A disputes inquiry board shall inquire into the matters in dispute and shall endeavour to effect a settlement.

(2) A disputes inquiry board may determine its own procedure.

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

101(1) If a disputes inquiry board is unable to effect a settlement of a dispute within

- (a) 20 days of the date it is established, or
- (b) any longer time that may be agreed by the parties to the dispute or fixed by the Minister,

the disputes inquiry board shall make recommendations with respect to each matter in dispute and send them to the Minister, who shall then notify each party to the dispute of the recommendations.

(2) A disputes inquiry board may report what, in its opinion, ought to be done by each of the parties to the dispute.

(3) If more than one member is appointed to a disputes inquiry board the recommendations of a majority of the members of the disputes inquiry board are the recommendations of the board and shall be signed by those members of the disputes inquiry board that concur with the recommendations, but if there is no majority, the recommendations of the chairman shall be deemed to be the recommendations of the board.

102(1) If a question arises concerning the recommendations of a disputes inquiry board the Minister, at the request of the parties, may request the member, if only one is appointed, or the chairman of the board to reconvene the disputes inquiry board for the purpose of expressing an opinion on the question.

99 Meetings of the disputes inquiry board.

100 Proceedings of the disputes inquiry board.

101 Recommendations of disputes inquiry board.

102 Questions on the recommendations.

(2) On receipt of a request under subsection (1) the member, if there is only one, or the chairman of the disputes inquiry board shall reconvene the board and report to the Minister as requested.

(3) When a disputes inquiry board reconvenes

(a) the reconvening has the same effect as the establishment of the board under section 92,

(b) when an expression of opinion on the question referred back to the board is given by it to the Minister the parties shall be notified accordingly, and

(c) the notification by the Minister under clause (b) has the same effect as a notification by the Minister under section 101.

103 Not more than one disputes inquiry board may be appointed for one dispute between an employer or employers' organization and bargaining agent.

Division 8

Strikes and Lockouts

104(1) No employee, bargaining agent or person acting on behalf of the bargaining agent shall strike or cause a strike

(a) during the term of a collective agreement unless the first fixed date for termination of the collective agreement has passed, or

(b) if the Minister establishes a disputes inquiry board, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.

(2) Subject to subsection (1), an employee, bargaining agent or person acting on behalf of the bargaining agent is entitled to strike or cause a strike if

(a) a strike vote resulted in a majority in favour of a strike,

(b) strike notice is given in accordance with this Act, and

(c) the strike commences on the day and at the time specified in the strike notice or, if an amendment to the strike notice is agreed to and is permitted under this Act, on the day and at the time specified in the amendment.

103 Only one disputes inquiry board to be appointed per dispute.

104 Conditions under which a strike is prohibited or permitted.

105(1) No employer shall lockout

(a) during the term of a collective agreement, unless the first fixed date for termination of the collective agreement has passed, or

(b) if the Minister establishes a disputes inquiry board, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.

(2) Subject to subsection (1), an employer is entitled to lock out if

(a) lockout notice is given in accordance with this Act, and

(b) the lockout starts on the day and at the time specified in the lockout notice or, if an amendment to the lockout notice is agreed to and is permitted under this Act, on the day and at the time specified in the amendment.

106(1) No employers' organization shall cause a lock out

(a) during the term of a collective agreement unless the first fixed date for termination of the collective agreement has passed, or

(b) if the Minister establishes a disputes inquiry board, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.

(2) Subject to subsection (1), an employers' organization is entitled to cause a lockout if

(a) a lockout vote resulted in a majority in favour of a lockout,

(b) lockout notice is given in accordance with this Act, and

(c) the lockout starts on the day and at the time specified in the lockout notice or, if an amendment to the lockout notice is agreed to and is permitted under this Act, on the day and at the time specified in the amendment.

107(1) When a bargaining agent is entitled to cause a strike and wishes to do so in respect of an employers' organization, it shall cause the strike in respect of all employers affected by the dispute on whose behalf the employers' organization bargains collectively.

(2) When a strike commences affecting employers who authorized an employers' organization that is not a registered employers' organization to bargain collectively on their behalf, the bargaining

105 Conditions under which a lockout by an employer is prohibited or permitted.

106 Conditions under which a lockout by an employers' organization is prohibited or permitted.

107 Settlement of strike, called by bargaining agent.

agent may, at any time after the strike commences, make a settlement with any employer.

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

(4) No employer on whose behalf a registered employers' organization bargains collectively and bargaining agent shall settle the matters in dispute between them during the 60 days following the date the strike commences.

108(1) When an employers' organization is entitled to cause a lockout and wishes to do so, all employers affected by the dispute on whose behalf the employers' organization bargains collectively, shall participate in the lockout.

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

(3) When a lockout commences that affects employers on whose behalf a registered employers' organization bargains collectively, an employer may, 60 days after the date the lockout commences, make a settlement with the bargaining agent.

(4) No employer on whose behalf a registered employers' organization bargains collectively and bargaining agent shall settle the matters in dispute between them during the 60 days following the date the lockout commences.

109(1) If a settlement of a dispute is effected contrary to section 107 or 108 any agreement arising from that settlement is void and of no effect.

(2) When a settlement of a dispute is effected by an individual employer on whose behalf a registered employers' organization bargains collectively and a bargaining agent in accordance with section 107 or 108, an agreement arising from that settlement continues until a collective agreement is concluded between the registered employers' organization and the bargaining agent and after that the agreement between the individual employer and the bargaining agent becomes void and ceases to have any effect.

110 The right to commence or cause a strike or lockout lasts for one year from the date of the strike vote or lockout vote, as the case may be.

108 Settlement of a lockout called by an employers' organization.

109 Agreement in accordance with or contrary to sections 107 and 108.

110 Expiry of right to strike or lock out.

111(1) Notwithstanding anything in this Act, *The Judicature Act* or any other Act, when there is a strike or lockout no injunction before trial shall be granted ex parte to

- (a) a party to the dispute, or
- (b) any other person or party,

to restrain a party to the strike or lockout from doing any act in connection with the strike or lockout.

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

(3) If members of a trade union are the defendants or intended defendants, the notice of motion may be served on an officer of the trade union or a member of it who is engaged in the activity proposed to be restrained or a person engaged in that activity.

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

112(1) When a strike or lockout occurs and either of the parties alleges that it is not permitted under this Act, the matter may be referred to the Board.

(2) The Board shall on receipt of a reference under subsection (1) make any inquiry that it considers necessary.

(3) If the Board decides that the strike or lockout is not permitted under this Act, the Board shall issue a declaration to that effect and in the declaration may require a person, employee, employer, employers' organization, trade union and their officers and representatives to cease and desist from doing anything to continue the strike or lockout.

(4) If, after service of the declaration under subsection (3), the declaration or any requirement of it is not complied with, the Board may file a copy of the declaration with the clerk of the Court in the judicial district in which the strike or lockout occurs and thereupon the declaration is enforceable as order of the Court.

(5) Nothing in this section or in section 18 excludes the jurisdiction of the Court with respect to the matters referred to in this section.

111 Injunctions.

112 Inquiry concerning allegedly illegal strikes or lockouts.

Picketing

113(1) When there is a strike or lockout that is permitted under this Act, a trade union, members of which are on strike or locked out, and anyone authorized by the trade union may, at the striking or locked out employees' place of employment and without acts that are otherwise unlawful, persuade or endeavour to persuade anyone not to

- (a) enter the employer's place of business, operation or employment,
 - (b) deal in or handle the products of the employer, or
 - (c) do business with the employer.
- (2) Except as provided in subsection (1), no trade union or other person shall persuade or endeavour to persuade anyone not to
- (a) enter an employers' place of business, operation or employment,
 - (b) deal in or handle the products of any person, or
 - (c) do business with any person.

PART 6

ARBITRATION

Division 1

Voluntary Collective Bargaining Arbitration Board

114 The parties to a dispute may agree in writing to request the Minister to refer the matters in dispute to a collective bargaining arbitration board whose decision will be binding.

115(1) When the Minister receives a request pursuant to section 114, he shall serve notice on the parties to the dispute requiring each of them, within 10 days, to appoint a person to act as a member of a collective bargaining arbitration board.

- (2) The 2 persons appointed to serve as members of the collective

113 Picketing.

114 Agreement to apply to Minister.

115 Collective bargaining arbitration board.

bargaining arbitration board shall, within 5 days of the appointment of the 2nd person, appoint a 3rd person to act as chairman.

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

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

(5) If a vacancy occurs in the membership of a collective bargaining arbitration board, a new member or chairman shall be appointed in the same manner as the original member or chairman was appointed.

116(1) On the appointment of the chairman of a collective bargaining arbitration board, the Minister shall designate the members as a collective bargaining arbitration board and send to the chairman a statement of the matters in dispute to be inquired into by them.

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

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

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

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

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

116 Powers of collective bargaining arbitration board.

Division 2

Collective Agreement Arbitration

117 Every collective agreement shall contain a method for the settlement of differences arising

- (a) as to the interpretation, application or operation of a collective agreement,
- (b) with respect to a contravention or alleged contravention of a collective agreement, and
- (c) as to whether a difference referred to in clause (a) or (b) can be the subject of arbitration

between the parties to or persons bound by the collective agreement.

118 If a difference arises between an employer or employers' organization and a bargaining agent during the period between

- (a) the date of termination of a collective agreement between them, and
- (b) whichever of the following first occurs:
 - (i) if the Minister establishes a disputes inquiry board, 10 days after the Minister has notified the parties to a dispute of the recommendations of the disputes inquiries board;
 - (ii) the time at which the right of the bargaining agent to represent the employees is terminated;
 - (iii) a strike or lockout commences in accordance with this Act,

the provisions that were contained in the collective agreement pursuant to section 117 apply to the parties and the difference as if the collective agreement had remained in effect.

119 If a collective agreement does not contain the provisions required under section 117, the collective agreement shall be deemed to contain those of the following provisions in respect of which it is silent:

- (a) *If a difference arises as to the interpretation, application, operation or contravention or alleged contravention of this agreement or as to whether that difference can be the subject of arbitration, the parties agree to meet and endeavour to resolve the*

117 Requisites of collective agreement.

118 Differences arising during collective bargaining.

119 Model clauses.

difference.

(b) If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.

(c) The notice referred to in clause (b) shall

(i) contain a statement of the difference, and

(ii) specify a name or a list of names of the person or persons it is willing to accept as the single arbitrator.

(d) On receipt of a notice referred to in clause (b), the party receiving the notice

(i) if it accepts the person or one of the persons suggested to act as arbitrator it shall, within 7 days, notify the other party accordingly and the difference shall be submitted to the arbitrator, or

(ii) if it does not accept any of the persons suggested by the party sending the notice it shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.

(e) If the parties are unable to agree on a person to act as the single arbitrator either party may request the Minister in writing to appoint a single arbitrator.

(f) The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.

(g) The arbitrator shall inquire into the difference and issue an award in writing and the award is final and binding on the parties and on every employee affected by it.

(h) The parties agree to share equally the expenses of the arbitrator.

(i) Except as permitted in clause (j), the arbitrator shall not alter, amend or change the terms or conditions of the collective agreement.

(j) If the arbitrator by his 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 arbitration, the arbitrator may substitute any penalty for the discharge or discipline that to him seems just and reasonable in all the circumstances.

120(1) When an arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement

(a) if either party to the collective agreement within 7 days of the written notice from the other party of the appointment of his member or members fails or neglects to appoint a member or members, the Minister shall, on the request of the other party, appoint a person or persons he considers fit for the purpose and that person or those persons are deemed to be appointed by that party,

(b) if the appointed members within 7 days from the date of the appointment of the last appointed member fail to agree on a person to act as a chairman, the Minister shall appoint a chairman on the request of either party, and

(c) if the chairman or any member of the arbitration board refuses to act or is or becomes incapable of acting, a new chairman or member may be appointed in the same manner as the original chairman or member was appointed.

(2) When both parties agree, the time within which any of the appointments is to be made may be extended.

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

122 When a difference has been submitted to an arbitrator, arbitration board or other body and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the arbitrator, arbitration board or other body,

(a) issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay, or

(b) appoint a new arbitrator, arbitration board or other body to act in the stead of the arbitrator, arbitration board or other body complained against.

123(1) A decision of the majority of the members of an arbitration board or other body is the decision of the arbitration board or other body but, if there is no majority, the decision of the chairman governs and his decision shall be deemed to be the award of the arbitration board or other body.

120 Appointment to arbitration board.

121 Ineligibility.

122 Speeding up decision.

123 Majority decision and award.

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

(3) The award of an arbitrator, arbitration board or other body shall be served on the parties to the difference by double registered mail or personally and the arbitrator or the chairman of the arbitration board or other body shall, at the request of any of the parties to the difference, make an affidavit or an affirmation that the award has been served.

(4) On receipt of the award of the arbitrator, arbitration board or other body, the Director may publish the award in any manner he considers fit.

124(1) Subject to subsection (2), no arbitrator, arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.

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

125(1) The arbitrator or the chairman of the arbitration board or other body may

(a) at any reasonable time enter any premises, other than a private dwelling, where work is being done or has been done by employees or in which an employer carries on business or where anything is taking place or has taken place concerning any difference submitted to him or it and inspect and view any work, material, machinery, appliance or article therein and question any person under oath in the presence of the parties or their representatives concerning any matter connected with the difference;

(b) authorize any person to do any things that the arbitrator or chairman of the arbitration board or other body may do under clause (a) and to report to the arbitrator or arbitration board thereon;

(c) correct in any award any clerical mistake, error or omission.

(2) An arbitrator, arbitration board or other body

(a) may accept any oral or written evidence that it, in its dis-

124 Effect of award on collective agreement.

125 Powers of arbitrator.

cretion, considers proper, whether admissible in a court of law or not, and

(b) is not bound by the law of evidence applicable to judicial proceedings.

126(1) If, in the opinion of an arbitrator or the chairman of an arbitration board or other body,

(a) the attendance of a person is required, or

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

he may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by the arbitrator or chairman.

(2) If 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 arbitrator or the chairman of the arbitration board or other body, 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 arbitrator, arbitration board or other body.

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

(a) on the employers and the bargaining agent,

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

(c) on the employees bound by the agreement who are affected by the award,

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

128(1) Subject to subsection (2), no award or proceeding of an arbitrator, arbitration board or other body shall be questioned or reviewed in any court, and no order shall be made or process entered

126 Attendance of witness and production of evidence.

127 Parties bound by award.

128 Appeal of award.

or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the arbitrator, arbitration board or other body in any of his or its proceedings.

(2) The decision or proceedings of an arbitrator, arbitration board or other body may be questioned, or reviewed by way of an application for certiorari or mandamus, if an application therefor is filed with the court not later than 30 days after the issuance of the award of the arbitrator, arbitration board or other body.

129(1) If any employers' organization, employer, bargaining agent or employee fails to comply with an award of an arbitrator or arbitration board or other body, any employers' organization, employer, bargaining agent or employee affected by the award may, after 30 days from the date on which the award is made, or by 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 arbitrator or arbitration board or other body arose.

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

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

PART 7

MISCELLANEOUS

Division 1

Successor Employers and Trade Unions

Successor Employers

131(1) When a business, undertaking or any other activity or part of it is sold, leased, transferred or otherwise disposed of, so that control, management or supervision of it passes to a purchaser, lessee, transferee or person acquiring it, then

(a) the purchaser, lessee or transferee or person acquiring the business, undertaking or any other activity or part of it is bound

129 Enforcement of award.

130 The Arbitration Act.

131 Effect of sale of business.

by all proceedings, where there have been proceedings under this Act, as if he had been a party to the proceedings,

(b) if a trade union is certified, the certification remains in effect and applies to the purchaser, lessee or transferee or person acquiring the business, undertaking or any other activity or part of it, and

(c) if a collective agreement is in force, the collective agreement continues to bind the purchaser, lessee or transferee or person acquiring the business, undertaking or other activity or part of it to the same extent as if the collective agreement had been signed by him and no changes shall be made in the collective agreement during its term without approval of the Board,

and the Board may, on application of any employer or trade union affected, and after any inquiry that the Board considers adequate, make a determination of all questions arising under this section.

(2) When a business, undertaking or other activity or part of it is sold, leased, transferred or merged with another business, undertaking or other activity or otherwise disposed of and the employees affected by a certification of a bargaining agent or by a collective agreement are intermingled with other employees, the Board may, on the application of any person or trade union affected

(a) determine whether the employees concerned constitute one or more appropriate units for collective bargaining,

(b) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of the employees,

(c) amend, to the extent the Board considers necessary, any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and

(d) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate,

and before disposing of the application, the Board may make any inquiry, require the production of any evidence and the doing of any thing or hold any vote that it considers appropriate.

132 On the application of a trade union or on its own motion when, in the opinion of the Board, associated or related activities or businesses, undertakings or other activities are carried on under common control or direction by or through more than one corporation, partnership, person or association of persons, the Board may declare the corporations, partnerships, persons or associations of persons to be one employer for the purposes of this Act.

132 Spin-offs.

133(1) In this section “governing body” means

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

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

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

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

133 Governing bodies.

Successor Trade Unions

134(1) When 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) Before issuing a declaration under subsection (1), the Board may make any inquiries, require the production of any evidence or hold any votes that it considers appropriate.

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

Division 2

Unfair Practices

135(1) If a trade union has made an application for certification, no employer affected by the application shall, except in accordance with an established custom or practice of the employer or with the consent of the trade union or in accordance with a collective agreement in effect with respect to the employees in the unit affected by the application, alter the rates of pay, any term or condition of employment or any right or privilege of any of those employees during the time between the date of the application and

(a) the date of its refusal, or

(b) 30 days after the date of certification.

(2) If a notice to commence collective bargaining has been given, no employer affected by the notice shall, except in accordance with an established custom or practice of the employer or with the consent of the bargaining agent or in accordance with a collective agreement in effect with respect to the bargaining agent, alter the rates of pay, any term or condition of employment or any right or privilege of any employee or of the bargaining agent until

(a) the collective agreement has expired,

134 Successor trade union.

135 Alteration of terms of employment.

- (b) the right of the trade union to represent the employees has been terminated, or
- (c) if the Minister establishes a disputes inquiry board, 10 days after the Minister has notified the parties to a dispute of the recommendations of the disputes inquiry board,

whichever first occurs.

136(1) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

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

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

- (a) in respect of a trade union that is a bargaining agent for his employees
 - (i) permits an employee or a representative of a trade union to confer with him during working hours or to attend to the business of the trade union during working hours without deduction in the computation of time worked by the employee and without deduction of wages in respect of the time so occupied,
 - (ii) provides free transportation to representatives of the trade union for purposes of collective bargaining, the administration of a collective agreement and related matters, or
 - (iii) permits the trade union to use his premises for the purposes of the trade union,

or

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

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

- (a) refuse to employ or to continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because the person
 - (i) is a member of a trade union or an applicant for membership in a trade union,

136 Prohibited practices.

- (ii) has been expelled or suspended from membership in a trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union,
 - (iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Act,
 - (iv) has made or is about to make a disclosure that he may be required to make in a proceeding under this Act,
 - (v) has made an application or filed a complaint under this Act, or
 - (vi) has participated in a strike that is permitted by this Act or exercised any right 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 on him by this Act;
- (c) deny to any employee any pension rights or benefits to which the employee would be entitled but for
- (i) the cessation of work by the employee as the result of a lockout or strike that is permitted by this Act, or
 - (ii) the dismissal of the employee contrary to this Act;
- (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 him, or take any other disciplinary action against such a person, by reason of that person having refused to perform an act prohibited by this 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) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of his refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is permitted under section 104;
- (h) 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,

(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.

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

(a) seek to compel an employer or employers' organization to bargain collectively with the trade union if the trade union is not the bargaining agent for a unit of employees that includes employees of the employer;

(b) bargain collectively or enter into a collective agreement with an employer or employers' organization in respect of a unit, if that trade union or person knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit of employees;

(c) participate in or interfere with the formation or administration of an employers' organization;

(d) except with the consent of the employer of an employee, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming or to cease to be a member of a trade union;

(e) use coercion or intimidation of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;

(f) require an employer to terminate the employment of an employee because he has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;

(g) expel or suspend a person from membership in the trade union or deny membership in the trade union to a person by

137 Prohibited practices.

applying to him in a discriminatory manner the membership rules of the trade union;

(h) take disciplinary action against or impose any form of penalty on a person by applying to him in a discriminatory manner the standards of discipline of the trade union;

(i) deny an employee or former employee who is or was within the bargaining unit the right to be fairly represented by the trade union in matters arising from collective bargaining or from bargaining rights under the collective agreement;

(j) 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;

(k) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on any person

(i) for engaging in employment in accordance with the terms of a collective agreement between his employer and the trade union, or

(ii) for engaging in employment with an employer who is not a party to a collective agreement with the trade union if the trade union fails to make employment available to that person with an employer who is a party to a collective agreement with the trade union, unless the trade union and that person are participating in a strike that is permitted under this Act;

(l) authorize, encourage or consent to a refusal by any employee in a unit in respect of which the trade union is the bargaining agent 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;

(m) 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 in a proceeding under this Act,

(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.

138 No employer, employers' organization or bargaining agent and no authorized representative acting on behalf of any of them, after having served or having been served with a notice to commence collective bargaining pursuant to section 72 or the provisions of a collective agreement, shall refuse

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

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

139 No employee shall

(a) refuse to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any person or class of persons who were or are not members of a trade union or a particular trade union, or

(b) refuse to take delivery of goods from a carrier or refuse to assist the carrier in the loading of goods for shipment except where the carrier and his employees are engaged in a strike or lockout permitted by this Act.

140(1) Subject to subsections (2) and (3), any employer, employers' organization, employee, trade union or other person may make a complaint in writing to the Board that there has been or is a failure to comply with section 70 or sections 135 to 139 or any provisions of those sections.

(2) The Board has no jurisdiction to hear a complaint made pursuant to section 137(g) or (h) unless the complainant establishes to the satisfaction of the Board that

(a) he presented an appeal to the trade union in accordance with the appeal procedure established by the trade union, and

(b) the trade union failed to deal with the matter within 6 months of the date he made his appeal.

(3) Subsection (2) does not apply when 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

138 Effect of notice to commence collective bargaining.

139 Refusal to perform work.

140 Complaint of unfair practices.

to a reasonable appeal procedure.

141(1) When a complaint is made to the Board under section 140, the Board or a person designated by the Board may cause to be served a notice of the complaint on the person against whom the complaint is made.

(2) When a complaint is made, the Board or a person designated by the Board may appoint an officer to inquire into the complaint and endeavour to effect a settlement.

(3) When the Board or a person designated by the Board does not appoint an officer under subsection (2) or when the appointed officer is unable to effect a settlement within a period that the Board or the individual designated by 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 arbitrator, arbitration board or other body pursuant to a collective agreement.

(5) When the Board is satisfied after an inquiry that an employer, employers' organization, employee, trade union or other person has failed to comply with section 70, 135, 136, 137 or 139 or any provision of those sections, the Board

(a) may rectify the act in respect of which the complaint was made;

(b) shall issue a directive to the employer, employers' organization, employee, trade union or other person concerned to cease doing the act in respect of which the complaint was made;

(c) may in the same or a subsequent directive require the employer, employers' organization, employee, trade union or other person

(i) to reinstate any employee suspended or discharged contrary to those sections;

(ii) to pay to any employee or former employee suspended or discharged contrary to those sections compensation not exceeding a sum that, in the opinion of the Board, would have been paid by the employer to the employee, together with a sum not exceeding the amount of interest paid by the employee on money borrowed to support himself and his family during the time he was so suspended or discharged;

(iii) to reinstate or admit a person as a member of a trade union;

(iv) to rescind any disciplinary action or pecuniary or other

141 Inquiry into complaint.

penalty taken or imposed contrary to those sections;

(v) to pay to a person compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the pecuniary or other penalty imposed on a person contrary to those sections;

(vi) to pay to an employee in respect of a failure to comply with section 136 compensation not exceeding a sum that, 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) When the Board is satisfied after an inquiry that an employer, employers' organization, bargaining agent or authorized representative of any of them is failing or has failed to comply with section 138, the Board

(a) shall issue a directive directing the employer, employers' organization, bargaining agent or authorized representative concerned to bargain in good faith and make every reasonable effort to enter into a collective agreement, and

(b) may prescribe the procedure or conditions under which collective bargaining is to take place.

(7) If any directive made by the Board pursuant to subsection (5) or (6) is not complied with, the Board may, on the request of an employer, employers' organization, employee, trade union or other person affected by the directive, file a copy of the directive with the clerk of the Court in the judicial district in which the complaint arose and thereupon the directive is enforceable as a judgment or order of the Court.

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

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

142 Right of employer.

Division 3

Work Jurisdiction Disputes in the Construction Industry

143(1) The Minister may make any regulations that he considers necessary for the purpose of effecting the final and binding settlement of differences arising in the construction industry following the assignment of work to members of a trade union or to workers of a particular trade, craft or class.

(2) Without restricting the power of the Minister under subsection (1), the Minister may, by regulation,

(a) establish or provide for the establishment of the Alberta Impartial Jurisdictional Disputes Board;

(b) appoint or nominate or provide for the appointment or nomination of members to the Alberta Impartial Jurisdictional Disputes Board, or provide a method by which the members are appointed;

(c) prescribe the terms of office of all or some of the members of the Alberta Impartial Jurisdictional Disputes Board either specifically or generally;

(d) prescribe or provide for the establishment of rules of procedure for the conduct of business coming before the Alberta Impartial Jurisdictional Disputes Board;

(e) govern the manner in which investigations and inquiries are to be conducted by the Alberta Impartial Jurisdictional Disputes Board.

(3) The Minister may enter into an agreement with one or more persons or organizations to establish and operate or provide for the establishment and operation of the Alberta Impartial Jurisdictional Disputes Board for the purpose of effecting the final and binding settlement of differences referred to in subsection (1).

(4) A person or organization may enter into an agreement to establish and operate the Alberta Impartial Jurisdictional Disputes Board for the purposes referred to in subsection (1), but the Board so established

(a) does not become effective for the purposes of sections 144 to 146 until the Minister approves the agreement, and

(b) remains effective for the purposes of sections 144 to 146 only while the Minister's approval under clause (a) is unrevoked.

143 Alberta Impartial Jurisdictional Disputes Board.

144 If, after the establishment of the Alberta Impartial Jurisdictional Disputes Board, a difference arises in the construction industry following the assignment of work to members of a trade union or to workers of a particular trade, craft or class, a party to the difference who wishes it resolved shall refer the difference to the Alberta Impartial Jurisdictional Disputes Board for its decision.

145 A decision of the Alberta Impartial Jurisdictional Disputes Board may be filed by an employer, employers' organization or trade union affected by the decision with the clerk of the Court of the judicial district in which the difference arose and thereupon the decision is enforceable as a judgment or order of the Court.

146 On the application of a party to a difference that was the subject of a decision of the Alberta Impartial Jurisdictional Disputes Board, the Alberta Impartial Jurisdictional Disputes Board may, whether or not it has previously made a decision with respect to the matter,

- (a) rehear a matter, or

- (b) hear new evidence or opinion with respect to a matter previously heard by it,

and may revoke or amend a former decision or may substitute its decision with another.

Division 4

Emergencies

147(1) If in the opinion of the Lieutenant Governor in Council an emergency exists or may occur arising out of a dispute in such circumstances that

- (a) damage to health or property is being caused or is likely to be caused because

- (i) a sewage system, plant or equipment or a water, heating, electrical or gas system, plant or equipment has ceased to operate or is likely to cease to operate, or

- (ii) health services have been reduced, have ceased or are likely to be reduced or cease,

or

144 Reference of difference to Board.

145 Enforcement of Board's decision.

146 Rehearing.

147 Emergencies.

- (b) unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute,

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

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

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

- (a) no employer who is a party to the dispute shall lock out;
- (b) no employees who are parties to the dispute shall strike;
- (c) any strike or lockout that is in effect shall terminate.

(4) After the date fixed in the order the relationship of employer and employee continues uninterrupted by the dispute or anything arising from the dispute.

(5) When the order is made, the Minister shall forthwith establish a procedure for settlement of the dispute and the Minister may

- (a) prescribe the terms and conditions of employment that shall apply to the parties to the dispute during the procedure, and
- (b) do all things that may be necessary to settle the dispute.

(6) When the Minister appoints one or more persons as a procedure or part of a procedure for settlement of the dispute pursuant to subsection (5), that person or those persons have the powers of a commissioner under *The Public Inquiries Act*.

(7) Notwithstanding anything in this Act, none of the parties to the dispute shall alter any of the terms and conditions of employment

- (a) that existed immediately prior to the dispute, or
- (b) that are prescribed by the Minister under subsection (5)

except that the employer or employers' organization, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours of work.

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

148(1) As a procedure or part of a procedure to settle a dispute under section 147, the Minister may establish a Public Emergency Tribunal.

(2) The Minister may, with respect to a Public Emergency Tribunal,

(a) appoint or provide for the appointment of one or more persons as its members, and

(b) if more than one person is appointed, designate a chairman.

(3) A judge of the Court of Appeal or of the Court of Queen's Bench may be appointed as a member of a Public Emergency Tribunal under subsection (2).

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

149(1) A Public Emergency Tribunal established by the Minister shall inquire into the dispute and endeavour to bring the parties to a settlement of the dispute.

(2) After making full inquiry, and if the dispute has not been settled by agreement on or before a date fixed by the Minister, the Public Emergency Tribunal shall

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

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

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

(a) the employer or employers' organization,

(b) the bargaining agent, and

(c) every employee affected.

(4) If an award of a Public Emergency Tribunal is not complied with, the Minister may file a copy of the award with the clerk of the Court and thereupon the decision is enforceable as a judgment or order of the Court.

148 Emergency Tribunal.

149 Inquiry by Tribunal.

Division 5

Trusts and Remuneration

150(1) Notwithstanding anything in *The Trustee Act*, in any proceeding affecting a trust

- (a) that has trustees representative in equal numbers of employers and trade unions,
- (b) that is or has been authorized or sanctioned by a collective agreement,
- (c) that involves health and welfare, pension or other similar benefits, and
- (d) in respect of which the trust agreement or instrument has been filed with the Minister,

a trustee is not personally liable for his actions or decisions as trustee whether taken or made before or after the coming into force of this section, nor shall any such actions or decisions be varied or set aside unless it can be shown to the satisfaction of the court that the trustee failed to act honestly or in accordance with the purpose and intent of the trust agreement or instrument.

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

- (a) if, in the opinion of the majority of the trustees, it is difficult or impractical to otherwise validly amend the agreement or instrument and the majority has approved the proposed amendment, and
- (b) if the Court is satisfied that the proposed amendment is in the interests of the management or administration of the trust and is fair and reasonable.

151 The Minister may prescribe the remuneration and expenses to be paid to members of a

- (a) disputes inquiry board;
- (b) collective bargaining arbitration board;
- (c) Public Emergency Tribunal.

150 Health, welfare and pension trusts.

151 Remuneration and expenses.

PART 8
OFFENCES AND PENALTIES

152 Any employer, employee or other person who

- (a) contravenes or fails to comply with an order, decision, notice, declaration or directive of the Board,
- (b) contravenes or fails to comply with any request or notice of the Board, the Chairman, a vice-chairman, or any other officer of the Board,
- (c) wilfully delays or obstructs an officer in the exercise of any power or duty given to him under this Act,
- (d) fails to produce any books, records, documents, papers, payrolls, contracts of employment or other record of employment that he is required to produce,
- (e) conceals or attempts to conceal an employee or seeks to prevent him from appearing before or being examined by an officer, or
- (f) makes a complaint to the Board knowing it to be untrue,

is guilty of an offence.

153(1) Any employer, employers' organization or employer on whose behalf an employers' organization bargains collectively who commences or causes a lockout contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the lockout continues.

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

154(1) Any trade union that causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the strike continues.

(2) Any officer or representative of a trade union who strikes or causes or consents to a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$10 000.

152 Specific offences.

153 Penalties re prohibited lockouts.

154 Penalties re prohibited strikes.

(3) Any person who is not a trade union or an officer or representative of a trade union who strikes or causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000.

155 Subject to section 153 or 154, any person, employee, employer, employers' organization or trade union who contravenes or fails to comply with any provision of this Act or of any decision, order, directive, declaration or ruling made by the Board under this Act, is guilty of an offence and liable

(a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$10 000, or

(b) in the case of an individual, to a fine not exceeding \$5000.

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

PART 9

TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS

Transitional Amendments

157 In this Part "former Act" means *The Alberta Labour Act, 1973*, as it existed immediately before the coming into force of this Act.

158(1) Subject to subsection (2), an application for certification made to the Board under section 68 of the former Act before the commencement of section 34 of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application referred to in subsection (1), the Board certifies the applicant as a bargaining agent, the certification shall be deemed to be issued pursuant to this Act and the Board shall issue a certificate under section 38 of this Act.

159(1) Subject to subsection (2), an application for the consolidation of certificates into one consolidated certificate made to the

155 General offence and penalty.

156 Prosecutions.

157 Definition.

158 Application for certification continued under former Act.

159 Application for consolidation continued under former Act.

Board pursuant to section 75 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, in disposing of an application under subsection (1), the Board issues a consolidated certificate and declares that one or more collective agreements are to remain in force or to terminate, the consolidated certificate and declaration shall be deemed to have been made pursuant to section 41 of this Act.

160(1) Subject to subsection (2), an application to the Board for the revocation of the certification of a bargaining agent pursuant to section 76 of the former Act made before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1), the Board revokes the certification of a bargaining agent, the revocation shall be deemed to have been made pursuant to section 43 of this Act.

161 Any proceedings or action taken under Part 4 of the former Act before the coming into force of this Act with respect to

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

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

162(1) Subject to subsection (2), an application to the Board for the registration of an employers' organization as the agent for collective bargaining pursuant to section 83 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When pursuant to an application under subsection (1) the Board registers the employers' organization, the registration shall be deemed to have been made pursuant to this Act and the Board shall

160 Application for revocation of certification continued under former Ac

161 Proceedings continued.

162 Application for registration continued under former Act.

issue a registration certificate under section 53 of this Act.

163(1) Subject to subsection (2), an application to the Board for the cancellation of the registration of an employers' organization pursuant to section 91 of the former Act made before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1) the Board cancels a registration, the cancellation shall be deemed to have been made pursuant to section 60 of this Act.

164(1) Subject to subsection (2), an application to the Board for its consent pursuant to section 93 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1) the Board grants its consent under section 93 of the former Act, the Board shall be deemed to have granted its consent and shall issue a new registration certificate or amend an existing registration certificate pursuant to section 61 of this Act.

165(1) Subject to section 117, subsection (2) applies to

(a) all collective agreements in effect on the date this Act comes into force, and

(b) all collective agreements entered into after the date this Act comes into force whether collective bargaining commenced before or after the date this Act comes into force.

(2) If an arbitrator, arbitration board or other body has been appointed pursuant to section 138.2 of the former Act or the terms of a collective agreement before the coming into force of this Act, the proceedings of the arbitrator or arbitration board shall be continued to their conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

166(1) Subject to subsection (2), an application to the Board made pursuant to section 149 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1), the Board makes a determination, declaration or amendment, it shall be deemed to have been made pursuant to section 131 of this Act.

163 Application for cancellation of registration continued under former Act.

164 Application for declaration continued under former Act.

165 Arbitration proceedings continued under former Act.

166 Applications continued under former Act.

167(1) Subject to subsection (2), an application to the Board made pursuant to section 152 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1), the Board makes an affirmation or declaration, it shall be deemed to be a declaration under section 134 of this Act.

168(1) An inquiry into a complaint made to the Board under section 157 of the former Act before the coming into force of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force.

(2) When, pursuant to an application under subsection (1) the Board makes a declaration or decision it shall be deemed to have been made under section 141 of this Act.

169(1) Where a trade union has filed documents with the Board pursuant to section 55 of the former Act, the documents shall be deemed to have been filed pursuant to section 23 of this Act.

(2) When an employers' organization has filed documents with the Board pursuant to section 62 of the former Act, the documents shall be deemed to have been filed pursuant to section 29 of this Act.

170(1) A trade union certified as a bargaining agent under the former Act shall be deemed to be a certified bargaining agent under this Act.

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

Consequential Amendments

171 *The Burial of the Dead Act is amended*

(a) *in section 1(2) by striking out "section 49 of The Alberta Labour Act, 1973" and substituting "The Labour Relations Act";*

167 Applications continued under former Act.

168 Inquiries into complaints continued under former Act.

169 Documents deemed filed.

170 Certification and registration continued.

171 Consequential amendments to chapter 46 of the Statutes of Alberta, 1978.

(b) in section 2 by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.

172 *The Election Finances and Contributions Disclosure Act is amended in section 1(1)(q) by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.*

173 *The Employment Agencies Act is amended in section 3(b) by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.*

174 *The Firefighters and Policemen Labour Relations Act is amended*

(a) in section 2(f) and (j) by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”;

(b) in section 11(2) by striking out “section 164 of The Alberta Labour Act, 1973” and substituting “section 148 of The Labour Relations Act”;

(c) in section 20 by striking out “Part 4 of The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.

175 *The Alberta Insurance Act is amended in section 2, clause 63 by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.*

176 *The Legislative Assembly Act is amended in section 10(4)(e) by repealing subclause (ix) and substituting the following:*

(ix) the Labour Relations Board;

177 *The Public Service Employee Relations Act is amended in section 21(1)(f) by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.*

178 *The Registered Nurses Act is amended in sections 3(2)(c) and 8(1)(e) by striking out “The Alberta Labour Act, 1973” and substituting “The Labour Relations Act”.*

179 *The School Act is amended*

(a) in section 65

172 Consequential amendment to chapter 18 of the Statutes of Alberta, 1977.

173 Consequential amendment to chapter 123 of the Revised Statutes of Alberta 1970.

174 Consequential amendments to chapter 143 of the Revised Statutes of Alberta 1970.

175 Consequential amendment to chapter 187 of the Revised Statutes of Alberta 1970.

176 Consequential amendment to chapter 204 of the Revised Statutes of Alberta 1970.

177 Consequential amendment to chapter 40 of the Statutes of Alberta, 1977.

178 Consequential amendment to chapter 317 of the Revised Statutes of Alberta 1970.

179 Consequential amendments to chapter 329 of the Revised Statutes of Alberta 1970.

(i) in subsection (6) by striking out “*The Alberta Labour Act, 1973*” and substituting “*The Labour Relations Act*”,
and

(ii) in subsection (7) by striking out “*The Alberta Labour Act, 1973*” and substituting “*The Labour Relations Act*”;

(b) in section 74(3)(a) by striking out “*The Alberta Labour Act, 1973*” and substituting “*The Labour Relations Act*”.

Repeal and Commencement

180 *The Alberta Labour Act, 1973 is repealed on a date or dates to be fixed by Proclamation.*

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

180 Repeal.