

1981 BILL 85

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Third Session, 19th Legislature, 30 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 85**

**LABOUR RELATIONS AMENDMENT ACT, 1981**

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THE MINISTER OF LABOUR

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 85

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1981

### LABOUR RELATIONS AMENDMENT ACT, 1981

(Assented to \_\_\_\_\_, 1981)

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

1 *The Labour Relations Act is amended by this Act.*

2 *Section 10(1)(f) and (2) are repealed.*

3 *Section 11 is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following after clause (b):*

(c) question an employee, without his employer being present, during the employee’s regular hours of work or otherwise.

4 *Section 21(2), (3) and (4) are repealed and the following is substituted:*

(2) When a difference is referred to the Board pursuant to subsection (1), the Board or a person designated by the Board may

## Explanatory Notes

1 This Bill will amend chapter 72 of the Statutes of Alberta, 1980.

2 Section 10(1)(f) and (2) presently read:

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

*(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 Section 11 presently reads:

*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.*

4 Section 21(2), (3) and (4) presently read:

*(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*

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 the period that the Board or the person designated by the Board considers to be reasonable in the circumstances, the Board may inquire into the difference.

(4) After conducting an inquiry under subsection (3), the Board may decide the difference and issue any directives it considers appropriate to ensure compliance with and enforcement of this Act.

5 *Section 24 is repealed and the following is substituted:*

**24** The Board is not required to divulge any information as to whether a person

- (a) is or is not a member of a trade union,
- (b) has or has not applied for membership in a trade union, or
- (c) has or has not indicated in writing his selection of a trade union to be the bargaining agent on his behalf.

6 *Section 34(2) is repealed and the following is substituted:*

(2) An application under subsection (1) shall be supported either

- (a) by evidence 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 the bargaining agent on their behalf, or

- (b) by evidence that a majority of the employees in the unit have indicated in writing their selection of the trade union to be the bargaining agent on their behalf.

*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.*

**5** Section 24 presently reads:

*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.*

**6** Section 34(2) presently reads:

*(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.*

7 *Section 39(2) is repealed and the following is substituted:*

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

- (a) membership of the employees in the trade union,
- (b) application for membership of the employees in the trade union, or
- (c) indication in writing of the employees' selection of the trade union to be the bargaining agent on their behalf.

8 *Section 105(1) is amended*

(a) *by repealing clause (a) and substituting the following:*

(a) while a collective agreement is in force between the bargaining agent and an employer or employers' organization,

(b) *by adding the following after clause (b):*

(c) within 30 days after the date of certification of the bargaining agent, or

(d) if a notice to commence collective bargaining has been served pursuant to section 73(1) within 30 days after the date of certification of the bargaining agent, until 60 days after the date on which the notice was served.

9 *Section 106(1) is amended*

(a) *by repealing clause (a) and substituting the following:*

(a) while a collective agreement is in force between the employer and a bargaining agent,

(b) *by adding the following after clause (b):*

(c) within 30 days after the date of certification of the bargaining agent, or

(d) if a notice to commence collective bargaining has been served pursuant to section 73(1) within 30 days after the date of certification of the bargaining agent, until 60 days after the date on which the notice was served.

10 *Section 107(1) is amended*

**7** Section 39(2) presently reads:

*(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.*

**8** Section 105(1) presently reads:

*105(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 between the bargaining agent and an employer or employers' organization unless the first fixed date for termination of the collective agreement has passed, or*

*(b) if a disputes inquiry board is established before a strike commences, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.*

**9** Section 106(1) presently reads:

*106(1) No employer shall lockout*

*(a) during the term of a collective agreement between the employer and a bargaining agent unless the first fixed date for termination of the collective agreement has passed, or*

*(b) if a disputes inquiry board is established before a lockout commences, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.*

**10** Section 107(1) presently reads:

*(a) by repealing clause (a) and substituting the following:*

(a) while a collective agreement is in force between the employers' organization and a bargaining agent,

*(b) by adding the following after clause (b):*

(c) within 30 days after the date of certification of the bargaining agent, or

(d) if a notice to commence collective bargaining has been served pursuant to section 73(1) within 30 days after the date of certification of the bargaining agent, until 60 days after the date on which the notice was served.

*11 The following is added after section 120:*

**120.1(1)** If the parties to a collective agreement that provides for the appointment of a single arbitrator are unable to agree on a person to act as a single arbitrator within 14 days of the notice requiring that the matter go to arbitration, or any longer period that the collective agreement may contain for the selection of a single arbitrator, either party may request the Minister in writing to appoint a single arbitrator.

(2) The parties shall share equally the expenses of a single arbitrator appointed under subsection (1).

*12 Section 121 is amended by adding the following after subsection (1):*

(1.1) The expenses of the person, persons or chairman appointed under subsection (1) shall be paid

(a) in the case of a person or persons appointed under clause (a) or (c) of that subsection, by the party who fails or neglects to appoint the person or persons, or

(b) in the case of the chairman appointed under clause (b) or (c) of that subsection, equally by the parties.

*13 Section 136 is amended*

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



*107(1) No employers' organization shall cause a lockout*

*(a) during the term of a collective agreement between the employers' organization and a bargaining agent unless the first fixed date for termination of the collective agreement has passed, or*

*(b) if a disputes inquiry board is established before a lockout commences, until 10 days after the Minister notifies the parties of the recommendations of the disputes inquiry board.*

**11** Appointment of single arbitrator where the parties are unable to agree.

**12** Section 121(1) presently reads:

*121(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.*

**13** Section 136(1) and (2) presently read:

(1.1) If a notice to commence collective bargaining has been served pursuant to section 73(1) within 30 days after the date of certification of the bargaining agent, no employer affected by the notice shall, except

(a) in accordance with an established custom or practice of the employer,

(b) with the consent of the bargaining agent, or

(c) in accordance with a collective agreement in effect with respect to the bargaining agent,

alter the rates of pay, a term or condition of employment or a right or privilege of any employee represented by the bargaining agent or of the bargaining agent itself until 60 days after the date on which the notice is served.

*(b) in subsection (2) by striking out “given” and substituting “served pursuant to section 73(2)”.*

*14 Section 137(3)(a) is amended by adding the following after subclause (i):*

(i.1) has indicated in writing his selection of a trade union to be the bargaining agent on his behalf,

*136(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*

*(a) in accordance with an established custom or practice of the employer,*

*(b) with the consent of the bargaining agent, or*

*(c) in accordance with a collective agreement in effect with respect to the bargaining agent*

*alter the rates of pay, a term or condition of employment or a right or privilege of any employee represented by the bargaining agent or of the bargaining agent itself until the occurrence of the event specified in subsection (3).*

**14** Section 137(3)(a) presently reads:

*(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,*

*(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;*

*15 Section 138(i) is amended by striking out “in matters arising from collective bargaining or from bargaining” and substituting “with respect to his”.*

*16 Any proceeding or action taken under the Labour Relations Act before the coming into force of this Act shall continue to its conclusion and be treated for all purposes as if this Act had not come into force.*

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*In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.*

**15** Section 138(i) presently reads:

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

*(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;*