

1984 BILL 24

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 24

EMPLOYMENT STANDARDS AMENDMENT ACT, 1984

MR. PAPROSKI

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 24
Mr. Paproski

BILL 24

1984

EMPLOYMENT STANDARDS AMENDMENT ACT, 1984

(Assented to , 1984)

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

- 1 The Employment Standards Act is amended by this Act.*
- 2 Section 72(3) is amended by striking out “(1)” and substituting “(2)”.*
- 3 Section 76(2) is amended by striking out “all or part of the money owed or likely to be owed by the 3rd party to the employer” and substituting “the money specified in the demand”.*
- 4 Section 77(1) is amended by striking out “If the Director’s demand is for a specified amount” and substituting “On service of the Director’s demand”.*

- 5 Section 79(2) is amended by striking out “or referred to”.*

Explanatory Notes

1 This Act will amend chapter E-10.1 of the Revised Statutes of Alberta 1980.

2 Corrects a cross-reference.

3 Section 76(2) presently reads:

(2) The demand under subsection (1) may direct the 3rd party to remit to the Director all or part of the money owed or likely to be owed by the 3rd party to the employer.

4 Section 77(1) presently reads:

77(1) If the Director's demand is for a specified amount, the 3rd party shall

(a) if he is at the time of receipt of the demand indebted to the employer, subject to section 78, forthwith pay to the Director the amount of his indebtedness to the employer or the amount specified, whichever is the lesser,

(b) if he is at the time of receipt of the demand not indebted to the employer and will not or is not likely to become indebted to the employer, reply to the Director accordingly, or

(c) if he is at the time of receipt of the demand not indebted to the employer but indebtedness is likely to arise or will arise at a future date or on the happening of a future specified event, reply to the Director accordingly.

5 Section 79(2) presently reads:

(2) The Director may recover the amount specified or referred to in a Director's demand by civil action, and the 3rd party may raise any defence to the action that he could have raised against the employer if the employer had sued the 3rd party for the recovery of the indebtedness.

6 *The following is added after section 81:*

81.1 When money is received in accordance with a Director's demand and an order has been filed under section 99 with respect to wages, overtime pay, entitlements or maternity benefits owed by the employer, the Director may pay the money in accordance with the order.

7 *Section 82(1) is amended by adding "and no order has been filed under section 99 with respect to the wages, overtime pay, entitlements or maternity benefits to which the employee claims to be entitled," after "with a Director's demand".*

8 *Section 93(1) and (2) are repealed and the following substituted:*

93(1) A person who has a right of appeal to an umpire under this Act may appeal to an umpire by serving on the Director written notice of appeal and specifying the reasons for the appeal.

(2) A notice of appeal shall be served on the Director within 15 days of the date of service on the appellant of

- (a) a copy of an order under section 88,
- (b) a copy of a declaration under section 73,
- (c) a copy of a determination made under section 22(2), or
- (d) a copy of a notice under section 82.

(2.1) A notice of appeal of an order under section 88 shall be accompanied by a money order or certified cheque payable to the Director in trust in an amount equal to the lesser of

- (a) the amount ordered to be paid under section 88, and
- (b) \$500

for each employee in respect of whom the order was made.

(2.2) When the appellant complies with subsection (2), and subsection (2.1) if applicable, the Director shall forthwith refer the appeal to an umpire.

6 Payment of money in accordance with order filed under section 99.

7 Section 82(1) presently reads:

82(1) When money is received in accordance with a Director's demand the Director shall forthwith serve the employer and employees concerned with a written notice stating

- (a) the date of receipt of the money,*
- (b) the amount received,*
- (c) the amount of wages, overtime pay, entitlements or maternity benefits to which an employee claims to be entitled, and*
- (d) that unless an appeal is made in accordance with section 93, the Director will, on expiration of the period for appeal, pay*
 - (i) the amount received under the Director's demand, or*
 - (ii) the amount claimed as unpaid wages, overtime pay, entitlements or maternity benefits,*

whichever is lesser, to the employees concerned, and any balance remaining to the employer.

8 Section 93(1) and (2) presently read:

93(1) A person who has a right of appeal to an umpire under this Act may, within 15 days of the date of service on him of

- (a) a copy of an order made under section 88,*
- (b) a copy of a declaration made under section 73,*
- (c) a copy of the determination made under section 22(2), or*
- (d) a copy of a notice under section 82,*

appeal to an umpire by serving on the Director written notice of appeal and specifying the reasons for it.

(2) On receipt of a notice of appeal the Director shall forthwith refer the matter to an umpire.

9 *The following is added after section 98:*

98.1(1) When an appeal of an order under section 88 is completed, the Director shall pay the money that was paid to him in trust under section 93(2.1) to the person who is entitled to it in accordance with the decision of the umpire.

(2) No interest is payable on money paid under subsection (1).

(3) If the amount of money paid by the Director under subsection (1) is less than the amount of wages, entitlements or maternity benefits ordered to be paid to the employee, the Director may enforce the unpaid portion of the order in accordance with Part 5.

(4) No action or proceeding lies or shall be instituted against the Director for acting in compliance with this section or section 81.1 or 83.

10 *Section 100(2)(b) is amended by striking out “the Central Registry” and substituting “a registry”.*

11 *Section 101 is amended*

(a) *in subsection (1) by striking out “the Central Registry” and substituting “a registry under the Chattel Security Registries Act”;*

(b) *by repealing subsection (2) and substituting the following:*

(2) Subject to section 101.1, a secured charge under subsection (1) shall be paid prior to any other claim or right, secured or unsecured, against the employer named in the order registered, including a claim or right of the Crown.

(c) *in subsection (3) by striking out “Central Registry” and substituting “a registry under the Chattel Security Registries Act”;*

(d) *by repealing subsection (4).*

9 Disbursement of trust money.

10 Section 100 presently reads in part:

100(1) An employee has a priority over the claims and rights of

- (a) preferred, ordinary or general creditors,*
- (b) the Crown or an agent of the Crown, and*
- (c) any other person having a claim against an employer,*

for an amount of wages, overtime pay and entitlements due and owing the employee by an employer in an amount not exceeding \$5000.

(2) When an order of an officer or umpire is filed in the Court of Queen's Bench the Director may also register a copy of the order

- (b) in the Central Registry under the Chattel Security Registries Act against the personal property of the employer in respect of whom the order is made.*

11 Section 101 presently reads:

101(1) If an order of an officer or an umpire is registered in a land titles office or the Central Registry or both, the registration creates a secured charge in favour of the Director, on behalf of the employees in respect of whom the order was issued, on the real or personal property, as the case may be, of the employer for the amount of wages, overtime pay or entitlements in respect of which the order is made.

(2) When a secured charge is created under subsection (1), the wages, overtime pay or entitlements secured shall be paid in priority to any other claim or right, secured or unsecured, against the employer named in the order registered, including priority over a claim or right of the Crown, and priority over

- (a) every assignment, including an assignment of book debts, whether absolute or otherwise,*
- (b) every mortgage or charge on real or personal property,*
- (c) every debenture and security, and*
- (d) every lien or charge created by statute, whether stated to be a preferential lien or charge or not,*

12 The following is added after section 101:

101.1(1) The priority of an employee for wages, overtime pay or entitlements referred to in sections 100 and 101 prevails as against the secured claim or right of any other person to the extent of all wages, overtime pay or entitlements earned prior to

(a) the registration of the claim or right in a land titles office or a registry under the *Chattel Security Registries Act*, in the case of a claim or right that can be so registered other than a floating charge debenture,

(b) the appointment of a receiver on behalf of the holder of a floating charge debenture, in the case of such a debenture, or

(c) the making, giving, accepting or issuing of a claim or right not referred to in clause (a) or (b),

as the case may be.

(2) This section and sections 100 and 101 apply notwithstanding any other Act.

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

whether registered or not, that is registered, made, given, accepted or issued after the date the secured charge is created under subsection (1).

(3) On payment of the wages, overtime pay and entitlements that are the subject of the secured charge, the Director shall cause the registration in the land titles office or Central Registry or both to be discharged.

(4) This section and section 100 apply notwithstanding any other Act to the contrary.

12 Priority with respect to secured claims and rights.