

1985 BILL 22

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

EMPLOYMENT STANDARDS AMENDMENT ACT, 1985

MR. SZWENDER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22
Mr. Szwender

BILL 22

1985

EMPLOYMENT STANDARDS AMENDMENT ACT, 1985

(Assented to _____, 1985)

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 2 is amended*

(a) *in subsection (2)*

(i) *by striking out “This” and substituting “Subject to subsection (2.1), this”;*

(ii) *in clause (d) by striking out “states” and substituting “or the regulations under this Act state”;*

(b) *by adding the following after subsection (2):*

(2.1) Division 7 of Part 3 and the other provisions of this Act insofar as they are necessary to give effect to Division 7 of Part 3 apply to the employers and employees referred to in subsection (2).

(c) *in subsection (3)(b) by striking out “, 7”.*

Explanatory Notes

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

2 Section 2 presently reads:

2(1) Subject to subsections (2) and (3), this Act applies to all employers and employees.

(2) This Act does not apply to

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

(b) individuals employed by employers as defined in the Public Service Employee Relations Act and to whom that Act applies;

(c) employees who are members of a municipal police force appointed pursuant to the Police Act;

(d) employees and employers to the extent that another Act states that this Act or a provision of it does not apply to them.

(3) The following provisions of this Act:

(a) Part 2, Division 3, and

(b) Part 3, Divisions 2, 3, 4, 5, 7 and 8

do not apply to:

(c) 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, or

(d) 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 *The following heading is added after section 17:*

**PART 3
EMPLOYMENT STANDARDS**

**Division 1
Payment of Wages**

4 *The heading after section 18 is struck out.*

5 *Section 59 is amended*

(a) *in subsection (1) by adding “continuous” after “for a”;*

(b) *in subsection (2) by repealing clauses (a), (b) and (c) and substituting the following:*

(a) *a period not exceeding 18 weeks commencing at any time during the period of 12 weeks immediately preceding the estimated date of delivery, and*

(b) *if the actual date of delivery is after the estimated date of delivery, an additional period consisting of the time between the estimated date of delivery and the actual date of delivery.*

(c) *by adding the following after subsection (2):*

(3) *Subject to section 61, the maternity leave shall include a period of at least 6 weeks immediately following the actual date of delivery.*

6 *Section 60(1) is amended by striking out “together with” and substituting “and, if so requested by her employer, shall provide her employer with”.*

7 *Section 63 is amended by striking out “6 week period following the actual date of delivery” and substituting “period referred to in section 59(2)”.*

8 *Section 64 is repealed and the following is substituted:*

64 *No employer shall terminate the employment of or lay off an employee who has commenced maternity leave under this Division.*

3 Heading for Part 3 moved to follow section 17.

4 Consequential to section 3 of this Bill.

5 Section 59 presently reads:

59(1) A pregnant employee who has been employed by an employer for a period of at least 12 months is entitled to maternity leave without pay.

(2) A pregnant employee referred to in subsection (1) is entitled to maternity leave of

(a) a period not exceeding 12 weeks immediately preceding the estimated date of delivery or any shorter period the employee may request,

(b) the period, if any, between the estimated date of delivery and the actual date of delivery, and

(c) a period not exceeding 6 weeks immediately following the actual date of delivery.

6 Section 60(1) presently reads:

60(1) A pregnant employee shall give her employer at least 2 weeks' notice in writing of the day on which she intends to commence maternity leave together with a medical certificate certifying that she is pregnant and giving the estimated date of delivery.

7 Section 63 presently reads:

63 When an employee takes maternity leave under this Division and is unable to return to work after the expiration of the 6 week period following the actual date of delivery by reason of a medical condition arising following the date of delivery, her employer shall grant her a further period of maternity leave without pay of not more than 3 weeks if she provides her employer with a medical certificate indicating that due to a medical condition arising following the date of delivery she is not able to return to work at that time.

8 Section 64 presently reads:

64 No employer shall terminate the employment of or lay off an employee who

(a) is entitled to maternity leave under section 59(1), or

(b) has commenced maternity leave under this Division,

by reason only that the employee is pregnant or that maternity leave has been or will be taken.

9 Section 67 is amended by striking out “period referred to in section 59(2)(a)” and substituting “12-week period immediately preceding the estimated date of delivery”.

10 Section 69(a) is amended by striking out “section 14, this Part, a provision of it or a regulation made under it” and substituting “section 14, Divisions 1 to 6, 8 and 9 of this Part or a provision of or a regulation made under any of those Divisions”.

11 Section 87(2) is amended by adding “, within 15 days from the date of service of the notice under that subsection,” after “may”.

12 Section 93(2.1) is amended by striking out “A” and substituting “In the case of an appeal by an employer, the”.

13 Section 105 is amended

(a) by adding the following after clause (d):

(d.01) contravenes section 64,

(b) by striking out “or” at the end of clause (g), by adding “, or” at the end of clause (h) and by adding the following after clause (h):

(i) contravenes section 102 or 103

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

9 Section 67 presently reads:

67 If during the period referred to in section 59(2)(a) the pregnancy of an employee interferes with the performance of the employee's duties the employer may, by notice in writing to the employee, require the employee to commence maternity leave under this Division.

10 Section 69(a) presently reads:

69 The Lieutenant Governor in Council may make regulations

(a) exempting an employment described or referred to in the regulations from section 14, this Part, a provision of it or a regulation made under it;

11 Section 87(2) presently reads:

(2) An employee served under subsection (1) may appeal to the Director by serving on him a written notice of appeal specifying the reasons for it.

12 Section 93(2.1) presently reads:

(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 an amount equal to

(a) the amount ordered to be paid under section 88, or

(b) \$300

whichever is less, for each employee in respect of whom the order was made.

13 Section 105 presently reads in part:

105 An employer, employee or other person who

(d) requires an employee to work hours in excess of the hours of work permitted under this Act,

(g) makes a complaint to an officer knowing it to be untrue, or

(h) fails to maintain or retain an employment record required to be maintained and retained under this Act

is guilty of an offence.